

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0892.01 Nicole Myers

SENATE BILL 09-227

SENATE SPONSORSHIP

Tapia, Keller, White

HOUSE SPONSORSHIP

Pommer, Ferrandino, Marostica

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING ASSISTANCE WITH THE UNFUNDED ACCRUED LIABILITY**
102 **OF OLD HIRE PENSION PLANS THAT ARE AFFILIATED WITH THE**
103 **FIRE AND POLICE PENSION ASSOCIATION, AND, IN CONNECTION**
104 **THEREWITH, ELIMINATING THE STATE CONTRIBUTION TO THE**
105 **OLD HIRE PENSION PLANS FOR THE 2008-09, 2009-10, AND**
106 **2010-11 STATE FISCAL YEARS, EXTENDING THE STATE**
107 **CONTRIBUTION THROUGH THE 2014-15 STATE FISCAL YEAR, AND**
108 **EXTENDING THE AMORTIZATION PERIOD FOR UNDERFUNDED OLD**
109 **HIRE PENSION PLANS THAT NO LONGER RECEIVE STATE**
110 **ASSISTANCE.**

Bill Summary

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

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

FY 08-09 Budget Balancing Bill. For the 2008-09, 2009-10, and 2010-11 state fiscal years, eliminates the state's annual contribution to the fire and police pension association (FPPA) to assist in amortizing the unfunded accrued liability of old hire pension plans. Resumes the state's annual contribution to the FPPA beginning in the 2011-12 state fiscal year, and extends such annual contribution through the 2014-15 state fiscal year.

Extends the amortization period for old hire pension plans that are underfunded but no longer receive state assistance.

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

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

4 **31-30.5-304. Limitation on existing funds - procedures.**

5 (5) (a) Except as provided in paragraph (c) of this subsection (5),
6 beginning July 1, 1995, annual employer contributions to state-assisted
7 old hire police officers' and firefighters' pension funds shall be made at
8 least at an annual rate that is the lesser of the following:

9 (II) The amount that is certified by the actuary who is designated
10 by the fire and police pension association under section 31-30.5-306 to be
11 necessary as of July 1, 1995, to pay current service costs and eliminate all
12 unfunded liabilities in any such fund no later than ~~June 30, 2012~~ JUNE 30,
13 2015, if annual member contributions are made as required by subsection
14 (7) of this section and if annual state contributions equal to the amount
15 received in calendar year 1994 are made.

16 (b) Annual employer contributions to state-assisted police officers'
17 and firefighters' pension funds shall continue at the rate established by
18 this subsection (5) after the ~~2011-12 state fiscal year~~ 2014-15 STATE

1 FISCAL YEAR, if necessary, until all unfunded accrued liability in the
2 employers' state-assisted old hire police officers' and firefighters' pension
3 plans is eliminated and if annual state contributions are made through
4 ~~April 30, 2012~~ APRIL 30, 2015, pursuant to section 31-30.5-307 (2).

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

7 **31-30.5-306. Actuarial studies.** (1) (b) (II) By September 30,
8 2001, and by September 30 of each year thereafter, until September 30,
9 2002, and by April 30, 2006, and by April 30 of each year thereafter, until
10 ~~April 30, 2012~~ APRIL 30, 2015, or until all state-assisted old hire pension
11 plans are fully funded, whichever comes first, an updated actuarial study
12 shall be filed with the fire and police pension association. For the
13 2003-04 fiscal year and each fiscal year thereafter for which an actuarial
14 study is filed, the actuarial study shall include a determination of the
15 amount of the unfunded liability that may accrue as a result of the
16 suspension of the state contribution of the old hire plan members' benefit
17 trust fund pursuant to section 31-30.5-307 (5) (a).

