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SENATE BILL 09-227

BY SENATOR(S) Tapia, Keller, White;  
also REPRESENTATIVE(S) Pommer, Ferrandino, Marostica, Schafer S.

CONCERNING ASSISTANCE WITH THE UNFUNDED ACCRUED LIABILITY OF OLD HIRE PENSION PLANS THAT ARE AFFILIATED WITH THE FIRE AND POLICE PENSION ASSOCIATION, AND, IN CONNECTION THEREWITH, ELIMINATING THE STATE CONTRIBUTION TO THE OLD HIRE PENSION PLANS FOR THE 2008-09, 2009-10, AND 2010-11 STATE FISCAL YEARS, EXTENDING THE STATE CONTRIBUTION THROUGH THE 2014-15 STATE FISCAL YEAR, EXTENDING THE AMORTIZATION PERIOD FOR UNDERFUNDED OLD HIRE PENSION PLANS THAT NO LONGER RECEIVE STATE ASSISTANCE, AND MODIFYING THE APPROPRIATION THEREFOR.

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

**SECTION 1.** 31-30.5-304 (5) (a) (II) and (5) (b), Colorado Revised Statutes, are amended to read:

**31-30.5-304. Limitation on existing funds - procedures.**  
(5) (a) Except as provided in paragraph (c) of this subsection (5), beginning July 1, 1995, annual employer contributions to state-assisted old hire police officers' and firefighters' pension funds shall be made at least at an annual rate that is the lesser of the following:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(II) The amount that is certified by the actuary who is designated by the fire and police pension association under section 31-30.5-306 to be necessary as of July 1, 1995, to pay current service costs and eliminate all unfunded liabilities in any such fund no later than ~~June 30, 2012~~ JUNE 30, 2015, if annual member contributions are made as required by subsection (7) of this section and if annual state contributions equal to the amount received in calendar year 1994 are made.

(b) Annual employer contributions to state-assisted police officers' and firefighters' pension funds shall continue at the rate established by this subsection (5) after the ~~2011-12 state fiscal year~~ 2014-15 STATE FISCAL YEAR, if necessary, until all unfunded accrued liability in the employers' state-assisted old hire police officers' and firefighters' pension plans is eliminated and if annual state contributions are made through ~~April 30, 2012~~ APRIL 30, 2015, pursuant to section 31-30.5-307 (2).

**SECTION 2.** 31-30.5-306 (1) (b) (II), Colorado Revised Statutes, is amended to read:

**31-30.5-306. Actuarial studies.** (1) (b) (II) By September 30, 2001, and by September 30 of each year thereafter, until September 30, 2002, and by April 30, 2006, and by April 30 of each year thereafter, until ~~April 30, 2012~~ APRIL 30, 2015, or until all state-assisted old hire pension plans are fully funded, whichever comes first, an updated actuarial study shall be filed with the fire and police pension association. For the 2003-04 fiscal year and each fiscal year thereafter for which an actuarial study is filed, the actuarial study shall include a determination of the amount of the unfunded liability that may accrue as a result of the suspension of the state contribution of the old hire plan members' benefit trust fund pursuant to section 31-30.5-307 (5) (a).

**SECTION 3.** 31-30.5-307 (1) (a), (1) (c), (2), (4), (5) (a), and (5) (b), Colorado Revised Statutes, are amended to read:

**31-30.5-307. State contribution.** (1) (a) Any moneys allocated for distribution pursuant to subsection (2) of this section shall be distributed by the fire and police pension association board of directors annually to any fund of an old hire pension plan established pursuant to this article having an unfunded accrued liability to assist in amortizing such unfunded accrued

