

CHAPTER 96

GOVERNMENT - MUNICIPAL

SENATE BILL 06-039

BY SENATOR(S) Tochtrop, Entz, Taylor, Williams, and Hanna;
also REPRESENTATIVE(S) McGihon, Berens, Cerbo, McCluskey, Ragsdale, Vigil, Carroll M., Frangas, Solano, and Todd.

AN ACT

CONCERNING THE PARTIAL ENTRY INTO THE FIRE AND POLICE PENSION ASSOCIATION DEFINED BENEFIT SYSTEM BY MEMBERS OF MONEY PURCHASE PLANS WHERE ALL FUTURE ELIGIBLE EMPLOYEES ARE REQUIRED TO PARTICIPATE IN THE DEFINED BENEFIT SYSTEM.

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

SECTION 1. 31-31-1101 (1), (2), (3), (4), (5) (c), and (6) (a), Colorado Revised Statutes, are amended, and the said 31-31-1101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-31-1101. Entry into the statewide hybrid plan. (1) Any employer who has established a local money purchase plan pursuant to part 6 of this article or article 30.5 of this title or has withdrawn into the statewide money purchase plan pursuant to part 5 of this article may apply to the board to cover SOME OR ALL OF the existing members of its money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.

(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 ~~under 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).

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3.5) OF THIS SECTION, any

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

application for coverage under the statewide hybrid plan 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.

(3.5) (a) IN LIEU OF AN ELECTION TO OBTAIN THE APPROVAL BY AT LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS 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. 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) 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 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 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 shall not be permitted to opt out of such 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:

(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;

(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;

SECTION 2. 31-31-1103 (1) (a), (1) (b), (1) (c), (1) (d), (1) (e) (III), and (1) (f) (I), Colorado Revised Statutes, are amended, and the said 31-31-1103 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

31-31-1103. Entry into the statewide defined benefit plan. (1) (a) Any employer who has established a local money purchase plan pursuant to part 6 of this article or article 30.5 of this title or has withdrawn into the statewide money purchase plan pursuant to part 5 of this article may apply to the board to cover SOME OR ALL OF the members of its money purchase plan and its future members under the statewide defined benefit plan pursuant to part 4 of this article. An application may be initiated by filing with the board a resolution adopted by the employer pursuant to paragraph (b) of this subsection (1) no less than six months prior to the proposed effective date of coverage under the statewide defined benefit plan, unless a shorter waiting period is approved by the board.

(b) The employer's resolution applying for coverage under the statewide defined benefit plan shall be adopted by the governing body of the employer and shall state the employer's intent to cover UNDER THE STATEWIDE DEFINED BENEFIT PLAN SOME OR ALL OF the members of its money purchase plan ~~under the statewide defined benefit plan~~ AND EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN THAT MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4).

(c) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c.5) OF THIS SUBSECTION (1), any application for coverage under the statewide defined benefit plan 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.

(c.5) (I) IN LIEU OF AN ELECTION TO OBTAIN THE APPROVAL BY AT LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS AS REQUIRED BY PARAGRAPH (c) OF THIS SUBSECTION (1), AND WHEN THE LOCAL PLAN ALLOWS FOR THE INDIVIDUAL SELF-DIRECTION OF EACH MEMBER'S ACCOUNT, THE EMPLOYER MAY GIVE EACH ACTIVE LOCAL PLAN MEMBER THE OPTION TO DISCONTINUE PARTICIPATION IN THE LOCAL MONEY PURCHASE PLAN AND TO PARTICIPATE IN THE STATEWIDE DEFINED BENEFIT PLAN. 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 DEFINED BENEFIT PLAN AND ALL OF THE EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT 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 DEFINED BENEFIT PLAN.

(II) NOTHING CONTAINED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c.5) 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.

(d) The board shall promulgate rules relating to standards for disclosure of all ramifications and procedures for obtaining the member approval described in paragraph (c) of this subsection (1) OR FOR ALLOWING ACTIVE MEMBERS TO CHANGE PLANS PURSUANT TO PARAGRAPH (c.5) OF THIS SUBSECTION (1). The board shall also promulgate rules relating to standards for granting an employer's application for participation in the statewide defined benefit plan and for the submission of information to the board by the employer.

(e) An application for coverage under the statewide defined benefit plan filed by an employer who administers a local money purchase plan shall include the employer's certification to the board that:

(III) 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 DEFINED BENEFIT PLAN WHO MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will become participants in the statewide defined benefit plan, EXCEPT AS MAY BE ALLOWED IN PARAGRAPH (c.5) OF THIS SUBSECTION (1);

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

(I) 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 DEFINED BENEFIT PLAN WHO MEET THE DEFINITION OF A MEMBER, AS DEFINED IN SECTION 31-31-102 (4), will become participants in the statewide defined benefit plan, EXCEPT AS MAY BE ALLOWED UNDER PARAGRAPH (c.5) OF THIS SUBSECTION (1);

SECTION 3. 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 (August 9, 2006, if adjournment sine die is on May 10, 2006); 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.

Became Law: April 4, 2006