

### **31-30-1122. Retirement pension.**

(1) The board of a municipality, with the prior consent of the municipality's governing body, or the board of a fire protection district or county improvement district may pay a retirement pension to a volunteer firefighter who has twenty years of active service and who is over the age of fifty years. The retirement pension shall be an amount determined by the board of not more than one hundred dollars per month, unless an actuarial review indicates a higher payment is actuarially sound; except that any such amount determined by the board of a municipality shall be made with the prior consent of the municipality's governing body. Pensions that make payments in excess of three hundred dollars per month are subject to the state contribution limitation specified in section [31-30-1112](#) (2) (b). Except as provided in section [31-30-1132](#), a volunteer firefighter shall not receive a retirement pension for service in a fire department while the firefighter is an active member of that department. A volunteer firefighter shall maintain a minimum training participation in the fire department of thirty-six hours each year to qualify for retirement benefits. A volunteer firefighter who has served twenty years and who has not reached the age of fifty years may be granted a leave of absence and retain all rights to a retirement pension and is entitled to the retirement pension when the firefighter is fifty years of age.

(2) Notwithstanding subsection (1) of this section, the board may pay a retirement pension to a volunteer firefighter who has less than twenty years of active service if the municipality's or district's fund is actuarially sound. The board shall determine the period of active service necessary to qualify for this retirement pension, but in no event shall such period be less than ten years of active service. The board shall not pay this retirement pension until the volunteer firefighter is fifty years of age. The amount of this retirement pension shall be determined by prorating the amount of the retirement pension under subsection (1) of this section based on the volunteer firefighter's years of service.

(3) Whenever the board increases the retirement pension benefit payable pursuant to subsection (1) of this section, such increase may also be applied to the pension benefit of any retired volunteer firefighter receiving the pension benefit specified in subsection (1) of this section at the time of such increase. The applicable pro rata share of any such increase, based upon the number of years of service, may also be applied to the pension benefit of any retired volunteer firefighter receiving the pension benefit specified in subsection (2) of this section at the time of such increase. Whenever the board elects to apply any retirement pension increase permitted under this subsection (3), the board shall apply such increase to the retirement pension of all retired volunteer firefighters in a fire department who are eligible for such increase under this subsection (3). Any actuarial review required under subsection (1) of this section shall include the cost of any retirement pension increase permitted under this subsection (3).

**Source:** **L. 95:** Entire part added, p. 1374, § 2, effective June 5. **L. 97:** (1) amended, p. 169, § 2, effective March 28; (3) added, p. 968, § 1, effective May 22. **L. 98:** (1) and (2) amended, p. 64, § 2, effective March 23; (1) amended, p. 808, § 3, effective May 26.

**Editor's note:** Amendments to subsection (1) by House Bill 98-1035 and House Bill 98-1380 were harmonized.

#### **ANNOTATION**

**Annotator's note.** The following annotations include cases decided under former provision similar to this section.

**Board does not have discretionary power to alter pension eligibility requirements** mandated by the general assembly. *Agee v. Trustees of Pension Bd.*, 33 Colo. App. 268, 518 P.2d 301 (1974).

**Standard of review in case of pension eligibility** is whether the criteria applied by the board conform with statutory provisions, not whether the board abused its discretion in granting the pensions. *Agee v. Trustees of Pension Bd.*, 33 Colo. App. 268, 518 P.2d 301 (1974).

**"Active service" requirement not fulfilled.** Membership on the board of directors of a fire protection district, when not coupled with regular participation in firefighting activities on the same basis as nonboard members, cannot fulfill the "active service" requirement of subsection (8) of this section. *Agee v. Trustees of Pension Bd.*, 33 Colo. App. 268, 518 P.2d 301 (1974).