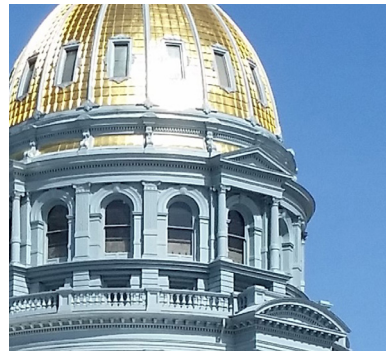


2022

Report to the Colorado General Assembly



Pension Review Commission and Pension Review Subcommittee



Prepared by Legislative Council Staff
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November 2022

Pension Review Commission and Pension Review Subcommittee

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Representative Shannon Bird, Vice-Chair

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Senator Chris Hansen	Representative Shane Sandridge
Senator Dennis Hisey	Representative Emily Sirota
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Erin Reynolds, Deputy Fiscal Notes Manager
Anne Wallace, Senior Research Analyst
Katie Ruedebusch, Principal Research Analyst

Office of Legislative Legal Services

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November 2022

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DENVER, COLORADO 80203-1784

E-mail: lcs.ga@state.co.us

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November 2022

To Members of the Seventy-third General Assembly:

Submitted herewith is the final report of the Pension Review Commission. This committee was created pursuant to Article 51.1 of Title 24, Colorado Revised Statutes. The purpose of the commission is to study and review the two major pension plans in the state: the Fire and Police Pension Association for police officers and firefighters employed by local governments and the Public Employees' Retirement Association pension for state and local government employees, to develop proposed legislation, and to report back to the legislature and general public.

At its meeting on October 14, 2022, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bill therein for consideration in the 2023 session was approved.

Additionally, this document serves as the final report of the Pension Review Subcommittee. Pursuant to Section 24-51.1-101 (3)(a), the Pension Review Subcommittee must focus on the financial health of PERA.

Sincerely,

/s/ Representative Alec Garnett
Chair

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This report is also available online at:

<https://leg.colorado.gov/committees/pension-review-commission/2022-regular-session>

Commission and Subcommittee Charge

Pension Review Commission. Pursuant to Section 24-51.1-101, C.R.S., the Pension Review Commission is required to study and develop proposed legislation relating to funding and benefit design of police officers' and firefighters' pensions in the state, which are primarily managed by the Fire and Police Pension Association (FPPA). In addition, the commission must study and may develop proposed legislation relating to the Public Employees' Retirement Association (PERA). Specifically, the law directs the commission to study, review, and propose legislation related to the following subjects including, but not limited to:

- normal retirement age;
- 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 and employer contributions;
- post-retirement increases;
- creation of an administration board;
- creation of a consolidated statewide system;
- coordination of benefits with other programs;
- the volunteer firefighter pension system; and
- state laws related to each pension system.

The Pension Review Commission also hears any recommendations from the Pension Review Subcommittee, which is a year-round, 14-member body tasked with studying the financial health of PERA.

Pension Review Subcommittee. Pursuant to Section 24-51.1-101 (3)(a), the Pension Review Subcommittee focuses on PERA's financial health. Specifically, the subcommittee is responsible for:

- making recommendations to the Pension Review Commission regarding PERA;
- determining the necessity of continuing the annual direct distribution of \$225 million in state funding to PERA;
- suggesting enhancements to PERA's analysis tools and determining whether PERA's model assumptions are meeting targets and achieving sustainability;
- reviewing the annual actuarial valuation of PERA and making comments as necessary;
- making recommendations to PERA's board regarding assumptions, funding policy, reporting practices, or other operational policy;
- semi-annually reviewing the overall financial health of PERA, including the levels of benefits, its sources of funding, and its overall financial viability based on both the assumptions of the board and the requirements of the Governmental Accounting Standards Board, and requesting that PERA adjust its assumptions as appropriate;
- reviewing annually the calculated normal costs that will cover current pension benefits and the share of contributions going to cover PERA's unfunded liability;

- reviewing semi-annually the planned reduction of PERA's unfunded liability, providing an annual report to the General Assembly regarding whether or not PERA is on track to achieve full funding by 2048, and making recommendations to rectify the shortfall as needed;
- providing an annual written report to Colorado citizens on whether PERA is on track to achieve full funding by 2048, and, if not, a report of the corrective actions recommended by the subcommittee or PERA to the legislature to rectify the shortfall;
- after full funding is achieved, making recommendations to the commission, the Joint Budget Committee, and the General Assembly during each legislative session regarding changes to the plan to maintain full funding;
- ensuring PERA's board is administering the association as mandated and making recommendations for the board's structure as warranted; and
- every three years, commissioning an independent review of the economic and investment assumptions used to model PERA's financial situation. The subcommittee shall use experts other than those already working on behalf of the association.

PENSION REVIEW COMMISSION ACTIVITIES

The commission met twice during the 2022 interim. Briefings and presentations were made by the FPPA, PERA, and the Pension Review Subcommittee. The following sections discuss the committee's activities during the 2022 interim.

Fire and Police Pension Association Update

The FPPA's executive leadership provided an organizational update, reviewed its plans and membership, and discussed its investments and funded status. The full presentation is online at: https://leg.colorado.gov/sites/default/files/images/fppa_annual_update_to_the_commission.pdf.

Board of directors. The FPPA has a nine-member, Governor-appointed board. Board members must also be confirmed by the Senate. Board members represent employers and membership, as well as certain financial experience.

FPPA plans. The majority of FPPA members are on the Statewide Defined Benefit Plan (244 departments). The FPPA also administers to Colorado Springs New Hire Pension Plan (2 employers) and the Statewide Hybrid Plan (46 departments), as well as a Statewide Death and Disability Plan and a handful of old hire and affiliated local plans. As of December 31, 2021, the FPPA had a 2.4 percent increase in retirees and a 2.2 percent increase in active members.

Investments. FPPA representatives described the negative investment returns year-to-date in 2022, at -9.65 percent, compared to investment returns in 2021 at 15.17 percent.

Funded status. The FPPA reported that its plans continued to be well-funded, with their defined benefit and hybrid plans at over 100 percent funded status, as outlined below:

- the Statewide Defined Benefit Plan funded ratio increased from 100 percent as of January 1, 2021 to 104.9 percent as of January 1, 2022;

- the Statewide Hybrid Plan funded ratio increased from 129.4 percent as of January 1, 2021 to 134.6 percent as of January 1, 2022; and
- the Statewide Death & Disability Plan funded ratio increased from 76.5 percent as of January 1, 2021 to 81.1 percent as of January 1, 2022.

Public Employees' Retirement Association Update

PERA's executive leadership discussed PERA's plans and governance, provided a review of 2021 and progress toward full funding, and its investments. The full presentation is online at: https://leg.colorado.gov/sites/default/files/images/pera_presentation_to_the_pension_review_committee.pdf.

2021 review. PERA discussed key highlights from its most recent annual certified financial report, as detailed below:

- \$66 billion in assets under management;
- 16.1 percent net rate of return;
- 207,269 active members with 409 employers;
- 132,111 retirees and benefit recipients with \$5.0 billion paid in retirement benefits;
- 59,568 enrolled in PERACare;
- 67.8 percent funded status in all division trusts; and
- \$898.9 million invested in Colorado-based companies, partnerships, and assets.

Legislative Recommendations from the Pension Review Subcommittee

The Pension Review Subcommittee chair presented the subcommittee's legislative recommendation to make up the interest lost in the deferred 2020 direct distribution payment to PERA.

As a result of this request, the commission requested Bill 3, which was later withdrawn. The bill would have required a warrant to be issued to PERA in the amount of \$33.8 million using the balance of the PERA Payment Cash Fund, with the remainder paid by unrestricted General Fund reserve retained in FY 2022-23 with the intent to fully recompense PERA for interest earnings on the repealed July 1, 2020, direct distribution payment.

Other Policy Areas

Pension retiree relief. As a result of the commission and subcommittee's discussions regarding retirees, the 1.5 percent cost of living adjustment, and the rising cost of inflation, the commission recommends Bill A, which concerns a tax credit for PERA and other state and local pension retirees for 2023 and 2024.

Study of active and passive investments. The commission also requested an additional bill which was withdrawn. Bill 1 would have required the Office of the State Auditor to contract a study comparing active and passive investment approaches for PERA and the FPPA. The committee

withdrew this bill and drafted a letter to PERA and the FPPA requesting that each organization report on this issue next year.

PENSION REVIEW SUBCOMMITTEE ACTIVITIES

The Pension Review Subcommittee met three times during the 2022 interim. Presentations were made by legislative staff and PERA. The following sections discuss the subcommittee’s activities during the 2022 interim.

Presentation on the State’s Direct Distribution to PERA

The subcommittee heard a presentation on House Bill 22-1029 – Compensatory Direct Distribution to PERA from a bill sponsor, budget staff, and PERA’s executive director. The sponsor described the bill, while staff and PERA described the impact to PERA from the adjustments to the direct distribution.

Presentation from PERA

The subcommittee created a list of questions for PERA, which PERA provided the answers to in a subsequent meeting. PERA’s presentation discussed inflationary impacts, actuarial assumptions, and PERACare health insurance costs. PERA also provided an update on the implementation of last year’s subcommittee recommendations.

Research Requests

Legislative staff presented the subcommittee with responses to requested research on the cost of a cost-of-living-adjustment for retirees, including both through PERA’s trusts as well as through a tax credit or deduction. The committee also requested research on public banking in other states and the path to public banking in Colorado.

Recommendations for the Pension Review Commission

Subcommittee members discussed their recommendations for PERA. The committee agreed to make a recommendation for a bill to provide PERA with funding that made up for lost investment earnings from the adjustments to House Bill 22-1029.

Annual Report to Colorado Citizens

The subcommittee issued a letter to Colorado citizens expressing that PERA is on track to reach full funding by 2048.

Summary of Recommendations

As a result of the committee's activities, the committee recommended one bill to the Legislative Council for consideration in the 2023 session. At its meeting on October 14, 2022, the Legislative Council approved that bill for introduction. The approved bill is described below.

Bill A — Temporary Increase Pension Deduction

For tax years 2023 and 2024, Bill A creates a \$700 tax credit for state and local government pensioners.

Resource Materials

Meeting summaries are prepared for each meeting of the commission and subcommittee, and contain all handouts provided to them. 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 dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/content/committees>

Meeting Date and Topics Discussed

Pension Review Subcommittee

July 21, 2022

- Review of Subcommittee charge
- Subcommittee discussion of PERA
- Review recommendations from the Pension Review Subcommittee
- Bill draft requests

July 28, 2022

- Presentation on House Bill 22-1029 – Compensatory Direct Distribution to PERA
- Presentation from PERA on the direct distribution
- Review of Subcommittee questions for PERA
- Recommendations for the Pension Review Commission
- Discussion of annual reports to Colorado citizens

October 13, 2022

- Review Subcommittee research requests
- Presentation from PERA on responses to Subcommittee questions
- Preparation of annual report to Colorado citizens

Pension Review Commission

August 8, 2022

- Presentation from the FPPA
- Presentation from PERA
- Review recommendations from the Pension Review Subcommittee
- Bill draft requests

