



**Police Officers' and  
Firefighters' Pension  
Reform Commission**

**Report to the  
COLORADO  
GENERAL ASSEMBLY**

**Colorado Legislative Council  
Research Publication No. 418  
November 1996**

**RECOMMENDATIONS FOR 1997**

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

**Report to the  
Colorado General Assembly**

**Research Publication No. 418  
November 1996**

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October 30, 1996

To Members of the Sixty-first 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 October 10, 1996, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 1997 session was approved.

Respectfully submitted,

/s/ Senator Tom Norton  
Chairman  
Legislative Council

TN/CE/mm

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

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# EXECUTIVE SUMMARY

The focus of the Colorado Commission for Achievement in Education's activities during the 1996 interim was a study of graduate education. Although it has not recommended legislation on this topic, the commission has created a Task Force on Graduate Research and Education pursuant to its charge in House Bill 96-1219.

The commission recommends one bill for consideration by the 1997 General Assembly relating to higher education. The bill creates an income tax deduction for interest distributions from a statutorily approved prepaid tuition program.

## **Commission Charges**

The general charge to the commission is to recommend goals, objectives, and standards for the Colorado program for achievement in education and for a state education and training system to be met by the year 2000. In addition to those duties, House Bill 96-1219 directed the commission to conduct a study of graduate education and research in Colorado.

## **Commission Activities**

During the 1996 interim, the commission held bi-monthly public meetings and had discussions which drew upon expert testimony, comments from students, faculty and administration from higher education, the general public, and staff research to address graduate education. The commission also continued to follow the implementation of the statewide assessment program within standards-based education, and received final reports from the Special Education Task Force and the Task Force on Community, Parental and Business Involvement in Education.

## **Commission Recommendations**

***Bill A — Creation of an education expense program.*** Bill A relates to the creation of a prepaid education expense program pursuant to Senate Bill 96-172. Senate Bill 96-172 required the Colorado Student Obligation Bond Authority to determine whether a prepaid education expense program would be desirable to Colorado and if it would be financially sound. Under a prepaid education expense program, a family purchases a contract, based on an actuarially determined price, to pay for future tuition expenses. The authority briefed the commission on this program and presented its findings to a joint meeting of the House and Senate Education Committees in November 1996. In relation to Senate Bill 96-172, Bill A exempts from Colorado income tax the earnings from a qualified state tuition program that are distributed to meet higher education expenses of a designated beneficiary.

# STATUTORY AUTHORITY AND RESPONSIBILITIES

## **Commission Charge**

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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. Pursuant to Senate Bill 96-11, these provisions were relocated in Articles 30.5 and 31 of Title 31, C.R.S.

## **Commission Activities and Recommendations**

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At its meeting on September 23, 1996, the commission received a historical overview of state involvement in fire and police pension plans. A review of the 1995 annual financial report and the 1995 financial data was provided by Ms. Ruth Sieler, Executive Director of the Fire and Police Pension Association (FPPA). The director also presented a statement of FPPA's net assets as of December 31, 1995. Association funds grew from \$1,116,707,150 at the end of 1994 to \$1,422,740,153 at the end of 1995.

The commission considered legislation requested by the FPPA board of directors. Following discussion, Bills A and B were recommended for consideration in the 1997 legislative session.

## **Bill A — Fire and Police Pension Plan Management**

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Bill A authorizes the trustees of certain fire and police pension plans and funds to manage and invest plan and fund assets pursuant to the "Uniform Prudent Investor Act," which disallowed such plans when it was first enacted in 1995. This authorization is achieved by deleting specific provisions in statute relating to trustee investment of plan and fund assets, delegation of investment authority, and employment of investment counselors. A provision currently in statute allows the board of the fire and police pension association, in connection with managing the assets of the fire and police members' benefit fund, to form a tax-exempt corporation for ownership of real estate investments. This provision is relocated and extended to include the money purchase plan benefit fund.

