

**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.**

# An Act

SENATE BILL 10-021

BY SENATOR(S) Morse, Lundberg, Tochtrop, Williams, Kopp, Newell;  
also REPRESENTATIVE(S) Labuda, Benefield, Gardner B., King S.,  
Liston, Peniston, Schafer S., Waller, Apuan, Casso, Gerou, Kerr J., Todd,  
Tyler, Vigil.

CONCERNING A VOLUNTEER FIREFIGHTER PENSION PLAN.

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

**SECTION 1.** 31-30-1102 (9), Colorado Revised Statutes, is amended to read:

**31-30-1102. Definitions.** As used in this part 11, unless the context otherwise requires:

(9) (a) "Volunteer firefighter" means a firefighter who renders service to a fire department in a municipality, county, or district, who does not receive compensation as a firefighter, and who is not classified as an employee for purposes of the federal "Fair Labor Standards Act of 1938", as amended, based on payments, fees, or benefits that the firefighter receives. "Volunteer firefighter" may include other designations or titles given to firefighters provided that the firefighter meets all of the requirements for being a volunteer firefighter in this part 11.

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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.*

(b) For the purposes of this subsection (9), "compensation" does not include:

(I) Actual expenses incurred by and reimbursed to a volunteer firefighter;

~~(II) Salary lost as a consequence of actual firefighting duties causing the absence of the volunteer firefighter from normal employment;~~

(III) Participation in or receipt of benefits from the fund;

(IV) Participation in or receipt of benefits upon termination of volunteer services to any district or municipality provided as part of an internal revenue code qualified volunteer service award plan established for the benefit of volunteer firefighters;

(V) Payments from federal moneys, either through the district or municipality or to the volunteer firefighter directly, for participation in a temporary emergency incident;

(VI) Nominal fees or benefits paid on a per-call basis or as part of an annual merit or recognition award program or other incentive award program.

**SECTION 2.** 31-30-1105 (1) (c), Colorado Revised Statutes, is amended to read:

**31-30-1105. Board - fire protection district.** (1) In a fire protection district, the board must consist of the following members:

(c) (I) PRIOR TO AUGUST 15, 2010, two fire department members elected by the fire department members for two-year terms; except that, at the initial election, one member shall be elected for two years and one member for one year. In all subsequent elections, these members shall be elected for two years.

(II) (A) ON AND AFTER AUGUST 15, 2010, TWO INDIVIDUALS ELECTED FROM ONE OR MORE OF THE FOLLOWING GROUPS TO THE EXTENT SUCH GROUPS EXIST AT THE TIME OF ELECTION: FIRE DEPARTMENT

MEMBERS, RETIRED FIRE DEPARTMENT MEMBERS, OR RETIRED FIRE DEPARTMENT MEMBERS RETURNED TO ACTIVE SERVICE PURSUANT TO SECTION 31-30-1132. ALL MEMBERS IN EACH GROUP EXISTING AT THE TIME OF ELECTION SHALL BE GIVEN THE OPPORTUNITY TO VOTE FOR THE TWO INDIVIDUALS. THE TWO INDIVIDUALS SHALL SERVE FOR TWO-YEAR TERMS; EXCEPT THAT, AT THE INITIAL ELECTION, ONE INDIVIDUAL SHALL BE ELECTED FOR TWO YEARS AND ONE INDIVIDUAL FOR ONE YEAR. IN ALL SUBSEQUENT ELECTIONS, THESE INDIVIDUALS SHALL BE ELECTED FOR TWO YEARS.

(B) NOTHING IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO LIMIT THE TERM OF A BOARD MEMBER ELECTED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

**SECTION 3.** 31-30-1113 (2), Colorado Revised Statutes, is amended to read:

**31-30-1113. Fund investments.** (2) Upon the board's direction, the treasurer of a municipality or district may invest part of the fund available for investment, with or without one or more other volunteer firefighter pension funds, in a noninsured trust pension plan with a bank or trust company authorized to exercise trust powers in this state as a trustee. The trustee's investment of fund moneys is governed by article 1.1 of title 15, C.R.S. ~~but the trustee shall at all times hold fixed-income obligations having a book value or cost of not less than sixty percent of the total contributions made to the trust less the amounts paid out.~~

**SECTION 4.** 31-30-1119, Colorado Revised Statutes, is amended to read:

**31-30-1119. Board report - municipality.** The board shall make a report to the governing body of the municipality ~~or the board of directors of its district, whichever is applicable,~~ on the condition of the fund. The board shall submit the report to the governing body ~~or board of directors~~ before the last meeting in February and the last meeting in August of each year.

**SECTION 5. Act subject to petition - 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a

referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

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Brandon C. Shaffer  
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