

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 08-1070

BY REPRESENTATIVE(S) Riesberg, Benefield, Rice, Borodkin, Buescher, Butcher, Gallegos, Hodge, Jahn, Kerr A., Labuda, Madden, McFadyen, McGihon, Solano, Soper, Stafford, and Todd;  
also SENATOR(S) Tochtrop, Morse, and Williams.

CONCERNING THE REDETERMINATION OF BENEFITS PAYABLE UNDER THE  
FIRE AND POLICE PENSION ASSOCIATION'S STATEWIDE DEFINED  
BENEFIT PLAN FOR NEW HIRE MEMBERS, AND, IN CONNECTION  
THEREWITH, ESTABLISHING LIMITS ON SUCH BENEFIT INCREASES.

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

**SECTION 1.** 31-31-407 (1), (2), and (3), Colorado Revised Statutes, are amended, and the said 31-31-407 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**31-31-407. Adjustment of benefits.** (1) The benefits payable under the statewide defined benefit plan established by this part 4 ~~shall~~ MAY be redetermined effective October 1 each year. ~~and~~ IF SUCH BENEFITS ARE REDETERMINED, such redetermined amount shall be payable for the following twelve months. To be eligible for redetermination, such benefits shall have been paid for at least twelve calendar months prior to the effective date of redetermination. ~~The annual~~ ANY redetermination of

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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.*

benefits made pursuant to this section shall be in lieu of any other annual cost of living adjustment.

~~(2) (a) Subject to the limitations contained in subsection (3) of this section, the redetermination of benefits payable under subsection (1) of this section shall be computed as follows: The amount of the benefit on the effective date of the benefit shall be increased by a percentage to be determined by the board but no more than three percent for each full year contained in the period commencing with the effective date of the benefit and ending with the effective date of the redetermination:~~

~~(b) (Deleted by amendment, L. 2002, p. 173, § 2, effective October 1, 2002.)~~

~~(3) (a) In no event shall the redetermined amount provided for in subsection (2) of this section be:~~

~~(I) Less than the amount of the benefit on the effective date of the benefit; or~~

~~(II) More than the amount of the benefit on the effective date of the benefit multiplied by a fraction, the numerator of which shall be the average of the consumer price index for the twelve months in the calendar year immediately preceding the effective date of the redetermination and the denominator of which shall be the average of the consumer price index for the twelve months in the calendar year immediately preceding the effective date of the benefit. In no event shall the numerator of the fraction be less than the denominator:~~

~~(b) As used in paragraph (a) of this subsection (3), the term "consumer price index" means the national consumer price index for urban wage earners and clerical workers prepared by the United States department of labor. Such consumer price index shall be deemed to have such base period as is in effect January 1, 1969:~~

(5) (a) EFFECTIVE OCTOBER 1, 2008, AND EACH YEAR THEREAFTER, ANY REDETERMINATION OF BENEFITS MADE PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE DETERMINED BY THE BOARD IN ITS DISCRETION AS A FIDUCIARY OF THE STATEWIDE DEFINED BENEFIT PLAN AFTER CONSIDERING THE FUNDING LEVEL OF THE PLAN, THE COST OF SUCH

INCREASE, WHETHER THE INCREASE CREATES AN ADVERSE ACTUARIAL IMPACT ON THE PLAN'S ABILITY TO FUND FUTURE BENEFITS, AND ANY OTHER FACTORS THE BOARD DEEMS APPROPRIATE. THE REDETERMINED BENEFITS SHALL NOT EXCEED THE GREATER OF:

(I) ONE HUNDRED THREE PERCENT OF THE BENEFITS PAID FOR THE PRIOR TWELVE-MONTH PERIOD; OR

(II) THE BENEFITS PAID DURING THE PRIOR TWELVE-MONTH PERIOD MULTIPLIED BY A FRACTION USING THE CONSUMER PRICE INDEX FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR AS THE NUMERATOR AND THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR PRIOR TO THE IMMEDIATELY PRECEDING CALENDAR YEAR AS THE DENOMINATOR.

(b) AS USED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (5), THE TERM "CONSUMER PRICE INDEX" MEANS THE NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS PREPARED BY THE UNITED STATES DEPARTMENT OF LABOR.

**SECTION 2.** 31-30.5-209 (4) (c), Colorado Revised Statutes, is amended to read:

**31-30.5-209. Idle funds.** (4) (c) If a plan fund does not provide any type of cost-of-living benefit to persons receiving benefits from the plan fund, the assets in the plan fund shall be used to provide an annual adjustment to the pension benefits for such persons prior to using the excess balance in the plan fund as provided in paragraph (a) of this subsection (4) and prior to purchasing annuities as provided in paragraph (b) of this subsection (4). The minimum annual adjustment shall be calculated in the same manner as the annual adjustment to total disability benefits provided for members of the statewide death and disability plan pursuant to ~~sections 31-31-407 (3) and~~ SECTION 31-31-803 (6) (b) (II); except that the effective date of the benefit for purposes of the ~~formula~~ AMOUNT set forth in said ~~sections~~ SECTION shall be the date on which the board provides the annual adjustment required under this paragraph (c).

**SECTION 3. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state

constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Peter C. Groff  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO