

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0426.02 Nicole Myers x4326

SENATE BILL 19-106

SENATE SPONSORSHIP

Cooke and Zenzinger,

HOUSE SPONSORSHIP

Tipper,

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN ADDITIONAL PROCESS BY WHICH A BOARD OF COUNTY**
102 **COMMISSIONERS MAY INITIATE THE WITHDRAWAL OF CURRENT**
103 **EMPLOYEES WHO ARE PEACE OFFICERS FROM A DEFINED**
104 **CONTRIBUTION RETIREMENT PLAN OFFERED BY ONE OR MORE**
105 **LOCAL GOVERNMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Any county, municipality, or other political subdivision (local government) or group of local governments is currently authorized to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
February 15, 2019

establish and maintain a plan or system of retirement benefits for its elected or appointed officers and its employees. A local government or group of local governments that adopts a retirement plan or system is required to maintain an association for the purchase, establishment, or procurement of a retirement plan (association). Currently, any employer may withdraw from its participation in and contributions to any such association upon adoption of a resolution by the local government's governing body and upon approval by at least 65% of all active members employed by the employer who are participating in the association.

The bill creates an additional withdrawal provision that allows a board of county commissioners to initiate the withdrawal of current employees who are peace officers from its participation in and contributions to a defined contribution plan offered by an association for the purpose of joining a retirement plan offered by the fire and police pension association. For such a withdrawal, the approval requirement to withdraw is 65% of all current employees who are peace officers proposed to be withdrawn from participation in a defined contribution plan offered by the association and who participate in the vote to withdraw from the association. A board of county commissioners may use the new withdrawal provision once every 4 years. A board of county commissioners may also use the existing withdrawal provision to initiate the withdrawal of current employees who are peace officers from its participation in a defined contribution plan.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-54-101, **amend**
3 (2.7) introductory portion; and **add** (2.7)(a.5) and (2.7)(d.5) as follows:

4 **24-54-101. Authorization to establish and maintain retirement**
5 **plan or system - definitions.** (2.7) For purposes of this ~~article~~ ARTICLE
6 54, unless the context otherwise requires:

7 (a.5) "CURRENT EMPLOYEE" MEANS ANY PERSON CURRENTLY
8 PERFORMING SERVICE THAT CONSTITUTES EMPLOYMENT FOR ANY COUNTY,
9 MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE.
10 "CURRENT EMPLOYEE" DOES NOT INCLUDE FORMER EMPLOYEES OF ANY
11 COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE
12 WHO LEFT EMPLOYMENT THROUGH RETIREMENT, RESIGNATION,

1 SEPARATION, TERMINATION, OR OTHERWISE. "CURRENT EMPLOYEE" ALSO
2 DOES NOT INCLUDE BENEFICIARIES OF EITHER CURRENT EMPLOYEES OR
3 FORMER EMPLOYEES.

4 (d.5) "PEACE OFFICER" MEANS A CERTIFIED PEACE OFFICER AS
5 DESCRIBED IN SECTION 16-2.5-101 AND INCLUDES ANY GUARDS EMPLOYED
6 BY A COUNTY SHERIFF PURSUANT TO SECTION 17-26-122.

7 **SECTION 2.** In Colorado Revised Statutes, 24-54-106, **add** (3)
8 as follows:

9 **24-54-106. Association shall be formed - withdrawal.**

10 (3)(a) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, ONCE EVERY
11 FOUR YEARS A BOARD OF COUNTY COMMISSIONERS MAY INITIATE THE
12 WITHDRAWAL OF CURRENT EMPLOYEES WHO ARE PEACE OFFICERS IN THE
13 COUNTY FROM ITS PARTICIPATION IN AND CONTRIBUTIONS TO A DEFINED
14 CONTRIBUTION PLAN OFFERED BY AN ASSOCIATION FORMED PURSUANT TO
15 THIS ARTICLE 54 FOR THE PURPOSE OF JOINING A RETIREMENT PLAN
16 OFFERED BY THE FIRE AND POLICE PENSION ASSOCIATION CREATED IN
17 ARTICLE 31 OF TITLE 31. THE BOARD OF COUNTY COMMISSIONERS, AFTER
18 AN ASSOCIATION HAS BEEN PROVIDED AN OPPORTUNITY TO PRESENT
19 INFORMATION TO THE BOARD OF COUNTY COMMISSIONERS REGARDING THE
20 ADVANTAGES OR DISADVANTAGES OF WITHDRAWAL FROM AN
21 ASSOCIATION, MAY INITIATE THE WITHDRAWAL BY FILING WITH THE
22 BOARD OF THE ASSOCIATION A RESOLUTION ADOPTED BY THE BOARD OF
23 COUNTY COMMISSIONERS PURSUANT TO SUBSECTION (3)(b) OF THIS
24 SECTION NO LESS THAN NINETY DAYS PRIOR TO THE EFFECTIVE DATE OF
25 WITHDRAWAL UNLESS A SHORTER WAITING PERIOD IS APPROVED BY THE
26 BOARD OF AN ASSOCIATION. THE EFFECTIVE DATE OF WITHDRAWAL SHALL
27 BE THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE MONTH

1 IN WHICH THE WAITING PERIOD EXPIRES.

2 (b) A BOARD OF COUNTY COMMISSIONERS' WITHDRAWAL
3 RESOLUTION SHALL BE ADOPTED BY THE BOARD OF COUNTY
4 COMMISSIONERS AND SHALL STATE ITS INTENT TO WITHDRAW CURRENT
5 EMPLOYEES WHO ARE PEACE OFFICERS FROM PARTICIPATION IN A DEFINED
6 CONTRIBUTION PLAN OFFERED BY THE ASSOCIATION.

