

Police Officers' and Firefighters' Pension Reform Commission

2011 Report to Legislative Council

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Commission Charge

The Fire and Police Pension Association (FPPA) was established in 1980 and administers a statewide multiple employer public employee retirement system providing defined benefit plan coverage as well as death and disability coverage for police officers and firefighters throughout the state of Colorado. Pursuant to Section 31-31-1001, C.R.S., the Police Officers' and Firefighters' Pension Reform Commission has the responsibility to study and develop proposed legislation relating to funding police officers' and firefighters' pensions in this state and the benefit designs of such pension plans. The statute directs the commission to study, review, and propose legislation regarding the following, among other subjects:

- normal retirement age and compulsory retirement;
- payment of benefits prior to normal retirement age;
- service requirements for eligibility;
- rate of accrual of benefits;
- disability benefits;
- survivors' benefits;
- vesting of benefits;
- employee contributions;
- post-retirement increases;
- creation of an administrative board;
- creation of a consolidated statewide system;
- distribution of state funds;
- coordination of benefits with other programs; and
- the volunteer firefighter pension system.

Commission Activities

The commission held one meeting during the 2011 interim. At this meeting, the commission received a historical overview of the state's involvement in fire and police pension plans. The commission was also briefed on recent activities of the FPPA Board of Directors and discussion to make the administration of the pension plans more efficient. Also discussed was the pension plan membership and types of plans available to members, and details about recent investment performance.

Recent investment performance. The commission heard that net investment assets totaled \$3.384 billion at the close of 2010. The performance of investments was much improved over 2009 and saw a greater fund performance in relation to 2008, the worst year for fund performance in the history of the (FPPA). For example, the Fire and Police Members' Benefit Investment Fund (\$3.1 billion of total \$3.4 billion) had a total net return of 13.7 percent for the one-year period ending December 31, 2010. The fund is divided largely between equity investments (58.1 percent) and fixed-income accounts (21.3 percent). Other investment areas include private capital, real estate, and cash and short-term investments. Presently, in the Defined Benefit System, there are no unfunded current liabilities under the Statewide Defined Benefit Plan and the Statewide Hybrid Plan.

Payments to the FPPA Old-hire Pension Plan. The commission was given a brief summary about the state's requirement to make payments to the FPPA Old-hire Pension Plan. In 1978 and 1979, the state enacted legislation to reform local pension plans for police officers and firefighters hired prior to April 8, 1978 (old hires). The purpose of the reform was to ensure that local pension plans were actuarially sound, and included state financial assistance conditioned on increases in both employer and employee contributions. The state currently provides assistance to eight old-hire plans under the management of the FPPA. Since 1980, the state has contributed a total of \$515 million to 110 local police and fire agencies.

Proposed legislation. A representative of the FPPA provided an overview of three bills recommended to the commission by the FPPA Board of Directors for introduction in the 2012 legislative session. According to the board, the goal of the three proposals is to make the administration of the pension plans more efficient and less costly, and to align provisions in different FPPA pension plans with more current policies in federal pension plans.

The commission also heard testimony from the Colorado Press Association about proposed statutory changes concerning investment information and the confidentiality of certain investor information.

Authority of the board to make amendments to plans for the administration of benefits. The chief executive officer and legal counsel of the FPPA discussed issues relating to marital assets and reassignment of benefits. They explained the need to allow the board to address issues such as divorce, remarriage, and the assignment of new beneficiaries. Currently, applying a uniform change to all retirement plans administered by the FPPA could require amending each plan independently according to certain rules, plan documents, or state statutes. They also discussed the need to allow minor changes to individual retirement plans to be administered by the FPPA instead of requiring an election. An election requires that up to 65 percent of the local members participate in an election to approve such changes. Currently, these types of minor changes are not adopted due to the difficulty of getting enough members to participate in an election.

As a result of these discussions, the commission recommends Bill A. Bill A authorizes the FPPA board to modify or amend: the Statewide Defined Benefit Plan; a plan document; or rules of a plan within the benefit system in order to comply with state and federal law. Specifically, this bill would enable the FPPA board to apply certain administrative changes to numerous statewide plans that the board oversees. These changes would allow for more consistent and uniform administration of the plans.

Social Security Supplemental Plans. Currently, a small number of municipalities and county sheriff departments participate in Social Security, and the FPPA administers a Social Security Supplemental Plan under its statewide plan and under its Statewide Death and Disability Plan. Historically, House Bill 06-1068 created the FPPA retirement benefit plan for police officers and firefighters working under local governments that participate in Social Security.

The chief executive officer and legal counsel of the FPPA discussed the need for a bill that repeals provisions under House Bill 06-1068 related to optional affiliation by any employer that covers members under the federal Social Security Act. As a result, the commission recommends Bill B, under which any Social Security employer is limited to electing affiliation with the FPPA only as to coverage under the Statewide Defined Benefit Plan. With one exception, any Social Security employer is allowed to elect coverage under the Statewide Death and Disability Plan if the employer files with the FPPA board a resolution to that effect from the governing body of that Social Security employer.

Investment confidentiality. House Bill 05-1002 revised state law governing certain investment terms and exempted certain investment information provided to the FPPA for investment purposes from the disclosure requirements of the Colorado Open Public Records Act. Bill C amends the provisions guiding investment confidentiality of the FPPA by modifying the definition of "investment information" and replacing the term "portfolio company" with "investment vehicle." According to the FPPA, this statutory change is necessary to protect proprietary information of certain companies contained within investment vehicles utilized by the FPPA.

Commission Recommendations

As a result of commission deliberations, the commission recommends three bills for consideration during the 2012 legislative session.

Bill A — Authority of the Board to Make Amendments To Plans. Bill A gives the FPPA board authority to make plan amendments to the Statewide Defined Benefit Plan, the Colorado Springs New Hire Plan, the Statewide Hybrid Plan, the Statewide Money Purchase Plan, and the Statewide Death and Disability Plan so that the administration of the plans is more consistent and uniform. Under the bill, modifications or amendments may include changes to the options for the distribution of benefits, but not changes to the amount of a normal benefit.

Bill B — Modifications to Available Affiliation by Social Security Employers. Bill B repeals language regarding the former FPPA retirement benefit plan for police officers and firefighters working under local governments that participate in Social Security. The bill provides for employers participating in the Statewide Defined Benefit Supplemental Social Security Plan to also participate in the Statewide Death and Disability Plan.

Bill C — Modifications to Investment Confidentiality Provisions for Pension Plans. Bill C broadens the scope of private investments that are covered under the statutory protections of confidential and proprietary information from public disclosure. However, the bill requires the name of investment vehicles, the amount invested, and the rate of return on the investments to be reported annually.