September 27, 2022

- Approval of bill draft requests

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

Attachment A

BILL A

LLS NO. 23-0095.02 Jessica Herrera x4218

HOUSE BILL

HOUSE SPONSORSHIP

Bird and Sirota, Will

SENATE SPONSORSHIP

Kolker and Hansen,

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN INCOME TAX CREDIT FOR**
102 **QUALIFYING RETIREES OF COLORADO PUBLIC 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. The bill creates an income tax credit that is available for income tax years commencing on or after January 1, 2023, but prior to January 1, 2025, for a qualifying public service retiree, which means a full-time Colorado resident individual who is:

- 55 years of age or older at the end of the 2023 or 2024

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

- income tax year; and
● A retiree of a Colorado public pension plan administered pursuant to the Colorado Revised Statutes or a retiree of a public pension plan administered by a local government of the state of Colorado.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-549 as
3 follows:

4 **39-22-549. Credit against tax - qualifying recipients - creation**
5 **- legislative declaration - definitions - repeal.** (1) (a) THE GENERAL
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (I) INFLATION RATES HAVE INCREASED OVER THE LAST FEW YEARS
8 AND ARE PREDICTED TO CONTINUE RISING; AND

9 (II) MANY PUBLIC SERVICE RETIREES ARE ON A FIXED INCOME AND
10 THE COST OF LIVING ADJUSTMENT FOR MANY STATE AND LOCAL
11 GOVERNMENT PUBLIC PENSION PLANS ARE NOT KEEPING UP WITH THE
12 RISING INFLATION RATES.

13 (b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
14 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
15 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
16 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND
17 DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN
18 SUBSECTION (2) OF THIS SECTION IS TO PROVIDE TAX RELIEF FOR CERTAIN
19 INDIVIDUALS, SPECIFICALLY, QUALIFIED PUBLIC SERVICE RETIREES OF
20 COLORADO PUBLIC PENSION PLANS ADMINISTERED PURSUANT TO THE
21 COLORADO REVISED STATUTES AND PUBLIC PENSION PLANS
22 ADMINISTERED BY LOCAL GOVERNMENTS WITHIN THE STATE OF
23 COLORADO.

1 (c) THE GENERAL ASSEMBLY AND STATE AUDITOR SHALL MEASURE
2 THE EFFECTIVENESS OF THE INCOME TAX CREDIT IN ACHIEVING THE
3 PURPOSE SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION BASED ON THE
4 NUMBER OF TAXPAYERS WHO HAVE CLAIMED THE CREDIT.

5 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX THAT IS
8 CREATED IN THIS SECTION.

9 (b) "QUALIFYING PUBLIC SERVICE RETIREE" MEANS A FULL-TIME
10 RESIDENT INDIVIDUAL WHO IS:

11 (I) FIFTY-FIVE YEARS OF AGE OR OLDER AT THE CLOSE OF THE
12 INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED; AND

13 (II) A RETIREE OF A COLORADO PUBLIC PENSION PLAN
14 ADMINISTERED PURSUANT TO THE COLORADO REVISED STATUTES, OR A
15 RETIREE OF A PUBLIC PENSION PLAN ADMINISTERED BY A LOCAL
16 GOVERNMENT OF THE STATE OF COLORADO.

17 (3) FOR THE INCOME TAX YEARS COMMENCING ON OR AFTER
18 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2025, A QUALIFYING PUBLIC
19 SERVICE RETIREE IS ALLOWED A CREDIT IN THE AMOUNT OF SEVEN
20 HUNDRED DOLLARS AGAINST THE TAX IMPOSED BY THIS ARTICLE 22.

21 (4) THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
22 THAT EXCEEDS THE QUALIFYING PUBLIC SERVICE RETIREE'S INCOME TAXES
23 DUE IS REFUNDED TO THE QUALIFYING PUBLIC SERVICE RETIREE.

24 (5) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

25 **SECTION 2. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly; except

1 that, if a referendum petition is filed pursuant to section 1 (3) of article V
2 of the state constitution against this act or an item, section, or part of this
3 act within such period, then the act, item, section, or part will not take
4 effect unless approved by the people at the general election to be held in
5 November 2024 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.