7 (c) ANY WITHDRAWAL PURSUANT TO THIS SUBSECTION (3) SHALL
8 BE APPROVED BY AT LEAST SIXTY-FIVE PERCENT OF ALL CURRENT
9 EMPLOYEES WHO ARE PEACE OFFICERS PROPOSED TO BE WITHDRAWN FROM
10 A DEFINED CONTRIBUTION PLAN AND WHO PARTICIPATE IN THE ELECTION
11 REGARDING THE WITHDRAWAL.

12 (d) THE BOARD OF THE ASSOCIATION SHALL DISCLOSE ALL
13 RAMIFICATIONS AND PROCEDURES FOR OBTAINING THE MEMBER APPROVAL
14 PROVIDED FOR IN SUBSECTION (3)(c) OF THIS SECTION.

15 (e) BEFORE THE ELECTION TO DETERMINE WHETHER A BOARD OF
16 COUNTY COMMISSIONERS WILL WITHDRAW CURRENT EMPLOYEES WHO ARE
17 PEACE OFFICERS FROM PARTICIPATION IN A DEFINED CONTRIBUTION PLAN
18 OFFERED BY AN ASSOCIATION, THE BOARD OF THE ASSOCIATION AND THE
19 BOARD OF COUNTY COMMISSIONERS OR ITS DESIGNEE SHALL BE ALLOWED
20 MULTIPLE OPPORTUNITIES TO PRESENT INFORMATION TO CURRENT
21 EMPLOYEES WHO ARE PEACE OFFICERS PROPOSED TO BE WITHDRAWN FROM
22 A DEFINED CONTRIBUTION PLAN OFFERED BY THE ASSOCIATION
23 REGARDING THE ADVANTAGES OR DISADVANTAGES OF SUCH
24 WITHDRAWAL.

25 (f) ALL WITHDRAWALS FROM THE ASSOCIATION PURSUANT TO THIS
26 SUBSECTION (3) SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN
27 THIS SECTION, AND, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,

1 ALL WITHDRAWALS MEETING SUCH REQUIREMENTS SHALL BE APPROVED
2 BY THE BOARD OF THE ASSOCIATION. WITHDRAWAL REQUESTS THAT DO
3 NOT MEET THE REQUIREMENTS OF THIS SECTION SHALL NOT BE APPROVED
4 BY THE BOARD OF THE ASSOCIATION.

5 (g) IF A BOARD OF COUNTY COMMISSIONERS FILES A RESOLUTION
6 TO WITHDRAW CURRENT EMPLOYEES WHO ARE PEACE OFFICERS FROM A
7 DEFINED CONTRIBUTION PLAN OFFERED BY AN ASSOCIATION FORMED
8 PURSUANT TO THIS ARTICLE 54, AND THE WITHDRAWAL IS APPROVED
9 PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION, ANY CURRENT
10 EMPLOYEE WHO IS A PEACE OFFICER MAY ELECT TO REMAIN AN ACTIVE
11 MEMBER OF SUCH DEFINED CONTRIBUTION PLAN IF THE WITHDRAWAL
12 BECOMES EFFECTIVE. A CURRENT EMPLOYEE WHO IS A PEACE OFFICER
13 SHALL NOTIFY, IN WRITING, THE BOARD OF THE ASSOCIATION AND THE
14 BOARD OF COUNTY COMMISSIONERS WHETHER HE OR SHE WILL REMAIN IN
15 THE DEFINED CONTRIBUTION PLAN OR BECOME PART OF THE DEFINED
16 BENEFIT PLAN ADMINISTERED BY THE FIRE AND POLICE PENSION
17 ASSOCIATION. A CURRENT EMPLOYEE WHO IS A PEACE OFFICER SHALL
18 PROVIDE SUCH WRITTEN NOTICE PRIOR TO THE EFFECTIVE DATE OF THE
19 RETIREMENT PLAN OFFERED BY THE FIRE AND POLICE PENSION
20 ASSOCIATION TO BEGIN PARTICIPATION IN A RETIREMENT PLAN OFFERED
21 BY THE FIRE AND POLICE PENSION ASSOCIATION. IF A CURRENT EMPLOYEE
22 WHO IS A PEACE OFFICER DOES NOT PROVIDE SUCH WRITTEN NOTICE, THE
23 CURRENT EMPLOYEE WILL REMAIN IN THE DEFINED CONTRIBUTION PLAN.

24 (h) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO
25 PROHIBIT A BOARD OF COUNTY COMMISSIONERS FROM USING SUBSECTION
26 (2) OF THIS SECTION TO INITIATE THE WITHDRAWAL OF CURRENT
27 EMPLOYEES WHO ARE PEACE OFFICERS FROM PARTICIPATING IN AND

1 CONTRIBUTING TO AN ASSOCIATION FORMED PURSUANT TO THIS ARTICLE
2 54.

3 **SECTION 3. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2020 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.