

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 24-0397.01 Nicole Myers x4326

HOUSE BILL 24-1042

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A BILL FOR AN ACT

101 **CONCERNING TECHNICAL CORRECTIONS TO THE STATUTES THAT**
102 **GOVERN FIRE AND POLICE PENSIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Pension Review Commission. House Bill 22-1034 merged 3 retirement plans administered by the fire and police pension association, the statewide defined benefit plan, the statewide hybrid plan, and the social security supplemental plan into a single statewide retirement plan. House Bill 22-1034 accomplished the merger in part by repealing several statutes and relocating some of the substantive provisions of those

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
February 5, 2024

statutes into new statutes. In doing so, certain statutory cross references were not properly updated to reflect the repeals and relocations. The bill updates the obsolete statutory cross references.

In addition, the bill updates the definition of "member" in the new hire pension plan statute to clarify that a portion of the definition applies only for purposes of the statewide money purchase plan. The bill also repeals an inapplicable portion of the definition of "member" in the statewide retirement plan statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 29-5-302, **amend** (6)
3 as follows:

4 **29-5-302. Required benefits - conditions of receiving benefits.**
5 (6) The benefits and maximum payment amount in subsection (2) of this
6 section are increased by the same percentage and at the same time as any
7 fire and police pension association increase in the pension benefit paid to
8 its members pursuant to ~~section 31-31-407, C.R.S.~~ SECTION 31-31.5-410.

9 **SECTION 2.** In Colorado Revised Statutes, 31-30.5-103, **amend**
10 (2)(b) as follows:

11 **31-30.5-103. Applicability.** (2) The following members,
12 otherwise eligible to participate in an old hire pension plan pursuant to
13 subsection (1) of this section shall be exempt from participation:

14 (b) Members who, pursuant to the affiliation of their old hire
15 pension plan with the fire and police pension association as provided by
16 section 31-31-701, elect to become covered under the provisions of the
17 ~~statewide~~ defined benefit COMPONENT OF THE STATEWIDE RETIREMENT
18 plan, established by ~~article 31~~ ARTICLE 31.5 of this title; and

19 **SECTION 3.** In Colorado Revised Statutes, 31-30.5-209, **amend**
20 (1) and (2) as follows:

21 **31-30.5-209. Idle funds.** (1) If the governing body of a

1 municipality, by resolution, finds that no person named in this article is,
2 and no such person can become, eligible for payment of a benefit from
3 the municipality's police officers' old hire pension fund established
4 pursuant to section 31-30.5-201 (2), it may authorize use of the money in
5 the fund to make contributions to the defined benefit system trust fund
6 pursuant to ~~section 31-31-402 (2)~~ PART 3 OF ARTICLE 31.5 OF THIS TITLE
7 31, to make contributions to a police benefit fund established pursuant to
8 section 31-31-601 (1)(b), AS SAID SECTION EXISTED PRIOR TO ITS REPEAL,
9 or to make contributions under the federal social security laws if the
10 municipality's police officers are covered by the social security laws. To
11 the extent that money in the fund exceeds three times the present yearly
12 employer contribution to any of the preceding benefit funds on behalf of
13 the municipality's current police officers, such excess may be used for any
14 law-enforcement-related purpose. If the municipality does not employ any
15 police officer, the governing body may authorize use of the money in the
16 fund for any law-enforcement-related purpose. In addition, any money in
17 the fund that is attributable to contributions by the municipality and to
18 interest on such contributions may be used for any police-related purpose
19 and, if no such police-related need exists, then for any purpose as decided
20 by the governing body of the municipality. For the purposes of this
21 subsection (1), contracting with the county or county sheriff for law
22 enforcement service shall not be considered employment of a police
23 officer.

24 (2) If the governing body of a municipality, fire protection district,
25 or county improvement district, by resolution, finds that no person named
26 in this article is, and no such person can become, eligible for payment of
27 a benefit from the employer's firefighters' old hire pension fund, it may

1 authorize use of the money in the fund to make contributions to the
2 defined benefit system trust fund pursuant to ~~section 31-31-402 (2)~~ PART
3 3 OF ARTICLE 31.5 OF THIS TITLE 31 or to make contributions under the
4 federal social security laws if the employer's firefighters are covered by
5 the social security laws. In addition, any money in the fund that is
6 attributable to contributions by the municipality or district and to interest
7 on such contributions may be used for any fire-related purpose and, if no
8 such fire-related need exists, for any purpose as decided by the governing
9 body of the municipality or district.

10 **SECTION 4.** In Colorado Revised Statutes, 31-30.5-307, **amend**
11 (1)(b)(I) as follows:

12 **31-30.5-307. State contribution.** (1) (b) (I) Each employer
13 having rank escalation and having old hire members shall determine for
14 each such employee the percentage that such employee's years served as
15 of January 1, 1980, bear to the total number of years required for
16 retirement. At retirement, the retirement pension shall be divided into that
17 percentage and the remainder. The portion of the retirement pension equal
18 to that percentage earned as of January 1, 1980, shall be subject to rank
19 escalation as provided under the old hire pension plan, and the remainder
20 of the retirement pension shall be subject to the same adjustment as that
21 determined by the fire and police pension association board of directors
22 pursuant to ~~section 31-31-407~~ SECTION 31-31.5-410.

