

CHAPTER 5

GOVERNMENT - LOCAL

HOUSE BILL 18-1031

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AN ACT**CONCERNING EMPLOYER ENTRY INTO THE FIRE AND POLICE PENSION ASSOCIATION DEFINED BENEFIT SYSTEM.**

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

SECTION 1. In Colorado Revised Statutes, **amend** 31-31-1101 as follows:

31-31-1101. Entry into the fire and police pension association defined benefit system. (1) Any employer who has established a local money purchase plan pursuant to part 6 of this ~~article~~ **ARTICLE 31** or article 30.5 of this ~~title~~ **TITLE 31** or has withdrawn into the statewide money purchase plan pursuant to part 5 of this ~~article~~ **ARTICLE 31** may apply to the board to ~~cover some or all of the existing members of its money purchase plan under the statewide hybrid plan established pursuant to section 31-31-1102. An application may be initiated by filing with the board a resolution adopted by the employer pursuant to subsection (2) of this section no less than six months prior to the proposed effective date of coverage under the statewide hybrid plan, unless a shorter waiting period is approved by the board~~ **REQUIRE ALL NEW EMPLOYEES HIRED ON OR AFTER A DATE CERTAIN WHO MEET THE DEFINITION OF MEMBER AS DEFINED IN SECTION 31-31-102 (4) TO PARTICIPATE AS A GROUP IN THE DEFINED BENEFIT SYSTEM IN EITHER THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED IN PART 4 OF THIS ARTICLE 31 OR THE STATEWIDE HYBRID PLAN ESTABLISHED IN SECTION 31-31-1102. AN APPLICATION MAY BE INITIATED BY FILING WITH THE BOARD A RESOLUTION ADOPTED BY THE GOVERNING BODY OF THE EMPLOYER IN ACCORDANCE WITH THE TERMS, PROCESS, CERTIFICATIONS, AND SCHEDULE ESTABLISHED BY THE BOARD.**

(1.5) **AN EMPLOYER WHO HAS ELECTED PARTICIPATION PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY ALSO APPLY TO COVER SOME OR ALL OF THE EXISTING**

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MEMBERS OF ITS MONEY PURCHASE PLAN UNDER THE DEFINED BENEFIT SYSTEM. AN APPLICATION MAY BE INITIATED BY FILING WITH THE BOARD A RESOLUTION ADOPTED BY THE GOVERNING BODY OF THE EMPLOYER IN ACCORDANCE WITH THE REQUIREMENTS, TERMS, PROCESS, CERTIFICATIONS, AND SCHEDULE ESTABLISHED BY THE BOARD.

~~(2) The employer's resolution applying for coverage under the statewide hybrid plan shall be adopted by the governing body of the employer and shall state the employer's intent to cover under the statewide hybrid plan some or all of the current members of its money purchase plan and all of the employees hired on or after the effective date of coverage under the statewide hybrid plan that meet the definition of a member, as defined in section 31-31-102 (4).~~

(3) Except as otherwise provided in subsection (3.5) of this section, any application for coverage under the ~~statewide hybrid plan~~ DEFINED BENEFIT SYSTEM PURSUANT TO SUBSECTION (1.5) OF THIS SECTION shall be approved by at least sixty-five percent of all active members employed by the employer who are participating in the money purchase plan at the time of the application and who vote in the election proposing the coverage.

(3.5) (a) In lieu of an election to obtain the approval by at least sixty-five percent of all active members who vote in the election proposing the coverage as required by subsection (3) of this section, and when the local plan allows for the individual self-direction of each member's account, the employer may offer each active local plan member the option to discontinue participation in the local money purchase plan and to participate in the ~~statewide hybrid plan~~ DEFINED BENEFIT SYSTEM. The offer shall be a one-time event and shall be extended to all active local plan members employed by the employer at the time of the offer. ~~Active local plan members that choose to discontinue participation in the local money purchase plan and to participate in the statewide hybrid plan and all of the employees hired on or after the effective date of coverage under the statewide hybrid plan that meet the definition of a member, as defined in section 31-31-102 (4), shall be included in the employer's application for coverage under the statewide hybrid plan.~~

~~(b) Nothing contained in paragraph (a) of this subsection (3.5)~~ SUBSECTION (3.5)(a) OF THIS SECTION shall be construed to waive or invalidate the requirement for an election of members that may be required by a local plan document, trust agreement, or labor agreement.

