31-30-1112. State contributions - intent - advisory committee - repeal.

(1) (a) Prior to July 1, 2004, the state treasurer may transfer moneys annually to the fire and police pension association for distribution as provided in this section to assist in funding volunteer firefighter pension funds.

(b) On and after July 1, 2004, the state treasurer shall transfer moneys to the department of local affairs for distribution as provided in this section to assist in funding volunteer firefighter pension plans.

(2) (a) State contributions to any municipality or district must equal ninety percent of all amounts contributed by the municipality or district under section 31-30-1110 in the previous year, but, notwithstanding any other provision of this part 11, the state contribution shall not exceed one-half mill on the previous net valuation for assessment of the municipality or district assuming one hundred percent collection.

(b) A municipality or district that was contributing an amount necessary to pay volunteer firefighter pensions in excess of three hundred dollars per month shall receive state contributions under paragraph (a) of this subsection (2) in an amount not to exceed one-half mill on the previous net valuation for assessment of the municipality or district assuming one hundred percent collection but based upon the greater of:

(I) The contribution that was actuarially required to pay a pension of three hundred dollars per month in the previous year, as determined by the municipality or district; or

(II) The highest actual contribution received by the municipality or district during the calendar year 1998, 1999, 2000, or 2001, irrespective of whether the state contribution was authorized by law at the time it was made. In the event of a consolidation or merger of two or more municipalities or districts, the sum of the highest actual contribution received by each consolidating or merging municipality or district during the calendar year 1998, 1999, 2000, or 2001 shall be the state contribution of the surviving consolidated or merged entity for the purposes of this subparagraph (II).

(c) and (c.5) (Deleted by amendment, L. 2002, p. 504, § 1, effective July 1, 2002.)

(d) The board in any municipality or district shall not increase benefits above the following amounts unless the increase is approved by the governing body of the municipality or district and an actuarial review indicates a higher payment is actuarially sound:

(I) For volunteer firefighter pensions, three hundred dollars per month;

(II) For a short-term disability monthly annuity pursuant to section 31-30-1121, one hundred fifty dollars per month;

(III) For a retirement pension pursuant to section 31-30-1123, two hundred dollars per month;

(IV) For survivor benefits pursuant to section 31-30-1127, one hundred fifty dollars per month; or

(V) For funeral benefits pursuant to section 31-30-1129, one hundred dollars.

(e) In no event shall a municipality or district receive less than one thousand dollars if the municipality or district contribution to its fund is equal to or greater than one-half mill on the previous net valuation for assessment of the municipality or district.

(f) (Deleted by amendment, L. 2002, p. 504, § 1, effective July 1, 2002.)

(g) The moneys necessary to make the state's contribution under this section shall be derived from the proceeds of the tax imposed by section 10-3-209, C.R.S., as follows:

(I) (A) On September 30 of each year through September 30, 2003, the state treasurer shall transfer the amount necessary to provide contributions equal to the contributions made by the state to each municipality and district during the calendar year 1979 to the fire and police pension association for disbursement to the fund of each municipality or district.

(B) As of July 1, 2004, the department of local affairs shall be responsible for disbursing the state contribution to each municipality and district. On or before October 31, 2004, and on or before October 31 of each year thereafter, the state treasurer shall transfer the amount necessary to provide contributions equal to the contributions made by the state to each municipality and district during the calendar year 1979 to the department for disbursement to the fund of each municipality or district.

(II) (A) To the extent the state's contribution under this section exceeds the contributions made by the state during the calendar year 1979, the state treasurer shall transfer the excess amounts from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the fire and police pension association on September 30 of each year through September 30, 2003, for disbursement to the municipality's or district's funds.

(B) To the extent that the state's contribution under this section exceeds contributions made by the state during the calendar year 1979, the state treasurer shall transfer the excess amounts from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the department of local affairs on or before October 31, 2004, and on or before October 31 of each year thereafter, for disbursement to the municipality or district's funds.

(C) Moneys transferred under this subparagraph (II) shall be separate from and in addition to moneys transferred under section 31-30.5-307 (2) and do not revert to the general fund but are available for the purposes provided in this section.

(h) (I) In addition to any other transfers required by this section, on September 30 of each year through September 30, 2003, the state treasurer shall transfer from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the fire and police pension association, such moneys as may be necessary to pay for the accidental death and disability insurance policy for volunteer firefighters provided in section 31-31-202 (4).