## **Bill B — Fire and Police Pensions — Excess Funds**

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Testimony by a representative of the FPPA indicated that there are instances of high balances in some old hire pension plan funds, where there are few potential beneficiaries remaining. The commission recommends Bill B, which authorizes employers to use the excess balance in old hire pension plan funds when no active employees are participating in an old hire pension plan. Excess funds may be used for contributions to certain new hire pension plans, for contributions under federal social security laws, for law-enforcement, or for other uses as determined by the employer's governing board. An old hire pension plan fund must be kept at a level equal to at least twice the amount necessary to fund the benefit liabilities of any beneficiaries.

## **MATERIALS AVAILABLE**

The following materials relevant to the Police Officers' and Firefighters' Pension Reform Commission meeting are available from the office of the Legislative Council.

1. *Staff Summary of Meeting, September 23, 1996.*
2. *Comprehensive Annual Financial Report of the Fire and Police Pension Association of Colorado, FPPA, December 31, 1995.*
3. *Supplementary Financial Data, FPPA, September 23, 1996.*

# Bill A

## A BILL FOR AN ACT

CONCERNING THE MANAGEMENT OF ASSETS HELD BY FIRE AND POLICE PENSION PLANS THAT PROVIDE BENEFITS FOR PAID FIREFIGHTERS AND POLICE OFFICERS.

### Bill Summary

#### "Fire and Police Pension Plan Management"

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

#### Police Officers' and Firefighters' Pension Reform Commission.

Authorizes the trustees of the following fire and police pension plans and funds to manage and invest plan and fund assets pursuant to the "Uniform Prudent Investor Act":

- Old hire pension plans that are not affiliated with the fire and police pension association.
- Exempt alternative plans that are not affiliated with the fire and police pension association.
- The fire and police members' benefit fund.
- The fire and police members' statewide money purchase plan benefit fund.
- The fire and police members' money purchase plan benefit fund.

In conformance with this authorization, deletes specific provisions relating to trustee investment of plan and fund assets, delegation of investment authority, and employment of investment counselors.

Replaces the specified investment options the board may offer members of money purchase plans with a requirement that the board select at least 3 investment alternatives from which members may choose.

Relocates the provision specifying that the board of the fire and police pension association, in connection with managing the assets of the fire and police members' benefit fund, is not precluded from forming a tax-exempt corporation for ownership of investments in real property. Extends such authority to the board in connection with the money purchase plan benefit fund.

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

**SECTION 1.** 31-30.5-503, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-30.5-503. Alternative investment authority.** Notwithstanding any other provision of this part 5, moneys of old hire pension plans that are not affiliated with the fire and police pension association under section 31-31-701, may be MANAGED AND invested ~~as provided in section 31-30.5-803,~~ BY THE TRUSTEES OF SUCH PLANS PURSUANT TO THE STANDARD AND OTHER PROVISIONS FOR TRUSTEES SET FORTH IN THE "UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, C.R.S. ~~but Such investments shall meet earning performance standards established by the fire and police pension association board of directors and~~ shall be audited at least biennially.

**SECTION 2.** 31-30.5-803, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-30.5-803. Investment authority.** (1) Except as provided in subsection (2) of this section, moneys of exempt alternative plans that are not affiliated with the fire and police pension association under section 31-31-702 or 31-31-706 may be MANAGED AND invested ~~as provided in section 31-31-302 (4),~~ BY THE TRUSTEES OF SUCH PLANS PURSUANT TO THE STANDARD AND OTHER PROVISIONS FOR TRUSTEES SET FORTH IN THE "UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, C.R.S. ~~but~~ Such investments ~~shall meet earning performance standards established by the fire and police pension association board of directors and~~ shall be audited at least biennially.