(4) The board shall promulgate rules relating to standards for disclosure of all ramifications and procedures for obtaining member approval pursuant to subsection (3) of this section or for allowing active members to join the ~~statewide hybrid plan~~ DEFINED BENEFIT SYSTEM pursuant to subsection (3.5) of this section. The board shall also promulgate rules relating to standards for granting an employer's application for participation in the ~~statewide hybrid plan~~ DEFINED BENEFIT SYSTEM and for the submission of information to the board by the employer. Such rules shall contain a provision specifying that an employer that opts to participate in the ~~statewide hybrid plan~~ DEFINED BENEFIT SYSTEM shall not be permitted to opt out of ~~such~~ THE ELECTED plan at any later date.

~~(5) An application for coverage under the statewide hybrid plan filed by an~~

employer who administers a local money purchase plan shall include the employer's certification to the board:

~~(a) That the employer's local money purchase plan meets the qualification requirements of section 401 (a) of the federal "Internal Revenue Code of 1986", as amended, that are applicable to governmental plans;~~

~~(b) That, in connection with the employer's resolution pursuant to subsection (2) of this section, the employer's governing body has adopted a resolution for complete or partial termination of the local money purchase plan in accordance with the terms of that plan and that:~~

~~(f) The termination resolution does not adversely affect the qualified status of the local money purchase plan; and~~

~~(H) The rights of all participants in the local money purchase plan who are affected by the termination of the local money purchase plan to benefits accrued to the date of termination are nonforfeitable;~~

~~(c) That all active fire and police participants in the local money purchase plan and all employees hired on or after the effective date of coverage under the statewide hybrid plan that meet the definition of a member, as defined in section 31-31-102 (4), will become participants in the statewide hybrid plan, except as may be allowed in subsection (3.5) of this section;~~

~~(d) Whether the employer will transfer or cause to be transferred to the statewide hybrid plan all assets of the local money purchase plan that are attributable to the accrued benefits of the transferred participants, pursuant to the procedure established by the board;~~

~~(e) That all employer and employee contributions required to be made to the local money purchase plan as of the date of termination have been paid;~~

~~(f) That participants in the local money purchase plan will not incur a reduction in their account balances in their local money purchase plan, determined as of the date of transfer, as a result of their transfer to the statewide hybrid plan. For vesting purposes with regard to the local money purchase plan account balances, years of service in the local money purchase plan shall be combined with years of service in the statewide hybrid plan. For vesting purposes with regard to the statewide hybrid plan, years of service shall be based upon service credit either earned or purchased in the statewide hybrid plan.~~

~~(g) That the employer agrees to participate in the statewide hybrid plan and to be bound by the terms of the plan and the decisions and actions of the board with respect to the plan.~~

~~(6) An application for coverage under the statewide hybrid plan filed by an employer who participates in the statewide money purchase plan shall include the employer's certification to the board that:~~

~~(a) All active fire and police participants in the statewide money purchase plan~~

~~and all employees hired on or after the effective date of coverage under the statewide hybrid plan that meet the definition of a member, as defined in section 31-31-102 (4), will become participants in the statewide hybrid plan, except as may be allowed in subsection (3.5) of this section;~~

~~(b) The board is authorized by the employer to transfer to the statewide hybrid plan all assets of the statewide money purchase plan that are attributable to the accrued benefits of the transferred participants;~~

~~(c) All employer and employee contributions required to be made to the statewide money purchase plan as of the date of termination have been paid;~~

