



Colorado *Legislative Council Staff Fiscal Note*
NO FISCAL IMPACT

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Date: January 25, 2013

Prime Sponsor(s): Sen. Tochtrop
Rep. Peniston

Bill Status: Senate Judiciary

Fiscal Analyst: Alex Schatz (303-866-4375)

TITLE: CONCERNING LIMITATION ON THE LIABILITY OF THE FIRE AND POLICE PENSION ASSOCIATION IF AN EMPLOYER FAILS TO PROPERLY ENROLL AN EMPLOYEE IN A PLAN.

Summary of Legislation

This bill is recommended by the **Police Officers' and Firefighters' Pension Reform Commission**. The bill clarifies that the Fire and Police Pension Association (FPPA), a Colorado statutory public entity, is not liable to pay member benefits when a local government employer has failed to properly enroll an employee in the FPPA. Claims by both local government employers and employees are barred in this circumstance. The bill applies to claims against the FPPA, its Defined Benefit System Trust Fund, and its Death and Disability Trust Fund. The bill takes effect August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed.

Background

Under current law, certain local government police and firefighting agencies are required to provide retirement or disability benefits by enrolling full-time (and some part-time) employees in the FPPA. Due to this statutory requirement, employees of these agencies may believe that they are entitled to receive FPPA benefits. However, some local government agencies decline to participate in FPPA or fail to recognize that their agency has become a mandatory participant (typically following the transition from an all-volunteer fire department to career firefighters). The FPPA does not provide benefits to employees that have not been enrolled as FPPA members, for whom premiums have not been paid. In addition, FPPA trust funds are not available for use in enforcing enrollment statutes, and the FPPA does not have other resources to pursue such enforcement.

Assessment

The bill is assessed as having no fiscal impact. The FPPA presently has no liability for claims of nonmembers, though employees may misconstrue the intent of enrollment statutes applicable to their employers. There are no claims currently pending against the FPPA in circumstances addressed by the bill.

Departments Contacted

Fire and Police Pension Association

Local Affairs