23 **SECTION 5.** In Colorado Revised Statutes, 31-31-102, **amend**
24 introductory portion, (4), and (6) as follows:

25 **31-31-102. Definitions.** As used in this ~~article~~ ARTICLE 31, unless
26 the context otherwise requires:

27 (4) "Member" means an active employee who is a full-time

1 salaried employee of a municipality, fire protection district, fire authority,
2 or county improvement district normally serving at least one thousand six
3 hundred hours in any calendar year and whose duties are directly involved
4 with the provision of police or fire protection, as certified by the
5 member's employer. FOR PURPOSES OF THE STATEWIDE MONEY PURCHASE
6 PLAN, "member" also includes an active employee who works less than
7 sixteen hundred hours per year but otherwise qualifies as a member and
8 whose employer elects to treat all such other similar employees as
9 members. The term does not include clerical or other personnel whose
10 services are auxiliary to police protection, or any volunteer firefighter, as
11 such term is defined in section 31-30-1102 (9). For the purpose of
12 participation in the ~~statewide~~ defined benefit COMPONENT OF THE
13 STATEWIDE RETIREMENT plan pursuant to ~~part 4 of this~~ ARTICLE 31.5 OF
14 THIS TITLE 31 or the statewide money purchase plan pursuant to part 5 of
15 this ~~article~~ ARTICLE 31, but not for the purpose of participation in the
16 statewide death and disability plan pursuant to part 8 of this ~~article~~
17 ARTICLE 31, the term may include clerical or other personnel employed by
18 a fire protection district, fire authority, or county improvement district,
19 whose services are auxiliary to fire protection. For the purpose of
20 eligibility for disability or survivor benefits, "member" includes any
21 employee on an authorized leave of absence.

22 (6) "Retired member" means any member who is retired, disabled,
23 or eligible for a benefit as provided in ~~section 31-31-404 (2)~~ SECTION
24 31-31.5-401.

25 **SECTION 6.** In Colorado Revised Statutes, 31-31-201, **amend**
26 (4) as follows:

27 **31-31-201. Association - creation - board - organization - tax**

1 **exemption.** (4) Neither the members of the board nor any person
2 authorized by the board to act in an official capacity shall be held
3 personally liable for any act undertaken pursuant to the provisions of this
4 ~~article and~~ ARTICLE 31, article 30.5, OR ARTICLE 31.5 of this ~~title~~ TITLE 31.

5 **SECTION 7.** In Colorado Revised Statutes, 31-31-202, **amend**
6 (1)(a)(II) and (1)(d) as follows:

7 **31-31-202. Powers and duties of the board.** (1) The board shall:

8 (a) Establish standards for determining the actuarial soundness of:

9 (II) Alternative pension plans having defined benefits in whole or
10 in part established pursuant to section 31-31-601 (1), AS SAID SECTION
11 EXISTED PRIOR TO ITS REPEAL. Based upon such standards, the board shall
12 require biennial actuarial reviews of such plans with the cost of the
13 reviews to be paid by employers having established such plans.

14 (d) Promulgate rules relating to standards for disclosure of all
15 ramifications of and procedures for obtaining the member approval
16 provided for in section 31-31-601 (1), AS SAID SECTION EXISTED PRIOR TO
17 ITS REPEAL;

18 **SECTION 8.** In Colorado Revised Statutes, 31-31-401, **amend**
19 (1)(c) and (1)(d) as follows:

20 **31-31-401. Applicability of plan.** (1) Every employer in this
21 state shall provide the pension benefits of the statewide retirement plan
22 established by part 31.5 of this title 31 for members hired on or after
23 April 8, 1978, except for the following:

24 (c) Any employer that ~~has withdrawn~~ WITHDREW its members
25 from the statewide defined benefit plan pursuant to ~~part 6 of this article~~
26 ~~31~~ SECTION 31-31-601, AS SAID SECTION EXISTED PRIOR TO ITS REPEAL,
27 and established a locally administered and financed alternative pension

1 plan;

2 (d) Any employer that has withdrawn its members from the
3 statewide defined benefit COMPONENT OF THE STATEWIDE RETIREMENT
4 plan for the purpose of covering them under the statewide money
5 purchase plan established pursuant to part 5 of this article 31; and

6 SECTION 9. In Colorado Revised Statutes, 31-31-501, amend
7 (7) as follows:

8 **31-31-501. Withdrawal into statewide money purchase plan.**

9 (7) The provisions of ~~sections 31-31-404(1)(b) and~~ SECTION 31-31.5-411
10 (1)(b) that relate to the purchase of service credit forfeited by the refund
11 of member contributions shall not apply to members who are employees
12 of an employer that has withdrawn from the statewide defined benefit
13 RETIREMENT plan. Such service credit forfeited by such withdrawal may
14 be purchased pursuant to the provisions of ~~section 31-31-403 (7) or~~
15 SECTION 31-31.5-310.