(II) As of July 1, 2004, the executive director of the department of local affairs or the director's designee shall be responsible for providing the accidental death and disability insurance policy for volunteer firefighters as provided in sections 31-30-1134 and 31-31-202 (4) (d). In addition to any other transfers required by this section, on or before October 31, 2004, and on or before October 31 of each year thereafter, the state treasurer shall transfer from the proceeds of the tax imposed by section 10-3-209, C.R.S., to the department such moneys as may be necessary to pay for the accidental death and disability insurance policy for volunteer firefighters and the administrative costs of providing such policy.

(i) Moneys transferred pursuant to this section shall be included for information purposes in the general appropriation bill or in supplemental appropriation bills to comply with the limitation on state fiscal year spending imposed by section 20 of article X of the state constitution and section 24-77-103, C.R.S.

(j) It is the intent of the general assembly to continually fund volunteer firefighter pension plans.

(3) (a) The department of local affairs shall work with the municipalities, the districts, and the advisory committee established in subsection (6) of this section to develop a procedure by which municipalities and districts apply to receive state assistance moneys distributed pursuant to this section. Such application procedure shall ensure that the department can verify the amount of money to which each municipality and district is entitled before the department transfers funds to the municipalities and districts each year.

(b) The department of local affairs shall work with the joint budget committee to develop a procedure that allows any municipality or district to apply for a late disbursement of moneys in the event that such municipality or district made a good faith effort, but was unable to comply with the application procedure created pursuant to paragraph (a) of this subsection (3) due to a delay in preparing a financial statement or completing a required audit or actuarial study.

(4) (a) The department of local affairs, after consultation with the advisory committee established in subsection (6) of this section, may impose a nonrefundable application fee in an amount to be determined by the department on any municipality or district that applies to the department for state assistance moneys distributed pursuant to this section. The application fee may be on a sliding scale based on the amount of state assistance moneys distributed to each fund pursuant to this section in the previous year.

(b) All revenue collected by the department of local affairs from the fee imposed pursuant to paragraph (a) of this subsection (4) shall be transmitted to the state treasurer who shall credit the revenue to the volunteer fire department application fund, which fund is hereby created in the state treasury. The moneys in the fund shall be continuously appropriated to the department for the purpose of covering the direct costs of administering the distribution of the state contribution moneys pursuant to this section.

(5) The department of local affairs shall have the authority to contract with any entity for the purpose of complying with the requirements of this section.

(6) (a) There is hereby established a volunteer firefighter advisory committee. The department of local affairs shall consult with the committee in the performance of its duties in connection with the distribution of state contribution moneys to municipal and district volunteer firefighter pension funds pursuant to this section and to the accidental death and disability insurance policy for volunteer firefighters pursuant to section 31-30-1134. The members of the advisory committee shall not receive compensation or reimbursement from the state or the department for expenses incurred in the performance of their duties. The committee shall consist of five members that the executive director of the department shall appoint as follows: three members shall be members of a board, one member shall be an

active volunteer firefighter, and one member shall be a representative of a municipality or district that has volunteer firefighters.

(b) This subsection (6) is repealed, effective July 1, 2014. Prior to the repeal of this subsection (6), the advisory committee shall be reviewed as provided for in section 2-3-1203, C.R.S.

Source: L. 95: Entire part added, p. 1368, § 2, effective June 5. **L. 96:** (2)(f), (2)(g)(II), and (2)(h) amended, p. 942, § 7, effective May 23. **L. 2002:** (2)(a), (2)(b), (2)(c), (2)(c.5), (2)(d), (2)(e), and (2)(f) amended, p. 504, § 1, effective July 1. **L. 2004:** (1), (2)(a), (2)(b)(I), (2)(g), and (2)(h) amended and (3) to (6) added, p. 1133, § 2, effective July 1. **L. 2005:** (6)(a) amended, p. 775, § 61, effective June 1. **L. 2006:** (2)(a), (2)(b), and (2)(e) amended, p. 1423, § 4, effective June 1.

ANNOTATION

Am. Jur.2d. See 60A Am. Jur.2d, Pensions and Retirement Funds, §§ 1166-1173.

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

As "gatekeeper" of state moneys, fund's administrative board must insure that employers maintain a level of annual contributions to pay earned benefits to present and future plan members and see that no state moneys are used to fund a continuation of full rank escalation benefits after January 1, 1980. Pueblo v. Fire and Police Pension Ass'n, 827 P.2d 597 (Colo. App. 1992).

Ample and competent evidence supported the decision of fund's administrative board that city had elected to continue rank escalation benefits after January 1, 1980. Pueblo v. Fire and Police Pension Ass'n, 827 P.2d 597 (Colo. App. 1992).

Applied in City of Colo. Springs v. State, 626 P.2d 1122 (Colo. 1980).