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Seventy-first General Assembly
STATE OF COLORADO

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BILL 2

LLS NO. 18-0183.01 Nicole Myers x4326

INTERIM COMMITTEE BILL

**Police Officers' and Firefighters' Pension Reform
Commission**

BILL TOPIC: "Employer Entry FPPA Defined Benefit System"

A BILL FOR AN ACT

101 **CONCERNING EMPLOYER ENTRY INTO THE FIRE AND POLICE PENSION**
102 **ASSOCIATION DEFINED BENEFIT SYSTEM.**

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/>.)

Police Officers' and Firefighters' Pension Reform Commission.

Current law allows an employer that is affiliated with the fire and police pension association (FPPA) and that provides a money purchase plan for its employees to apply to the board of directors of FPPA (board) to cover some or all existing members of the money purchase plan under either the

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

statewide hybrid plan or the statewide defined benefit plan, both of which are part of the defined benefit system. Current law requires the employer to apply to the board separately for each plan. In addition, the employer may apply to cover only existing employees under the statewide hybrid plan or the statewide defined benefit plan.

The bill allows an employer that provides a money purchase plan to apply to the board, with a single application, to cover some or all of the existing members of its money purchase plan in the defined benefit system. In addition, the bill allows an employer that provides a money purchase plan to apply to the board to cover all new employees hired on or after a date certain and who are members of the FPPA to participate as a group in either the statewide hybrid plan or the statewide defined benefit plan through the defined benefit system.

The bill eliminates certain statutory requirements in connection with an employer's participation in the defined benefit system and instead authorizes the board to determine the terms, process, certifications, and schedules that will govern an employer's participation in the defined benefit system. The bill also repeals the separate application process for entry into the statewide defined benefit plan.

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

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

4 **31-31-1101. Entry into the fire and police pension association**
5 **defined benefit system.** (1) Any employer who has established a local
6 money purchase plan pursuant to part 6 of this ~~article~~ ARTICLE 31 or
7 article 30.5 of this ~~title~~ TITLE 31 or has withdrawn into the statewide
8 money purchase plan pursuant to part 5 of this ~~article~~ ARTICLE 31 may
9 apply to the board to ~~cover some or all of the existing members of its~~
10 ~~money purchase plan under the statewide hybrid plan established pursuant~~
11 ~~to section 31-31-1102. An application may be initiated by filing with the~~
12 ~~board a resolution adopted by the employer pursuant to subsection (2) of~~
13 ~~this section no less than six months prior to the proposed effective date~~
14 ~~of coverage under the statewide hybrid plan, unless a shorter waiting~~

1 ~~period is approved by the board~~ REQUIRE ALL NEW EMPLOYEES HIRED ON
2 OR AFTER A DATE CERTAIN WHO MEET THE DEFINITION OF MEMBER AS
3 DEFINED IN SECTION 31-31-102 (4) TO PARTICIPATE AS A GROUP IN THE
4 DEFINED BENEFIT SYSTEM IN EITHER THE STATEWIDE DEFINED BENEFIT
5 PLAN ESTABLISHED IN PART 4 OF THIS ARTICLE 31 OR THE STATEWIDE
6 HYBRID PLAN ESTABLISHED IN SECTION 31-31-1102. AN APPLICATION MAY
7 BE INITIATED BY FILING WITH THE BOARD A RESOLUTION ADOPTED BY THE
8 GOVERNING BODY OF THE EMPLOYER IN ACCORDANCE WITH THE TERMS,
9 PROCESS, CERTIFICATIONS, AND SCHEDULE ESTABLISHED BY THE BOARD.

10 (1.5) AN EMPLOYER WHO HAS ELECTED PARTICIPATION PURSUANT
11 TO SUBSECTION (1) OF THIS SECTION MAY ALSO APPLY TO COVER SOME OR
12 ALL OF THE EXISTING MEMBERS OF ITS MONEY PURCHASE PLAN UNDER THE
13 DEFINED BENEFIT SYSTEM. AN APPLICATION MAY BE INITIATED BY FILING
14 WITH THE BOARD A RESOLUTION ADOPTED BY THE GOVERNING BODY OF
15 THE EMPLOYER IN ACCORDANCE WITH THE REQUIREMENTS, TERMS,
16 PROCESS, CERTIFICATIONS, AND SCHEDULE ESTABLISHED BY THE BOARD.

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

24 (3) Except as otherwise provided in subsection (3.5) of this
25 section, any application for coverage under the ~~statewide hybrid plan~~
26 DEFINED BENEFIT SYSTEM PURSUANT TO SUBSECTION (1.5) OF THIS
27 SECTION shall be approved by at least sixty-five percent of all active

1 members employed by the employer who are participating in the money
2 purchase plan at the time of the application and who vote in the election
3 proposing the coverage.