(2) (a) ~~Notwithstanding any contrary provision in section 31-31-302 (4), assets of an exempt alternative plan may be invested in corporate stocks, corporate bonds, notes, or debentures that are convertible into corporate stocks, or investment trust shares pursuant to the following conditions:~~

~~(I) The original cost of all such investments shall not exceed sixty five percent of the then current market value of all assets in the exempt alternative plan; and~~

~~(II) The fiduciary of the exempt alternative plan is responsible for investing the assets of the plan pursuant to the investment standards provided in section 15-1-304, C.R.S., except to the extent the fiduciary allows a participant to exercise control of investments pursuant to paragraph (b) of this subsection (2).~~

(b) The ~~fiduciary~~ TRUSTEES OF AN EXEMPT ALTERNATIVE PLAN may allow a participant to exercise control of the investment of the participant's accrued benefit under the plan, subject to the following requirements:

(I) The ~~fiduciary~~ TRUSTEES shall select at least three investment alternatives, each of which is diversified in itself, that allow the participant a broad range of investments and a meaningful choice between risk and return in the investment of the participant's accrued benefit;

(II) The ~~fiduciary~~ TRUSTEES shall allow the participant to change investments at least once each calendar quarter; and

(III) The ~~fiduciary~~ TRUSTEES shall provide the participant with information describing the investment alternatives and the nature, investment performance, fees, and expenses of the investment alternatives and other information to enable a participant to make informed investment decisions.

(c) Neither the state nor local governments shall be held responsible to pay for any or all financial losses experienced by participants of the exempt alternative plan; except that nothing in this section relieves a local government's responsibility as a ~~fiduciary~~ TRUSTEE to the plan.

**SECTION 3.** 31-31-302 (1), (4), (5), and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**31-31-302. Fund - management - investment.** (1) The board shall be the trustee of the fund and shall have full and unrestricted discretionary power

and authority to invest and reinvest such portions of the fund as in its judgment may not be immediately required for the payment of refunds or benefits. In exercising its discretionary authority with respect to the acquisition or disposition of any investments, MANAGEMENT AND INVESTMENT OF FUND ASSETS, the board shall be governed by the standard for investments prescribed in section 15-1-304, C.R.S., except as provided in subsection (4) of this section AND OTHER PROVISIONS FOR TRUSTEES SET FORTH IN THE "UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, C.R.S. The board may, by resolution, delegate to its executive director, appointed pursuant to section 31-31-201 (3) (b), the investment authority created by this subsection (1). The board shall not delegate to its executive director the authority to invest or reinvest more than five percent of the market value of the assets of the fund between regularly scheduled meetings of the board.

(4) (a) Subject to the limitations on investments described in section 15-1-304, C.R.S., the board may invest all or any part of the fund in the types of investments authorized by such section, including, but not limited to, obligations of the United States government and obligations fully guaranteed as to principal and interest by the United States government, in state and municipal bonds, in corporate notes, bonds, or debentures, convertible or otherwise, in railroad equipment trust certificates, in real property and in loans secured by first mortgages or deeds of trust on real property, in

~~participation guarantee agreements with life insurance companies, in real estate limited partnerships, and in other types of investment agreements. Such investments may be made without limitation as to the percentage of the book value of the assets of the retirement fund so invested. Investments may also be made in either common or preferred corporate stocks, but the original cost of all investments in corporate stocks or corporate bonds, notes, or debentures that are convertible into corporate stock, or in investment trust shares, shall not exceed fifty percent of the then book value of the assets of the fund. In no event shall any investment be made in the common or preferred stock, or both, of any single corporation in an amount in excess of five percent of the then book value of the assets of the fund, nor shall more than seven percent of the outstanding stock or bonds of any single corporation be acquired for the fund; except that the board may acquire up to one hundred percent of the outstanding stock of any corporation described in sections 501 (e) (2) and 501 (e) (25) of the "Internal Revenue Code of 1986", as amended. To the extent that any moneys in the fund have been withdrawn from local financial institutions, the board shall attempt to return a proportional share of such moneys in the fund to the localities from which moneys were withdrawn.~~

~~(b) As used in this subsection (4), unless the context otherwise requires:~~

~~(1) "Book value" means current market value.~~

~~(H) "Current market value" means the current exchange price of an asset that is publicly traded, and, for a nonpublicly traded asset, it means the current valuation as reflected in the books of the association.~~

~~(III) "Original cost" means the acquisition cost of an asset.~~

~~(5) (a) The board shall purchase and acquire and hold for the benefit of the fund such investments in such amounts as may from time to time be directed by the board in writing. Any such investments shall be disposed of by the board when it determines such disposition to be necessary to provide money for payment of refunds or pension benefits or in order to reinvest the proceeds of such disposition in other investments determined by the board to be in the best interests of the fund.~~