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

20 **31-30.5-307. State contribution.** (1) (a) Any moneys allocated
21 for distribution pursuant to subsection (2) of this section shall be
22 distributed by the fire and police pension association board of directors
23 annually to any fund of an old hire pension plan established pursuant to
24 this article having an unfunded accrued liability to assist in amortizing
25 such unfunded accrued liability as determined in the January 1, 1994,
26 actuarial studies performed under section 31-30.5-306. Beginning in
27 1995 and in each state fiscal year through the ~~2011-12 state fiscal year~~

1 2014-15 STATE FISCAL YEAR, with the exception of the 2003-04 and
2 2004-05 state fiscal years pursuant to PARAGRAPH (a) OF subsection (5)
3 of this section AND THE 2008-09, 2009-10, AND 2010-11 STATE FISCAL
4 YEARS PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF
5 SUBSECTION (5) OF THIS SECTION, each such fund having an unfunded
6 accrued liability shall be credited with that amount of state contributions
7 that it received in 1994 to assist in retiring its unfunded liability. In
8 addition, if the annual employer contribution amount established by
9 section 31-30.5-304 (5) will result in total employer contributions to any
10 such fund that, on a present value basis as determined by the association,
11 are more than five percent higher than what the estimated total employer
12 contributions to such fund would have been but for section 31-30.5-304
13 (5), then each such fund shall receive that amount of supplemental state
14 contributions sufficient to eliminate, on a present value basis, the
15 estimated aggregate increase in employer contributions attributable to the
16 enactment of section 31-30.5-304 (5). Any remaining state contributions
17 shall be distributed to each such fund based upon the amount, as
18 determined by an independent actuarial review and certified by the board
19 to the joint budget committee each December 1, that is consistent with the
20 general assembly's intent that the unfunded liabilities in all such funds
21 will be eliminated no later than ~~June 30, 2012~~ JUNE 30, 2015. If in any
22 year the annual state contribution for unfunded liabilities is less than the
23 amount contributed under subsection (2) of this section on September 30,
24 1995, each such fund having an unfunded accrued liability shall be
25 credited with state contributions in proportion to the percentage of
26 aggregate unfunded accrued liabilities each such fund represents,
27 excluding any unfunded liabilities attributable to additional plan benefits

1 adopted under section 31-30.5-210 (2). No money shall be distributed
2 pursuant to this subsection (1) to an employer having rank escalation for
3 old hire members, which is not in the association. For the purposes of this
4 subsection (1), "rank escalation" means the addition to the amount of the
5 retirement pension or disability benefit being received of a fixed
6 percentage of any increase in salary, as well as longevity or additional pay
7 based on length of service, granted the rank a member occupied before
8 retiring or being disabled.

9 (c) State contributions pursuant to this subsection (1) shall cease
10 when the unfunded liabilities in all funds receiving such contributions are
11 eliminated, but no later than ~~June 30, 2012~~ JUNE 30, 2015.

12 (2) On September 30, 1995, and on September 30 of each year
13 thereafter through 2002 and on April 30, 2006, and on April 30 of each
14 year thereafter ~~through 2012~~ THROUGH 2015, the state treasurer shall
15 transfer from the proceeds of the tax imposed by section 10-3-209,
16 C.R.S., to the old hire plan members' benefit trust fund created by section
17 31-31-701 (6), an amount equal to twenty-six million six hundred
18 thousand dollars minus the amount transferred under section 31-30-1112
19 (2) (g) (I). Such annual transfer to the fund under this subsection (2) shall
20 cease when the requirements of paragraph (c) of subsection (1) of this
21 section have been met, and the final annual transfer may be in an amount
22 less than the amount prescribed by this subsection (2) as determined from
23 the total amount of unfunded accrued liability of employers. Moneys in
24 said fund shall not revert to the general fund but shall be continuously
25 available for the purposes provided in this part 3 and part 11 of article 30
26 of this title.

27 (4) By October 1, 2001, and by October 1 of each year thereafter,

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

17 (5) (a) (I) Notwithstanding any other provision of law, the state
18 treasurer shall not transfer moneys to the old hire plan members' benefit
19 trust fund pursuant to subsection (2) of this section on September 30,
20 2003, September 30, 2004, or September 30, 2005. The state treasurer
21 shall resume such transfers beginning on April 30, 2006, and shall make
22 a transfer every April 30 thereafter ~~until 2012~~ UNTIL 2008 pursuant to
23 subsection (2) of this section. ~~or until all state-assisted old hire pension~~
24 ~~plans are fully funded, whichever comes first~~ THE TRANSFERS SHALL
25 RESUME ON APRIL 30, 2012, PURSUANT TO SUBPARAGRAPH (II) OF THIS
26 PARAGRAPH (a).