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

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

23 (4) The board shall promulgate rules relating to standards for
24 disclosure of all ramifications and procedures for obtaining member
25 approval pursuant to subsection (3) of this section or for allowing active
26 members to join the ~~statewide hybrid plan~~ DEFINED BENEFIT SYSTEM
27 pursuant to subsection (3.5) of this section. The board shall also

1 promulgate rules relating to standards for granting an employer's
2 application for participation in the ~~statewide hybrid plan~~ DEFINED BENEFIT
3 SYSTEM and for the submission of information to the board by the
4 employer. Such rules shall contain a provision specifying that an
5 employer that opts to participate in the ~~statewide hybrid plan~~ DEFINED
6 BENEFIT SYSTEM shall not be permitted to opt out of ~~such~~ THE ELECTED
7 plan at any later date.

8 (5) ~~An application for coverage under the statewide hybrid plan~~
9 ~~filed by an employer who administers a local money purchase plan shall~~
10 ~~include the employer's certification to the board:~~

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

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

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

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

24 (c) ~~That all active fire and police participants in the local money~~
25 ~~purchase plan and all employees hired on or after the effective date of~~
26 ~~coverage under the statewide hybrid plan that meet the definition of a~~
27 ~~member, as defined in section 31-31-102 (4), will become participants in~~

1 the statewide hybrid plan, except as may be allowed in subsection (3.5)
2 of this section;

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

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

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

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

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

25 (a) ~~All active fire and police participants in the statewide money~~
26 ~~purchase plan and all employees hired on or after the effective date of~~
27 ~~coverage under the statewide hybrid plan that meet the definition of a~~

1 member, as defined in section 31-31-102 (4), will become participants in
2 the statewide hybrid plan, except as may be allowed in subsection (3.5)
3 of this section;

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

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

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

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

22 (7) THE BOARD SHALL DETERMINE A CONTINUING UNIFORM RATE
23 OF CONTRIBUTION FOR ALL MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE
24 DATE OF COVERAGE TO FUND THE BENEFITS PAYABLE BY THE FIRE AND
25 POLICE PENSION ASSOCIATION UNDER THE STATEWIDE DEFINED BENEFIT
26 PLAN. THE CONTINUING RATE OF CONTRIBUTION SHALL BE DETERMINED BY
27 THE BOARD UTILIZING CERTIFIED ACTUARIAL REPORTS PREPARED BY THE

1 ACTUARY FOR THE PLAN. ANY ACTUARIAL REPORT SHALL ALSO CERTIFY,
2 IN ACCORDANCE WITH ACCEPTED ACTUARIAL PRINCIPALS, THAT THE
3 EMPLOYERS' COVERAGE SHALL NOT HAVE AN ADVERSE FINANCIAL IMPACT
4 ON THE ACTUARIAL SOUNDNESS OF THE PLAN. CONTINUING
5 CONTRIBUTIONS FOR EACH MEMBER WHO IS ACTIVE ON THE EFFECTIVE
6 DATE OF COVERAGE SHALL BE MADE AT THE RATE ESTABLISHED ON SAID
7 DATE UNTIL THE MEMBER'S RETIREMENT OR TERMINATION. THE BOARD
8 MAY PERIODICALLY ADJUST THE RATE PRIOR TO THE ELECTION OF
9 COVERAGE BY AN EMPLOYER BASED ON CERTIFIED ACTUARIAL REPORTS
10 PREPARED BY THE ACTUARY FOR THE PLAN.

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

13 **31-31-401. Applicability of plan.** (3) Where an employer results
14 from a merger, a consolidation, or an exclusion or dissolution proceeding
15 between or among one or more employers, including a new governmental
16 entity created by intergovernmental agreement between or among one or
17 more employers, all members transferred to or employed by such
18 resulting employer shall, for the purposes of this ~~article~~ ARTICLE 31 and
19 article 30.5 of this ~~title~~ TITLE 31, have those rights and obligations they
20 had prior to the merger, consolidation, exclusion, dissolution, or
21 intergovernmental agreement. In the event of a transfer of members,
22 provision shall be made in such agreement or proceeding for allocation
23 and transfer of plan assets, and, in the event of the transfer of members
24 of a defined benefit plan, provision shall be made in such agreement or
25 proceeding for discharging plan liabilities and funding in order to
26 maintain or enhance the actuarial soundness of the remaining and
27 resulting plans. If the resulting employer had no members prior to the

1 merger, consolidation, exclusion, or dissolution, it may continue as its
2 plan any plan of a transferring employer, authorized by this article, for its
3 members hired after the effective date of the agreement or proceeding or
4 the resulting employer shall belong to the statewide defined benefit plan.
5 The board may authorize the resulting employer to consolidate
6 preexisting retirement plans and any retirement plan attributable solely to
7 the resulting employer into one or more plans if the plans to be
8 consolidated are identical, the benefits are equal for all members covered
9 under the retirement provisions of the plans, and no member suffers a
10 reduction of benefits or an increase in member contributions due to such
11 plan consolidation. Any member employed by a predecessor department
12 who participated in a money purchase plan prior to the merger,
13 consolidation, exclusion, or dissolution and who participates in the
14 statewide defined benefit plan after the merger, consolidation, exclusion,
15 or dissolution shall pay the continuing uniform rate of contribution
16 established by the board pursuant to ~~section 31-31-1103 (2)~~ SECTION
17 31-31-1101 (7).

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

19 **SECTION 4. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.