liability as determined in the January 1, 1994, actuarial studies performed under section 31-30.5-306. Beginning in 1995 and in each state fiscal year through the ~~2011-12 state fiscal year~~ 2014-15 STATE FISCAL YEAR, with the exception of the 2003-04 and 2004-05 state fiscal years pursuant to PARAGRAPH (a) OF subsection (5) of this section AND THE 2008-09, 2009-10, AND 2010-11 STATE FISCAL YEARS PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION, each such fund having an unfunded accrued liability shall be credited with that amount of state contributions that it received in 1994 to assist in retiring its unfunded liability. In addition, if the annual employer contribution amount established by section 31-30.5-304 (5) will result in total employer contributions to any such fund that, on a present value basis as determined by the association, are more than five percent higher than what the estimated total employer contributions to such fund would have been but for section 31-30.5-304 (5), then each such fund shall receive that amount of supplemental state contributions sufficient to eliminate, on a present value basis, the estimated aggregate increase in employer contributions attributable to the enactment of section 31-30.5-304 (5). Any remaining state contributions shall be distributed to each such fund based upon the amount, as determined by an independent actuarial review and certified by the board to the joint budget committee each December 1, that is consistent with the general assembly's intent that the unfunded liabilities in all such funds will be eliminated no later than ~~June 30, 2012~~ JUNE 30, 2015. If in any year the annual state contribution for unfunded liabilities is less than the amount contributed under subsection (2) of this section on September 30, 1995, each such fund having an unfunded accrued liability shall be credited with state contributions in proportion to the percentage of aggregate unfunded accrued liabilities each such fund represents, excluding any unfunded liabilities attributable to additional plan benefits adopted under section 31-30.5-210 (2). No money shall be distributed pursuant to this subsection (1) to an employer having rank escalation for old hire members, which is not in the association. For the purposes of this subsection (1), "rank escalation" means the addition to the amount of the retirement pension or disability benefit being received of a fixed percentage of any increase in salary, as well as longevity or additional pay based on length of service, granted the rank a member occupied before retiring or being disabled.

(c) State contributions pursuant to this subsection (1) shall cease when the unfunded liabilities in all funds receiving such contributions are

eliminated, but no later than ~~June 30, 2012~~ JUNE 30, 2015.

(2) On September 30, 1995, and on September 30 of each year thereafter through 2002 and on April 30, 2006, and on April 30 of each year thereafter ~~through 2012~~ THROUGH 2015, the state treasurer shall transfer from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the old hire plan members' benefit trust fund created by section 31-31-701 (6), an amount equal to twenty-six million six hundred thousand dollars minus the amount transferred under section 31-30-1112 (2) (g) (I). Such annual transfer to the fund under this subsection (2) shall cease when the requirements of paragraph (c) of subsection (1) of this section have been met, and the final annual transfer may be in an amount less than the amount prescribed by this subsection (2) as determined from the total amount of unfunded accrued liability of employers. Moneys in said fund shall not revert to the general fund but shall be continuously available for the purposes provided in this part 3 and part 11 of article 30 of this title.

(4) By October 1, 2001, and by October 1 of each year thereafter, until October 1, 2002, and by March 1, 2006, and by March 1 of each year thereafter, until ~~March 1, 2012~~ MARCH 1, 2015, or until all state-assisted old hire pension plans are fully funded, whichever comes first, the board shall determine for every state-assisted old hire pension plan whether the sum of the required state and employer contributions for the current year is greater than the amount necessary to eliminate the remaining unfunded liability of the plan. The board's determination shall be based on the previous year's actuarial studies performed pursuant to section 31-30.5-306 and the sum of the previous year's state and employer contributions. If the board determines that the sum of the required contributions for the current year is greater than the amount of remaining unfunded liability of the plan, then both the required state and employer contributions to that plan shall be in an amount proportionate to the amount respectively contributed in the previous year so that the sum of the two contributions is equal to an amount that eliminates any remaining unfunded liability.

(5) (a) (I) Notwithstanding any other provision of law, the state treasurer shall not transfer moneys to the old hire plan members' benefit trust fund pursuant to subsection (2) of this section on September 30, 2003, September 30, 2004, or September 30, 2005. The state treasurer shall resume such transfers beginning on April 30, 2006, and shall make a transfer every April 30 thereafter ~~until 2012~~ UNTIL 2008 pursuant to

subsection (2) of this section. ~~or until all state-assisted old hire pension plans are fully funded, whichever comes first~~ THE TRANSFERS SHALL RESUME ON APRIL 30, 2012, PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

(II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE TREASURER SHALL NOT TRANSFER MONEYS TO THE OLD HIRE PLAN MEMBERS' BENEFIT TRUST FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION ON APRIL 30, 2009, APRIL 30, 2010, OR APRIL 30, 2011. THE STATE TREASURER SHALL RESUME SUCH TRANSFERS BEGINNING ON APRIL 30, 2012, AND SHALL MAKE A TRANSFER EVERY APRIL 30 THEREAFTER UNTIL 2015 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR UNTIL ALL STATE-ASSISTED OLD HIRE PENSION PLANS ARE FULLY FUNDED, WHICHEVER COMES FIRST.

