

Police Officers' and Firefighters' Pension Reform Commission

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December 2013

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December 2013

To Members of the Sixty-ninth General Assembly:

Submitted herewith is the final report of the Police Officers' and Firefighters' Pension Reform Commission. This committee was created pursuant to Section 31-31-1001, Colorado Revised Statutes. The purpose of the committee is to study and develop proposed legislation relating to funding of police officers' and firefighters' pensions in this state and the benefit designs of such pension plans.

At its meeting on November 14, 2013, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2014 session was approved.

Sincerely,

/s/ Senator Lucia Guzman
Chairman

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This report is also available on line at:

<http://www.colorado.gov/lcs/FPPA>

Commission Charge

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 of 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 related to these issues including, but not limited to, the following 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.

The Fire and Police Pension Association (FPPA) was established in 1980 and administers two funds: the Fire and Police Members' Benefit Investment Fund and the Fire and Police Members' Self-Directed Investment Fund. Assets in these funds are used for a number of pension plans including the Statewide Defined Benefit Plan, the Statewide Death and Disability Plan, and numerous separate "Old Hire" plans for police officers and firefighters throughout the state of Colorado.

Commission Activities

The commission held one meeting during the 2013 interim. At this meeting, FPPA executives informed the commission on the state's involvement in fire and police pension plans and recent activities of the FPPA Board of Directors (FPPA board). The FPPA presented its annual report and discussed the recent investment performance of the Statewide Defined Benefit Plan, noting that the net return on investment is 7.13 percent year to date. In addition, FPPA executives discussed changes to the pension plans, an upcoming membership election regarding contribution rates, financial investment strategy, and volunteer firefighters' pension plans.

Management of FPPA Pension Plans

Funding of FPPA pension plans. The FPPA provided a summary of the pension plans, specifically the Statewide Defined Benefit Plan and the state-assisted old hire fire and police pension plans. The commission was given a brief history of the state's requirement to make payments to the FPPA old-hire pension plans. Until 1978, all fire and police pension plans in Colorado were administered and funded by local governments. Although the state provided some assistance, there was no statutory requirement that these "old hire" plans be funded on an actuarially sound basis. By the mid-1970s, it became apparent that many of old hire plans were underfunded.



The reform legislation of 1978 established the Statewide Defined Benefit Plan, also known as the new hire pension plan. This plan is funded by member and employer contributions and is administered by the FPPA.

A 1977 study by the General Assembly concluded that old hire plans had an unfunded liability in excess of a \$500 million. In 1978 and 1979, the General Assembly adopted legislation to reform the pension system. 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. Since 1980, the state has contributed more than \$500 million to 110 local police and fire agencies. Pursuant to Senate Bill 13-234, state contributions to old hire plans have concluded as of May 31, 2013.

Election on contribution rates. A pension plan member task force, created by the FPPA in 2011, recommended that the FPPA hold an election to increase contributions from individual members. The election will not affect employer contributions. The FPPA board accepted the recommendation to hold an election and passed a resolution to increase contributions by 0.5 percent each year for eight consecutive years (a cumulative increase of 4.0 percent). The election will be held in April 2014 and requires the approval of 65 percent of pension enrollees. A majority of employers must also approve the plan.

Financial assets and investment program. The FPPA informed the commission that net investment assets totaled \$3.7 billion at the close of 2012. These assets are held in the Fire and Police Members' Benefit Investment Fund (\$3.40 billion) and the Fire and Police Members' Self-Directed Investment Fund (\$0.32 billion). In 2013, investment returns are up about 10 percent to date, relative to 2012, resulting in higher investment fund balances.

The FPPA discussed the impact of the financial crisis in 2008, which resulted in a 29.4 percent decrease that year. The FPPA changed the structure of the investment program portfolio in order to protect against downside risk by limiting purchasing participation during high and low periods of the markets. In the five years between July 31, 2008, and July 31, 2013, the Benefit Investment Fund has posted an average 5.44 percent annual return.

Committee Recommendation. Due to the change in funded status of plans as a result of Senate Bill 13-234, actuarial studies and contribution schedules identified under current law may be obsolete. As a result of the discussion, the commission recommends Bill B, which modifies the administration of the old hire pension plans.

Volunteer Firefighter Pension Plans

The commission was briefed on a number of topics related to volunteer firefighter pension plans. A brief overview of the issues discussed and the action taken follows.