16 SECTION 10. In Colorado Revised Statutes, 31-31-808, amend
17 (2) as follows:

18 **31-31-808. Reduction of survivor benefits.** (2) The benefits
19 payable under sections 31-31-807 and 31-31-807.5 to the surviving
20 spouse and dependent children of any member who are also receiving
21 payments from the member's separate retirement account pursuant to
22 ~~section 31-31-406~~ SECTIONS 31-31-412 (1)(c) AND 31-31.5-304 (2) shall
23 be reduced by an amount that is the actuarial equivalent of the benefits
24 such surviving spouse and dependent children receive from the separate
25 retirement account, whether the benefits received from the account are
26 paid on a periodic basis or in a lump sum.

27 SECTION 11. In Colorado Revised Statutes, 31-31-1101, amend

1 (7) as follows:

2 **31-31-1101. Entry into the fire and police pension association**
3 **defined benefit system.** (7) The board shall determine a continuing
4 uniform rate of contribution for all members who are active on the
5 effective date of coverage to fund the benefits payable by the fire and
6 police pension association under the ~~statewide defined benefit~~
7 ~~APPLICABLE COMPONENT OF THE STATEWIDE RETIREMENT~~ plan. The
8 continuing rate of contribution shall be determined by the board utilizing
9 certified actuarial reports prepared by the actuary for the plan. Any
10 actuarial report shall also certify, in accordance with accepted actuarial
11 principals, that the employers' coverage shall not have an adverse
12 financial impact on the actuarial soundness of the plan. Continuing
13 contributions for each member who is active on the effective date of
14 coverage shall be made at the rate established on said date until the
15 member's retirement or termination; except that the board may lower the
16 continuing rate of contribution in the event it finds that the original
17 continuing rate of contribution is in excess of what is required to pay the
18 cost of benefits based on the advice of the actuary. The board may
19 periodically adjust the rate prior to the election of coverage by an
20 employer based on certified actuarial reports prepared by the actuary for
21 the plan.

22 **SECTION 12.** In Colorado Revised Statutes, 31-31.5-101,
23 **amend** (5)(f) and (5)(i) as follows:

24 **31-31.5-101. Establishment of the statewide retirement plan**
25 **- definitions.** (5) As used in this article 31.5, unless the context otherwise
26 requires:

27 (f) "Member" means an active employee who is a full-time

1 salaried employee of a municipality, fire protection district, fire authority,
2 or county improvement district normally serving at least one thousand six
3 hundred hours in any calendar year and whose duties are directly involved
4 with the provision of police or fire protection, as certified by the
5 member's employer. ~~"Member" also includes an active employee who~~
6 ~~works less than sixteen hundred hours per year but otherwise qualifies as~~
7 ~~a member and whose employer elects to treat all such other similar~~
8 ~~employees as members.~~ The term does not include clerical or other
9 personnel whose services are auxiliary to police protection, or any
10 volunteer firefighter, as such term is defined in section 31-30-1102 (9).
11 For the purpose of participation in the ~~statewide~~ defined benefit
12 COMPONENT OF THE STATEWIDE RETIREMENT plan pursuant to ~~part 4 of~~
13 ~~article 31 of this title 31~~ THIS ARTICLE 31.5, or the statewide money
14 purchase plan pursuant to part 5 of article 31 of this title 31, but not for
15 the purpose of participation in the statewide death and disability plan
16 pursuant to part 8 of article 31 of this title 31, the term may include
17 clerical or other personnel employed by a fire protection district, fire
18 authority, or county improvement district, whose services are auxiliary to
19 fire protection. For the purpose of eligibility for disability or survivor
20 benefits, "member" includes any employee on an authorized leave of
21 absence.

22 (i) "Retired member" means any member who is retired, disabled,
23 or eligible for a benefit as provided in ~~section 31-31-404 (2)~~ SECTION
24 31-31.5-401.

25 **SECTION 13.** In Colorado Revised Statutes, 31-31.5-501,
26 **amend** (2)(c) as follows:

27 **31-31.5-501. Vesting.** (2) Employer contributions made to the

1 statewide retirement plan that are credited to the money purchase
2 component account are subject to the following vesting rules:

3 (c) Except as provided in subsections (2)(a) and (2)(b) of this
4 section, a member is vested in the employer contributions made to the
5 money purchase component account in the amount of twenty percent for
6 each full year of service performed for a covered department. Upon
7 attaining five full years of service, a member is one hundred percent
8 vested. Vesting also applies to employer contributions allocated pursuant
9 to section 31-31.5-301 (3) or allocated under the predecessor statewide
10 defined benefit plan pursuant to section 31-31-405, AS IT EXISTED PRIOR
11 TO ITS REPEAL.

12 **SECTION 14. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.