~~(b) Notwithstanding any other provision of this section, the board may employ or contract with investment counselors to manage a portion of the assets of the fund and may grant to such investment counselors the authority to make investment decisions with respect to the assets they manage, including the authority to purchase and sell investment assets. The investment counselors retained by the board shall at all times be subject to the standards and limitations set forth in subsection (4) of this section and section 15-1-304, C.R.S.~~

(6) All transactions involving the purchase and sale of investments authorized in this section shall be effected on behalf of the association. To

facilitate sale and exchange transactions, securities belonging to the association may be registered in the name of nominees in the discretion of the board and in accordance with standard business practices. All such nominees shall be bonded in such amounts as may be determined to be advisable by the board. NOTHING IN THIS SUBSECTION (6) SHALL PRECLUDE THE BOARD OR ITS AUTHORIZED AGENTS FROM FORMING A CORPORATION DESCRIBED IN SECTION 501 (c) (2) AND (c) (25) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501 (c) (2) AND (c) (25), AS AMENDED, WITH RESPECT TO THE OWNERSHIP OF INVESTMENTS IN REAL PROPERTY.

SECTION 4. 31-31-502 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-31-502. Statewide money purchase plan - creation - management.**

(2) (a) There is hereby created the fire and police members' statewide money purchase plan benefit fund, which shall consist of moneys of employers that have withdrawn from the statewide defined benefit plan pursuant to section 31-31-501, including member and employer contributions and such amounts as are transferred pursuant to section 31-31-501. The board shall keep an accurate account of the fund and of each member's separate account in the fund. The board may create, and is authorized to offer to each member of the ~~statewide money purchase plan, various investment options including, but not limited to, the following:~~ ALLOW A MEMBER TO EXERCISE CONTROL OF THE

INVESTMENT OF PART OR ALL OF THE MEMBER'S ACCRUED BENEFIT UNDER THE PLAN. IN ALLOWING A MEMBER TO EXERCISE SUCH CONTROL, THE BOARD SHALL:

(I) ~~Option A, which is investment in the fire and police members' benefit fund created by section 31-31-301 (1) (a)~~ SELECT AT LEAST THREE INVESTMENT ALTERNATIVES, EACH OF WHICH IS DIVERSIFIED IN ITSELF, THAT ALLOW THE MEMBER A BROAD RANGE OF INVESTMENTS AND A MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF THE MEMBER'S ACCRUED BENEFIT;

(II) ~~Option B, which is investment in a stock portfolio fund~~ ALLOW THE MEMBER TO CHANGE INVESTMENTS AT LEAST ONCE EACH CALENDAR QUARTER; AND

(III) ~~Option C, which is investment in a bond portfolio fund; and~~ PROVIDE THE MEMBER WITH INFORMATION DESCRIBING THE INVESTMENT ALTERNATIVES, THE NATURE, INVESTMENT PERFORMANCE, FEES, AND EXPENSES OF INVESTMENT ALTERNATIVES, AND OTHER INFORMATION TO ENABLE A MEMBER TO MAKE INFORMED INVESTMENT DECISIONS.

~~(IV) Option D, which is investment in a guaranteed fund.~~

(b) The plan document created by the board pursuant to subsection (1) of this section shall govern the calculation and allocation of earnings and losses under the various investment ~~options listed in paragraph (a) of this~~

~~subsection (2)~~ ALTERNATIVES which the board may offer, the transfer of assets between funds under each ~~option~~ ALTERNATIVE, the allocation of a member's account between investment ~~options~~ ALTERNATIVES, and such other matters as may be necessary to the board's administration and management of the fund created pursuant to this section.