Administration of affiliated plans. Local fire departments may establish volunteer firefighter pension plans, which may be administered by FPPA as an "affiliated plan," or by the local government independently. Volunteer firefighter pension plans are governed by statutes addressing distribution of state funds and the administration of plans. FPPA informed the commission that it has identified ambiguities and conflicts affecting its 175 affiliated plans. FPPA representatives identified two significant issues that may be addressed by legislation, as drafted in Bill A. First, implementation of new government accounting standards require a clear delineation



of responsibilities between FPPA and affiliated departments, as well as direct authority to pay administrative costs from the assets of each plan. Second, there is often a delay between when the State Treasurer releases state assistance funds to the local fire departments and when the departments make the payment to the FPPA. The FPPA stated the delay can be as long as six months. The delay reduces the investment and earning potential for the pension funds. The FPPA recommends allowing the Department of Local Affairs, when paying state assistance to the pension funds, to make the payments directly to the FPPA on behalf of that plan.

Study of volunteer firefighter plans. The FPPA presented to the commission a number of issues related to the volunteer firefighter pension system that it believes should be studied. The areas of study include federal and regulatory issues, state matching funds, and operational issues. FPPA representatives spent some time explaining the issues within each category. The FPPA stated it does not believe it has the statutory authority to conduct the study, or the financial resources. It recommended the General Assembly authorize and fund the study that would include an analysis by a tax consultant.

Municipal volunteer pension plan board of trustees. Staff from the Office of Legislative Legal Services (OLLS) presented information regarding state law and the ability to appoint a retired fire department member to the board of trustees of a municipality's volunteer firefighter pension board of trustees. It was noted that state statute does not specifically prohibit a retired firefighter to serve on the board, nor does state statute authorize the inclusion of retired fire department members. The recommendation from OLLS was to amend state law to expressly allow a retired fire department member to serve on the board of a municipal volunteer firefighter pension plan if such plans want to guarantee that a retired fire department member may serve on the board.

Committee recommendation. As a result of discussions with the FPPA about the administration of pension plans, the commission recommends Bill A. It clarifies statutes related to volunteer firefighters' pension plans affiliated with FPPA and authorizes direct distribution of state funds from DOLA to the FPPA for those affiliated plans.



Summary of Recommendations

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly. The Legislative Council Committee approved these bills without amendments on November 14, 2013.

Bill A — Volunteer Firefighter Pension Plans.

Bill A amends existing statutes related to the administration of volunteer firefighter plans affiliated with the FPPA. Specifically, the bill:

- directs the Department of Local Affairs to distribute any state moneys for volunteer firefighter pension plans to the FPPA to be credited to the assets of the plan for which they were transferred;
- specifies the responsibilities of the volunteer firefighter pension plan governing body that is affiliated with the FPPA;
- specifies the responsibilities of the FPPA in connection with the volunteer firefighter pension plans with which it is affiliated; and
- specifies how the volunteer firefighter pension plan governing body may terminate its association with the FPPA.

Bill B — Modifications to Old Hire Plans.

Bill B amends existing statutes related to the administration of an employer's old hire police officers' and firefighters' pension plans. Specifically, the bill:

- clarifies the acceptable use of plan moneys when none of the plan members are active participants in the plan;
- repeals provisions regarding the transfer of money from the state General Fund and contributions from associated employers to fund a plan's unfunded liability;
- repeals provisions regarding the annual distribution of state moneys;
- modifies requirements for actuarial studies of old hire plans;
- specifies the FPPA's and the old hire pension plan board's responsibilities in connection to plans affiliated with the FPPA;
- clarifies that an employer's resolution to affiliate with a plan must be approved by the FPPA; and
- specifies that the amount of annual contributions to state assisted plans must be in amounts that are sufficient to achieve a specified amortization period.



Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the date of committee meetings and the topics discussed at that meeting. Meeting summaries are also available on our website at:

<http://www.colorado.gov/lcs/PoliceandFirefightersPensionReform>

Meeting Date and Topics Discussed

September 30, 2013

- ◆ Update from the Fire and Police Pension Association
- ◆ Update on the Volunteer Firefighters' Plan
- ◆ Discussion of Proposed Legislation
- ◆ Public Testimony

