First Regular Session
Sixty-third General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 01-0106.01 Nicole Hoffman **HOUSE BILL**

HOUSE SPONSORSHIP

Plant, Alexander, Mace, Miller, Ragsdale, Scott, and Smith

SENATE SPONSORSHIP

Andrews

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING SURVIVOR BENEFITS FOR CERTAIN SURVIVORS OF MEMBERS OF THE STATEWIDE DEATH AND DISABILITY PENSION PLAN FOR POLICE OFFICERS AND FIREFIGHTERS UPON THE DEATH OF A MEMBER IN ACTIVE SERVICE WHO IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION.

Bill Summary

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

Police Officers' and Firefighters' Pension Reform Commission. Increases the survivor benefits for certain survivors of members of the statewide death and disability pension plan for police officers and firefighters if the member dies while in active service and is not eligible

for a normal retirement pension as follows:

- increases the survivor benefit for a spouse with no dependent children from an amount not to exceed 35% to 40% of the monthly base salary paid to the member immediately preceding death;
- increases the survivor benefit for one dependent child when there is no surviving spouse from 25% to 40% of the monthly base salary paid to the member immediately preceding death; and
- gives surviving spouses and dependent children who are receiving such a benefit prior to January 1, 2002, the increased amount of such benefit.

Requires the division of the survivor benefit in the event that a surviving spouse and a dependent child residing in a separate household from the surviving spouse must share the benefit. Specifies the division of the survivor benefit in the event that 2 or more surviving children who reside in separate households from each other must share the benefit.

States that the survivor benefits shall terminate upon the death of a surviving spouse or upon the death or termination of dependency of a dependent child.

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

SECTION 1. 31-31-807 (1) and (2), Colorado Revised Statutes, are amended, and the said 31-31-807 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-31-807. Death of member - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension plan established pursuant to article 30.5 of this title that provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION PLAN ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death. ~~Plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.~~

~~(b)~~ (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(c)~~ (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(d)~~ (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(e)~~ (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base

salary paid to such member immediately preceding death.

~~(f)~~ (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death.

(2) Any benefit provided in accordance with this section to the surviving spouse or dependent child of a member who dies while in active service shall terminate upon the death of the surviving spouse or upon the death ~~marriage,~~ or termination of dependency of such dependent child, as defined in section 31-31-801 (2), as applicable.

(3) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILD SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILDREN SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (3), THE SURVIVING SPOUSE SHALL RECEIVE THE BENEFIT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION.

(4) IN THE EVENT THAT A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT

TO PARAGRAPH (c), (d), OR (e) OF SUBSECTION (1) OF THIS SECTION AND THE DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH OTHER, THE BENEFIT SHALL BE DIVIDED EQUALLY AMONG THE CHILDREN.

(5) ANY SURVIVING SPOUSE OR DEPENDENT CHILD RECEIVING BENEFITS PURSUANT TO PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JANUARY 1, 2002, SHALL RECEIVE ANY INCREASED BENEFIT ESTABLISHED IN PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION ON THE EFFECTIVE DATE OF THIS ACT, AS APPLICABLE.

SECTION 2. 31-31-807.5 (1), Colorado Revised Statutes, is amended, and the said 31-31-807.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-31-807.5. Death of member - line-of-duty - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service as the direct and proximate result of a personal injury sustained while performing official duties or as a result of an occupational disease arising out of and in the course of the member's employment and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension established pursuant to article 30.5 of this title that provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE

AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death. ~~Plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.~~

~~(b)~~ (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(c)~~ (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(d)~~ (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to each member immediately preceding death.

~~(e)~~ (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(f)~~ (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the

monthly base salary paid to such member immediately preceding death.

(4) ANY BENEFIT PROVIDED IN ACCORDANCE WITH THIS SECTION TO THE SURVIVING SPOUSE OR DEPENDENT CHILD OF A MEMBER WHO DIES WHILE IN ACTIVE SERVICE SHALL TERMINATE UPON THE DEATH OF THE SURVIVING SPOUSE OR UPON THE DEATH OR TERMINATION OF DEPENDENCY OF THE DEPENDENT CHILD, AS DEFINED IN SECTION 31-31-801 (2), AS APPLICABLE.

(5) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILD SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILDREN SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (5), THE SURVIVING SPOUSE SHALL RECEIVE THE BENEFIT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION.

(6) IN THE EVENT THAT A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT TO PARAGRAPH (c), (d), OR (e) OF SUBSECTION (1) OF THIS SECTION AND THE DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH

OTHER, THE BENEFIT SHALL BE DIVIDED EQUALLY AMONG THE CHILDREN.

(7) ANY SURVIVING SPOUSE OR DEPENDENT CHILD RECEIVING BENEFITS PURSUANT TO PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JANUARY 1, 2002, SHALL RECEIVE ANY INCREASED BENEFIT ESTABLISHED IN PARAGRAPH (a) OR (f) OF SUBSECTION (1) OF THIS SECTION ON THE EFFECTIVE DATE OF THIS ACT, AS APPLICABLE.

SECTION 3. Effective date. this act shall take effect January 1, 2002, unless a referendum petition is filed during 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. If such 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 shall take effect on the specified date only if approved by the people.