

CHAPTER 161

GOVERNMENT - MUNICIPAL

SENATE BILL 03-056

BY SENATOR(S) Phillips, Hanna, Arnold, and Nichol;
also REPRESENTATIVE(S) Ragsdale, Borodkin, Boyd, Cadman, Carroll, Coleman, Frangas, Hodge, Jahn, Merrifield, Miller,
Paccione, Salazar, Vigil, and Williams S.

AN ACT

CONCERNING MEMBERSHIP IN PLANS ADMINISTERED BY THE FIRE AND POLICE PENSION ASSOCIATION.

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

SECTION 1. 31-31-102 (4), Colorado Revised Statutes, is amended to read:

31-31-102. Definitions. As used in this article, unless the context otherwise requires:

(4) "Member" means an active employee who is a full-time salaried employee of a municipality, fire protection district, FIRE AUTHORITY, or county improvement district normally serving at least one thousand six hundred hours in any calendar year and whose duties are directly involved with the provision of police or fire protection, as certified by the member's employer. "MEMBER" ALSO INCLUDES AN ACTIVE EMPLOYEE WHO WORKS LESS THAN SIXTEEN HUNDRED HOURS PER YEAR BUT OTHERWISE QUALIFIES AS A MEMBER AND WHOSE EMPLOYER ELECTS TO TREAT ALL SUCH OTHER SIMILAR EMPLOYEES AS MEMBERS. The term does not include clerical or other personnel whose services are auxiliary to police ~~or fire~~ protection, or any volunteer firefighter, as such term is defined in section 31-30-1102 (9). FOR THE PURPOSE OF PARTICIPATION IN THE STATEWIDE DEFINED BENEFIT PLAN PURSUANT TO PART 4 OF THIS ARTICLE OR THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE, BUT NOT FOR THE PURPOSE OF PARTICIPATION IN THE STATEWIDE DEATH AND DISABILITY PLAN PURSUANT TO PART 8 OF THIS ARTICLE, THE TERM MAY INCLUDE CLERICAL OR OTHER PERSONNEL EMPLOYED BY A FIRE PROTECTION DISTRICT, FIRE AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT, WHOSE SERVICES ARE AUXILIARY TO FIRE PROTECTION. For the purpose of eligibility for disability or survivor benefits, "member" includes any employee on an authorized leave of absence.

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

SECTION 2. 31-31-302 (7), Colorado Revised Statutes, is amended to read:

31-31-302. Fund - management - investment. (7) The board shall submit an annual audit of the fund to the general assembly and the annual audit of the fund and annual actuarial study, with assumptions, to each employer. Each employer shall make the audit and study available for review by its members. NOTHING IN THIS SUBSECTION (7) SHALL BE CONSTRUED AS DIMINISHING THE OBLIGATION OF THE BOARD TO PROVIDE ANY DOCUMENTATION REQUIRED BY THE STATE AUDITOR TO CARRY OUT HIS OR HER RESPONSIBILITIES PURSUANT TO SECTION 2-3-103 (1), C.R.S., REGARDING STATE MONEYS HELD BY THE FIRE AND POLICE PENSION ASSOCIATION.

SECTION 3. 31-31-401, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-31-401. Applicability of plan. (5) A MEMBER NORMALLY SERVING LESS THAN ONE THOUSAND SIX HUNDRED HOURS IN ANY CALENDAR YEAR SHALL BE EXEMPTED FROM THE STATEWIDE DEFINED BENEFIT PLAN AND SHALL BE COVERED UNDER THE STATEWIDE MONEY PURCHASE PLAN.

SECTION 4. 31-31-704 (1) and (3), Colorado Revised Statutes, are amended, and the said 31-31-704 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-31-704. Optional affiliation by social security employers. (1) Notwithstanding the exemption provided in section 31-31-401 (1) (a), any employer that covers members under the federal "Social Security Act", as amended, OR ANY COUNTY THAT COVERS SALARIED EMPLOYEES WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF LAW ENFORCEMENT OR FIRE PROTECTION, AS CERTIFIED BY THE COUNTY UNDER THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, may elect affiliation with the association, either as to coverage under the statewide death and disability plan or as to retirement under the statewide defined benefit plan, or as to both, by filing with the board a resolution of the governing body of such employer, but any such affiliation shall either exclude past service credit or include past service credit funded by contribution levels established by the board pursuant to subsection (6) of this section. The employer may make the election to exclude past service credit, but only if such election does not impair any vested rights of members.

(1.5) FOR PURPOSES OF ADMINISTERING TO COUNTIES AFFILIATED PURSUANT TO THIS SECTION, ANY COUNTY ELECTING TO AFFILIATE SHALL BE INCLUDED IN THE DEFINITION OF "EMPLOYER" AND ANY COVERED EMPLOYEE OF SUCH COUNTY SHALL BE INCLUDED IN THE DEFINITION OF "MEMBER".

(3) If an employer that elects to affiliate as to retirement pursuant to this section provides any local DEFINED BENEFIT retirement pension plan in addition to social security, each member employed by such employer shall elect, not later than sixty days after affiliation, either to remain covered under the retirement provisions of such local DEFINED BENEFIT plan or to become covered under the retirement provisions of the statewide defined benefit plan established by part 4 of this article. If a member fails to make such an election for any reason, said member shall be deemed to have

elected to remain covered under the retirement provisions of the local DEFINED BENEFIT plan. A member who elects to become covered under the retirement provisions of the statewide defined benefit plan established by part 4 of this article shall be deemed to have waived all rights to retirement benefits under the local DEFINED BENEFIT plan but shall receive full credit for all service credited under the local DEFINED BENEFIT plan, and a member electing to remain covered under the local DEFINED BENEFIT plan shall not be governed by the provisions of the statewide defined benefit plan relating to defined retirement benefits.

(3.5) IF AN EMPLOYER THAT ELECTS TO AFFILIATE AS TO RETIREMENT PURSUANT TO THIS SECTION PROVIDES ANY LOCAL DEFINED CONTRIBUTION RETIREMENT PENSION PLAN IN ADDITION TO SOCIAL SECURITY, SIXTY-FIVE PERCENT OF THE EMPLOYEES ELIGIBLE TO PARTICIPATE IN THE SUPPLEMENTAL STATEWIDE DEFINED BENEFIT PLAN SHALL APPROVE THE AFFILIATION PRIOR TO IT BECOMING EFFECTIVE.

SECTION 5. 31-31-802 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

31-31-802. Coverage. (1) Except as provided in section 31-31-803, any member hired before, on, or after April 7, 1978, is eligible for the benefits provided by this part 8, with the exception of the following:

(d) ANY MEMBER WHOSE EMPLOYER HAS AFFILIATED WITH THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION FOR THE PURPOSE OF ADMINISTERING RETIREMENT BENEFITS FOR ITS MEMBERS.

SECTION 6. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 22, 2003