(c) In its administration, INVESTMENT, and management of the fund, the board shall be subject to the same provisions applicable to its administration, INVESTMENT, and management of the fire and police members' money purchase plan benefit fund as set forth in section 31-31-703 (2) to (7). ~~Further, in its administration and management of the fund, the board shall consider employing or contracting with investment counselors to manage all or a portion of the assets of the fund and may grant to such investment counselors the authority to make investment decisions with respect to the assets they manage, including the authority to purchase and sell investment assets. Any investment counselors retained by the board shall at all times be subject to the standards and limitations set forth in section 15-1-304, C.R.S.~~

**SECTION 5.** 31-31-703 (1), (2), (5), and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**31-31-703. Money purchase plan benefit fund - creation - management.** (1) (a) There is hereby created the fire and police members' money purchase plan benefit fund that shall consist of the assets of money

purchase plan funds administered and managed by the board pursuant to section 31-31-702. The board shall keep an accurate account of each such individual fund. In addition, the board shall keep an accurate account of each member's separate account in any such individual fund. The board may ~~create, and is authorized to offer to each member of an affiliated money purchase plan, various investment options including, but not limited to, the following:~~ ALLOW A MEMBER TO EXERCISE CONTROL OF THE INVESTMENT OF PART OR ALL OF THE MEMBER'S ACCRUED BENEFIT UNDER THE MEMBER'S PLAN. IN ALLOWING NA MEMBER TO EXERCISE SUCH CONTROL, THE BOARD SHALL:

(I) ~~Option A, which is investment in the fire and police members' benefit fund created by section 31-31-301~~ SELECT AT LEAST THREE INVESTMENT ALTERNATIVES, EACH OF WHICH IS DIVERSIFIED IN ITSELF, THAT ALLOW THE MEMBER A BROAD RANGE OF INVESTMENTS AND A MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF THE MEMBER'S ACCRUED BENEFIT;

(II) ~~Option B, which is investment in a stock portfolio fund~~ ALLOW THE MEMBER TO CHANGE INVESTMENTS AT LEAST ONCE EACH CALENDAR QUARTER; AND

(III) ~~Option C, which is investment in a bond portfolio fund; and~~ PROVIDE THE MEMBER WITH INFORMATION DESCRIBING THE INVESTMENT

ALTERNATIVES, THE NATURE, INVESTMENT PERFORMANCE, FEES, AND EXPENSES OF INVESTMENT ALTERNATIVES, AND OTHER INFORMATION TO ENABLE A MEMBER TO MAKE INFORMED INVESTMENT DECISIONS.

(IV) ~~Option D, which is investment in a guaranteed fund.~~

(b) The board shall adopt rules governing the calculation and allocation of earnings and losses under the various investment ~~options listed in paragraph (a) of this subsection~~ (1) ALTERNATIVES that it may offer, the transfer of assets between funds under each ~~option~~ ALTERNATIVE, the allocation of a member's account between investment ~~options~~ ALTERNATIVES, and such other matters as may be necessary to its administration and management of the fund created pursuant to this section.

(2) The board shall be the trustee of the fund and, subject to the members' allocation of moneys in their accounts to the ~~options set forth in subsection (1) of this section~~ ALTERNATIVES OFFERED BY THE BOARD, shall have full and unrestricted discretionary power and authority to invest and reinvest such portions of the fund as in its judgment may not be immediately required for the payment of refunds or benefits. In exercising its discretionary authority with respect to the ~~acquisition or disposition of any investments~~ INVESTMENT AND MANAGEMENT OF THE FUND ASSETS, the board shall be governed by the standard ~~for investments prescribed in section 15-1-304, C.R.S.~~ AND OTHER PROVISIONS FOR TRUSTEES SET FORTH IN THE

"UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, C.R.S. The board may, by resolution, delegate to its executive director, appointed pursuant to section 31-31-201 (3) (b), the investment authority created by this subsection (2). The board shall not delegate to its executive director the authority to invest or reinvest more than five percent of the market value of the assets of the fund between regularly scheduled meetings of the board.