(b) Notwithstanding any other provision of law, the state shall transfer to the old hire plan members' benefit trust fund any amount of unfunded liability accrued as a result of the suspension of the state contribution to the fund pursuant to paragraph (a) of this subsection (5) as determined in the actuarial study filed with the fire and police pension association pursuant to section 31-30.5-306 (1) (b) (II). Such transfers may occur at any time until ~~April 30, 2012~~ APRIL 30, 2015.

**SECTION 4.** 31-30.5-404, Colorado Revised Statutes, is amended to read:

**31-30.5-404. Plans affiliated with the fire and police pension association.** Notwithstanding any provision of this part 4 to the contrary, an employer that affiliates its old hire police officers' or firefighters' pension fund with the fire and police pension association pursuant to section 31-31-701 and that is not receiving state contributions under part 3 of this article shall annually contribute an amount approved by the board of directors of the association, upon the advice of its actuary, sufficient to pay the normal cost plus amortize the unfunded past service liability attributed to old hire members, over a period of ~~forty years from January 1, 1982~~ NOT TO EXCEED THE LESSER OF TWENTY YEARS OR THE NUMBER OF YEARS EQUAL TO THE AVERAGE REMAINING LIFE EXPECTANCY OF THE PENSION FUND'S MEMBERS.

**SECTION 5.** Part XXII (3) and the affected totals of section 2 of chapter 474, Session Laws of Colorado 2008, are amended to read:

Section 2. **Appropriation.**

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
<b>PART XXII</b>						
<b>DEPARTMENT OF THE TREASURY</b>						
<b>(3) SPECIAL PURPOSE</b>						
Senior Citizen and Disabled Veteran Property Tax Exemption	86,200,000	86,200,000 <sup>a</sup>				
CoverColorado	48,772,043			48,772,043 <sup>b</sup>		
Fire and Police Pension Association - Old Hire Plans	34,777,172		34,777,172 <sup>c</sup>			
	9,456,093		9,456,093 <sup>c</sup>			
Highway Users Tax Fund - County Payments	157,500,000			157,500,000 <sup>d</sup>		
Highway Users Tax Fund - Municipality Payments	<u>104,392,700</u>			104,392,700 <sup>d</sup>		
	431,641,915					
	406,320,836					

<sup>a</sup> Pursuant to Article X, Section 3.5 (3), of the State Constitution, this amount is not subject to the limitation on General Fund appropriations set forth in Section 24-75-201.1, C.R.S., because enactment of this constitutional provision by the people of Colorado constitutes voter approval of a weakening of such limitation.

<sup>b</sup> This amount represents estimated transmittals from the Unclaimed Property Trust Fund to CoverColorado pursuant to Section 38-13-116.5 (2.7), C.R.S. Pursuant to Section 38-13-116.5 (1) (b), C.R.S., moneys comprising the principal of the Unclaimed Property Trust Fund do not constitute fiscal year spending of the State for purposes of Section 20 of Article X of the State Constitution. In addition, pursuant to Section 24-77-102 (15) (b) (XII) and (16) (b) (II), C.R.S., CoverColorado is defined as a "special purpose authority" and thus is not considered part of the State for purposes of Section 20 of Article X of the State Constitution.

<sup>c</sup> This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S. ~~This amount represents transfers to the Fire and Police Pension Association for old hire pension plans, including the State's annual contribution of \$25,321,079 as required by Section 31-30.5-307 (2), C.R.S., plus \$9,456,093 to pay a portion of the unfunded liability accrued as a result of the suspension of the state contribution for old hire pension plans pursuant to Section 31-30.5-307 (5) (b), C.R.S.~~ This amount is included as information for purposes of complying with the limitation on state fiscal year spending imposed by Section 20 of Article X of the State Constitution. This amount, transferred pursuant to Section 31-30.5-307 (2), C.R.S., shall be deemed not to be an appropriation subject to the limitations of Section 24-75-201.1, C.R.S.



**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Peter C. Groff  
PRESIDENT OF  
THE SENATE

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Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO