

**RECOMMENDATIONS FOR 2000**

**POLICE OFFICERS' AND FIREFIGHTERS'  
PENSION REFORM COMMISSION**

**Report to the  
Colorado General Assembly**

**Research Publication No. 464  
November 1999**

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November 1999

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report of the Police Officers' and Firefighters' Pension Reform Commission. This commission is a statutory committee established under Section 31-31-1001, C.R.S.

At its meeting on November 15, 1999, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2000 session was approved.

Respectfully submitted,

/s/ Senator Ray Powers  
Chairman  
Legislative Council

RP/GJ/pw

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# **POLICE OFFICERS' AND FIREFIGHTERS' PENSION REFORM COMMISSION**

## **Members of the Commission**

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Senator MaryAnne Tebedo,  
Vice Chairman  
Senator John Andrews  
Senator Ken Arnold  
Senator Mike Feeley  
Senator Peggy Reeves

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# STATUTORY AUTHORITY AND RESPONSIBILITIES

## **Commission Charge**

In 1978, Senate Bill 46 (Parts 8 and 9, Article 30, Title 31, C.R.S.) created a statutory Police Officers' and Firefighters' Pension Reform Commission to study and develop legislation relating to the funding of police and fire pensions and the benefit designs of such plans. In 1996, Senate Bill 96-11 relocated these provisions to Articles 30.5 and 31 of Title 31, C.R.S.

## **Commission Activities and Recommendations**

At its meeting on September 27, 1999, the Commission received an historical overview of state involvement in fire and police pension plans, a review of the 1999 Fire and Police Pension Association (FPPA) annual financial report, and detail about 1998 FPPA investment performance. The pension fund currently controls in excess of \$2.3 billion in assets. The commission considered legislation requested by the Board of Directors of the FPPA.

As a result of commission discussion and deliberation, the commission recommends five bills for consideration in the 2000 legislative session.

### **Bill A — Concerning the Creation of Options to Increase Contribution Rates Under the Statewide Money Purchase Plan for Police Officers and Firefighters**

Bill A creates options for increasing contribution rates for the Statewide Money Purchase Plan above the current statutory rates of eight percent from the employer and eight percent from employees. The Statewide Money Purchase Plan is a defined contribution plan with participant-directed investments. For mandatory contributions, the bill would authorize employers to pass a local ordinance or resolution increasing the contribution rate for employers, employees, or both, subject to approval by 65 percent of the employer's active members of the plan. Also, the bill would allow the Plan to accept voluntary contributions from members and employers by payroll deduction at any time, as long as such contributions do not exceed the limits on annual additions under the Internal Revenue Code.

Bill A will not affect state expenditures. The Statewide Money Purchase Plan is funded entirely by employer and employee contributions to the plan. A local government fiscal impact will occur if local government employers or employees choose to increase contributions to the plan.

**Bill B — Concerning the Fiduciary Duties Associated with the Investment of the Assets of the Fire and Police Members' Money Purchase Plan Benefit Fund**

This bill clarifies the standard of care applicable to the FPPA Board with respect to the administration, investment, and management of the Fire and Police Members' Money Purchase Plan Benefit Fund. The bill recognizes that the Board is governed by the Uniform Prudent Investor Act only with respect to assets allocated to the Fire and Police Members' Benefit Fund, which is an investment alternative for the Fire and Police Members' Money Purchase Plan Benefit Fund. The bill provides that the Board is not liable for losses caused by the participant's exercise of control over the assets in the members' account. The bill specifies that the FPPA Board is the trustee of the members' money purchase plan benefit fund subject to the members' allocation of moneys in their accounts to the investment alternatives offered by the Board. Bill B also continues the duties of the Board with respect to the selection and monitoring of investment alternatives and clarifies that a member is not deemed a fiduciary by reason of exercising control over assets in the member's account.

Bill B is assessed as having no fiscal impact.

**Bill C — Concerning the Elimination of Certain Transfers to the Disability and Death Benefits Account of the Fire and Police Members' Benefit Fund**

Bill C eliminates the possibility of reducing the separate retirement accounts of members of the Statewide Defined Benefit Plan in order to make transfers to the Death and Disability Account of the Statewide Death and Disability Plan. Prior to January 1997, the Statewide Death and Disability Plan received state assistance, subject to annual appropriation. In the event that insufficient funds were appropriated to keep the plan actuarially sound, the law allowed for transfers from the Statewide Defined Benefit Plan to cover any shortfall. The potential for such transfers is no longer needed because the Statewide Death and Disability Plan is now fully funded. In addition, the future funding of the Statewide Death and Disability Plan is assured by the requirement that employers and members pay a percentage of salary to fund the Plan.

Bill C is assessed as having no fiscal impact.

**Bill D — Concerning Interest Charges for Delinquent Contributions to the Fire and Police Pension Association Statewide Defined Benefit Plan**

Bill D gives the FPPA Board some flexibility in assessing interest against employers whose contribution payments for new accounts are delinquent. In the past there have been instances in which small departments have mistakenly paid into federal social security instead of the FPPA. These plans may have taken every step to comply with the FPPA requirements, but have had to wait a considerable amount of time to get their money back

from social security. This bill gives the Board the flexibility to reduce or waive statutory interest payments in hardship cases such as these, subject to rules that would be promulgated by the Board.

Bill D is assessed as having no fiscal impact.

**Bill E — Concerning the Irrevocability of an Election by a Member of the Fire and Police Pension Association to Receive a Disability Benefit Option in Lieu of a Normal Annual Disability Benefit**

Bill E specifies that a decision by a member of the Fire and Police Pension Association to receive an annual total disability benefit option in lieu of the normal annual disability benefit is irrevocable. This bill makes a technical amendment to statutes concerning the statewide Death and Disability Plan. Senate Bill 99-32 relocated sections of law relating to the FPPA Defined Benefit Plan to statutes addressing the Death and Disability Plan. These sections listed the options available for receiving a pension payment. The enacted version of the bill inadvertently omitted a cross-reference concerning the irrevocability of electing a total disability payment option. SB 99-32 was not intended to change the law or eliminate the irrevocability provision. This bill will restore the omitted cross-reference.

Bill E is assessed as having no fiscal impact.

# RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the study. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver. For a limited period of time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

[www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/1999/99interim](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/1999/99interim).

1. *Staff Summary of Meeting, September 27, 1999.*
2. *Fire and Police Pension Association of Colorado Annual Update, prepared for the State of Colorado Pension Reform Commission, June 1, 1999.*