(5) The board shall purchase and acquire and hold for the benefit of the fund such investments in such amounts as may from time to time be directed by the board in writing. Any such investments shall be disposed of by the board when it determines such disposition to be necessary to provide money for payment of refunds or pension benefits or in order to reinvest the proceeds of such disposition in other investments determined by the board to be in the best interests of the fund. Notwithstanding any other provision of this section, the board may employ or contract with investment counselors to manage a portion of the assets of the fund and may grant to such investment counselors the authority to make investment decisions with respect to the assets they manage, including the authority to purchase and sell investment assets. The investment counselors retained by the board shall at all times be subject to the standards and limitations set forth in section 15-1-304, C.R.S.

(6) All transactions involving the purchase and sale of investments authorized in this section shall be effected on behalf of the association. To

facilitate sale and exchange transactions, securities belonging to the association may be registered in the name of nominees in the discretion of the board and in accordance with standard business practices. All such nominees shall be bonded in such amounts as may be determined to be advisable by the board. NOTHING IN THIS SUBSECTION (6) SHALL PRECLUDE THE BOARD OR ITS AUTHORIZED AGENTS FROM FORMING A CORPORATION DESCRIBED IN SECTION 501 (c) (2) AND (c) (25) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501 (c) (2) AND (c) (25), AS AMENDED, WITH RESPECT TO THE OWNERSHIP OF INVESTMENTS IN REAL PROPERTY.

**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.

**Bill B**

A BILL FOR AN ACT

CONCERNING THE USE OF EXCESS FUNDS OF OLD HIRE FIRE AND POLICE PENSION PLANS.

**Bill Summary**

"Fire & Police Pensions - Excess Funds"

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

Police Officers' and Firefighters' Pension Reform Commission. Where no active employees are participating in an old hire pension plan, authorizes employers to use the excess balance in the old hire pension plan fund for contributions to certain new hire pension plans, for contributions under the federal social security laws, for law enforcement-related purposes, or for any other use as determined by the governing body of an employer. Requires employers to maintain the old hire pension plan fund at a level equal to at least twice the amount necessary to fund the benefit liabilities of any persons continuing to receive benefits from the fund. Defines "excess balance" as the amount in the fund exceeding that level. Requires the actuary of the old hire pension plan to determine the excess balance of the plan fund by utilizing assumptions approved by the fire and police pension association board of directors.

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

**SECTION 1.** 31-30.5-209, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**31-30.5-209. Idle funds.** (4) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, IF NO MEMBERS ARE

PARTICIPATING IN AN EMPLOYER'S OLD HIRE PENSION PLAN ESTABLISHED UNDER THIS ARTICLE, THE GOVERNING BODY OF THE EMPLOYER, BY RESOLUTION, MAY AUTHORIZE THE USE OF THE EXCESS BALANCE IN THE PLAN FUND FOR THE PURPOSES PERMITTED IN SUBSECTIONS (1) AND (2) OF THIS SECTION. IF A GOVERNING BODY AUTHORIZES THE USE OF THE EXCESS BALANCE UNDER THIS SUBSECTION (4), THE EMPLOYER SHALL MAINTAIN THE PLAN FUND AT A LEVEL EQUAL TO AT LEAST TWO TIMES THE AMOUNT NECESSARY TO FUND THE BENEFIT LIABILITIES OF ANY PERSONS CONTINUING TO RECEIVE BENEFITS FROM THE PLAN FUND.

(b) FOR PURPOSES OF THIS SUBSECTION (4), "EXCESS BALANCE" MEANS THE AMOUNT IN AN OLD HIRE PLAN FUND IN EXCESS OF TWO TIMES THE AMOUNT NECESSARY TO FUND THE BENEFIT LIABILITIES OF PERSONS CONTINUING TO RECEIVE BENEFITS FROM THE PLAN FUND, AS DETERMINED BY THE PLAN'S ACTUARY. IN DETERMINING THE EXCESS BALANCE IN AN OLD HIRE PLAN FUND, THE ACTUARY SHALL UTILIZE THE ASSUMPTIONS APPROVED BY THE BOARD OF DIRECTORS OF THE FIRE AND POLICE PENSION ASSOCIATION PURSUANT TO SECTION 31-30.5-306 (2) (b).

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 1997, and shall apply to old hire pension plans existing on or after said date.

**SECTION 3. 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.