27 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE

1 TREASURER SHALL NOT TRANSFER MONEYS TO THE OLD HIRE PLAN
2 MEMBERS' BENEFIT TRUST FUND PURSUANT TO SUBSECTION (2) OF THIS
3 SECTION ON APRIL 30, 2009, APRIL 30, 2010, OR APRIL 30, 2011. THE
4 STATE TREASURER SHALL RESUME SUCH TRANSFERS BEGINNING ON APRIL
5 30, 2012, AND SHALL MAKE A TRANSFER EVERY APRIL 30 THEREAFTER
6 UNTIL 2015 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR UNTIL ALL
7 STATE-ASSISTED OLD HIRE PENSION PLANS ARE FULLY FUNDED,
8 WHICHEVER COMES FIRST.

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

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

18 **31-30.5-404. Plans affiliated with the fire and police pension**
19 **association.** Notwithstanding any provision of this part 4 to the contrary,
20 an employer that affiliates its old hire police officers' or firefighters'
21 pension fund with the fire and police pension association pursuant to
22 section 31-31-701 and that is not receiving state contributions under part
23 3 of this article shall annually contribute an amount approved by the
24 board of directors of the association, upon the advice of its actuary,
25 sufficient to pay the normal cost plus amortize the unfunded past service
26 liability attributed to old hire members, over a period of ~~forty years from~~
27 ~~January 1, 1982~~ NOT TO EXCEED THE LESSER OF TWENTY YEARS OR THE

1 NUMBER OF YEARS EQUAL TO THE AVERAGE REMAINING LIFE EXPECTANCY
2 OF THE PENSION FUND'S MEMBERS.

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

5 Section 2. **Appropriation.**

APPROPRIATION FROM

	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$	\$	\$
1	PART XXII						
2	DEPARTMENT OF THE TREASURY						
3							
4	(3) SPECIAL PURPOSE						
5	Senior Citizen and Disabled						
6	Veteran Property Tax						
7	86,200,000		86,200,000 ^a				
8	48,772,043				48,772,043 ^b		
9	Fire and Police Pension						
10	Association - Old Hire						
11	34,777,172			34,777,172 ^c			
12	9,456,093			9,456,093 ^c			
13	Highway Users Tax Fund -						
14	157,500,000				157,500,000 ^d		

		APPROPRIATION FROM					
	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$	\$	\$
1	Highway Users Tax Fund -						
2	Municipality Payments	104,392,700			104,392,700 ^d		
3		<u>431,641,915</u>					
4		406,320,836					
5							

6 ^a 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.,
7 because enactment of this constitutional provision by the people of Colorado constitutes voter approval of a weakening of such limitation.

8 ^b 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
9 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
10 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
11 thus is not considered part of the State for purposes of Section 20 of Article X of the State Constitution.

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

1 ^c 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~~
2 ~~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~~
3 ~~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
4 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,
5 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.

6 ^d These amounts represent estimated allocations of Highway Users Tax Fund revenues to counties and municipalities pursuant to Sections 43-4-205, 207, and 208, C.R.S. These
7 estimates are included for informational purposes for the purpose of complying with the limitation on state fiscal year spending imposed by Section 20 of Article X of the State
8 Constitution.

9

10 **TOTALS PART XXII**

11 (TREASURY)	\$435,426,998	\$87,231,672 ^a	\$34,777,172 ^b	\$313,418,154 ^c		
12	\$410,105,919		\$9,456,093 ^b			
13						

14 ^a Of this amount, \$86,200,000 is not subject to the limitation on General Fund appropriations imposed by Section 24-75-201.1, C.R.S.

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

1 ^b This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S. This amount is not subject to the limitation on General Fund
 2 appropriations imposed by Section 24-75-201.1, C.R.S.

3 ^c Of this amount, \$261,892,700 represents allocations of Highway Users Tax Fund revenues to counties and municipalities pursuant to Sections 43-4-205, 207, and 208, C.R.S.

4

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