~~(d) Participants in the statewide money purchase plan will not incur a reduction in their account balances in the statewide money purchase plan, determined as of the date of transfer, as a result of their transfer to the statewide hybrid plan. For vesting purposes with regard to the statewide money purchase plan account balances, years of service in the statewide money purchase plan shall be combined with years of service in the statewide hybrid plan. For vesting purposes with regard to the statewide hybrid plan, years of service shall be based upon service credit either earned or purchased in the statewide hybrid plan.~~

~~(e) The employer agrees to participate in the statewide hybrid plan and to be bound by the terms of the plan and the decisions and actions of the board with respect to the plan.~~

(7) THE BOARD SHALL DETERMINE A CONTINUING UNIFORM RATE OF CONTRIBUTION FOR ALL MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE DATE OF COVERAGE TO FUND THE BENEFITS PAYABLE BY THE FIRE AND POLICE PENSION ASSOCIATION UNDER THE STATEWIDE DEFINED BENEFIT PLAN. THE CONTINUING RATE OF CONTRIBUTION SHALL BE DETERMINED BY THE BOARD UTILIZING CERTIFIED ACTUARIAL REPORTS PREPARED BY THE ACTUARY FOR THE PLAN. ANY ACTUARIAL REPORT SHALL ALSO CERTIFY, IN ACCORDANCE WITH ACCEPTED ACTUARIAL PRINCIPALS, THAT THE EMPLOYERS' COVERAGE SHALL NOT HAVE AN ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE PLAN. CONTINUING CONTRIBUTIONS FOR EACH MEMBER WHO IS ACTIVE ON THE EFFECTIVE DATE OF COVERAGE SHALL BE MADE AT THE RATE ESTABLISHED ON SAID DATE UNTIL THE MEMBER'S RETIREMENT OR TERMINATION. THE BOARD MAY PERIODICALLY ADJUST THE RATE PRIOR TO THE ELECTION OF COVERAGE BY AN EMPLOYER BASED ON CERTIFIED ACTUARIAL REPORTS PREPARED BY THE ACTUARY FOR THE PLAN.

SECTION 2. In Colorado Revised Statutes, 31-31-401, **amend** (3) as follows:

31-31-401. Applicability of plan. (3) Where an employer results from a merger, a consolidation, or an exclusion or dissolution proceeding between or among one or more employers, including a new governmental entity created by intergovernmental agreement between or among one or more employers, all members transferred to or employed by such resulting employer shall, for the purposes of this ~~article~~ ARTICLE 31 and article 30.5 of this ~~title~~ TITLE 31, have those rights and obligations they had prior to the merger, consolidation, exclusion, dissolution, or intergovernmental agreement. In the event of a transfer of members, provision shall be made in such agreement or proceeding for allocation and transfer

of plan assets, and, in the event of the transfer of members of a defined benefit plan, provision shall be made in such agreement or proceeding for discharging plan liabilities and funding in order to maintain or enhance the actuarial soundness of the remaining and resulting plans. If the resulting employer had no members prior to the merger, consolidation, exclusion, or dissolution, it may continue as its plan any plan of a transferring employer, authorized by this article, for its members hired after the effective date of the agreement or proceeding or the resulting employer shall belong to the statewide defined benefit plan. The board may authorize the resulting employer to consolidate preexisting retirement plans and any retirement plan attributable solely to the resulting employer into one or more plans if the plans to be consolidated are identical, the benefits are equal for all members covered under the retirement provisions of the plans, and no member suffers a reduction of benefits or an increase in member contributions due to such plan consolidation. Any member employed by a predecessor department who participated in a money purchase plan prior to the merger, consolidation, exclusion, or dissolution and who participates in the statewide defined benefit plan after the merger, consolidation, exclusion, or dissolution shall pay the continuing uniform rate of contribution established by the board pursuant to ~~section 31-31-1103 (2)~~ SECTION 31-31-1101 (7).

SECTION 3. In Colorado Revised Statutes, **repeal** 31-31-1103.

SECTION 4. Act subject to petition - effective date. This act takes 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 8, 2018, if adjournment sine die is on May 9, 2018); 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 will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 1, 2018