

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

REVISED

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

LLS NO. 19-1114.01 Nicole Myers x4326

SENATE BILL 19-260

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A BILL FOR AN ACT

101 **CONCERNING ENTRY INTO THE FIRE AND POLICE PENSION ASSOCIATION**
102 **FOR SOCIAL SECURITY EMPLOYERS.**

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>.)

Currently, an employer who covers employees under the federal "Social Security Act" whose duties are directly involved with the provision of law enforcement or fire protection (employer) may elect coverage under the social security supplemental plan established by the fire and police pension association (association). Under the social security supplemental plan, employees have reduced benefits and employees and

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.

HOUSE
2nd Reading Unamended
May 1, 2019

SENATE
3rd Reading Unamended
May 1, 2019

SENATE
2nd Reading Unamended
April 30, 2019

employers have reduced contribution rates.

The bill authorizes the board of the association to allow an employer that is eligible to participate in the social security supplemental plan to alternatively elect to participate in one or more of the defined benefit plans administered by the association, with full benefits and unreduced contribution rates.

An employer that elects to affiliate with the association to participate in a defined benefit plan is required to make the election through the governing board of the local government or county. An application for coverage by the association is required to be approved by at least 65% of all active members employed by the employer who vote in the election proposing coverage.

The board of the association is authorized to adopt rules to allow an employee of the affiliating employer to elect to remain in a predecessor plan and not have coverage by the association. All active employees at the time of affiliation with the association, with the exception of employees who elect to remain in a predecessor plan, and all employees who are hired after affiliation will become participants in the association and such participation cannot be revoked.

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

2 **SECTION 1.** In Colorado Revised Statutes, 31-31-704.5, **amend**
3 (1), (2), (3), (5), and (6); and **amend as amended by Senate Bill 19-106**
4 (4) as follows:

5 **31-31-704.5. Entry for social security employers.**
6 (1) (a) (I) Notwithstanding the exemption provided in section 31-31-401
7 (1)(a), any employer that covers members under the federal "Social
8 Security Act", as amended, or any county that covers salaried employees
9 under the federal "Social Security Act", as amended, whose duties are
10 directly involved with the provision of law enforcement or fire protection
11 as certified by the county may elect coverage under the social security
12 supplemental plan established pursuant to section 31-31-704.6 by filing
13 a resolution of affiliation with the board pursuant to subsection (2) of this
14 section. Election of coverage under the plan shall be irrevocable.

1 (II) THE BOARD MAY ALLOW AN EMPLOYER ELIGIBLE FOR
2 PARTICIPATION IN THE SOCIAL SECURITY SUPPLEMENTAL PLAN PURSUANT
3 TO SUBSECTION (1)(a)(I) OF THIS SECTION TO ALTERNATIVELY ELECT TO
4 PARTICIPATE IN ONE OR MORE OF THE PLANS WITHIN THE DEFINED BENEFIT
5 SYSTEM WITH FULL BENEFITS AND UNREDUCED CONTRIBUTION RATES.
6 SUCH PARTICIPATION SHALL BE AS PROVIDED BY RULES ADOPTED BY THE
7 BOARD. THE BOARD MAY DETERMINE A CONTINUING RATE OF
8 CONTRIBUTION FOR ALL MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE
9 DATE OF COVERAGE TO FUND BENEFITS AS MAY BE NECESSARY TO ENSURE
10 THAT THE AFFILIATING EMPLOYERS' COVERAGE SHALL NOT HAVE AN
11 ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE PLAN.

12 (b) A county electing to affiliate with the ~~social security~~
13 ~~supplemental plan~~ ASSOCIATION shall make such election through the
14 county's governing board. For purposes of administering to counties
15 affiliated pursuant to this section, any county electing to affiliate shall be
16 included in the definition of "employer", as defined in section 31-31-102
17 (3), and any covered employee of such county shall be included in the
18 definition of "member", as defined in section 31-31-102 (4).

19 (2) The employer's resolution applying for coverage ~~under the~~
20 ~~social security supplemental plan~~ BY THE ASSOCIATION shall first be
21 adopted by the governing body of the employer and shall state the
22 employer's intent to cover its members under the plan.

23 (3) Any application for coverage ~~under the social security~~
24 ~~supplemental plan~~ BY THE ASSOCIATION shall be approved by at least
25 sixty-five percent of all active members employed by the employer at the
26 time of the application who vote in the election proposing the coverage;
27 EXCEPT THAT NO SUCH ELECTION SHALL BE REQUIRED IF:

1 (a) THE EMPLOYER ALLOWS MEMBERS TO ELECT TO REMAIN IN A
2 PREDECESSOR PLAN PURSUANT TO ASSOCIATION RULES OR IF THE
3 MEMBERS HAVE APPROVED LEAVING A PREDECESSOR PLAN PURSUANT TO
4 SECTION 24-54-106 (3); AND

5 (b) THE EMPLOYER DESIGNATES THAT ALL FUTURE ELIGIBLE
6 EMPLOYEES WILL PARTICIPATE IN A PLAN OF THE ASSOCIATION.

7 (4) The board shall promulgate rules relating to standards for
8 disclosure of all ramifications and procedures for obtaining member
9 approval pursuant to subsection (3) of this section. The board shall also
10 promulgate rules relating to standards for granting an employer's
11 application for participation in the ~~social security supplemental~~ plan and
12 for the submission of information to the board by the employer. The rules
13 shall contain a provision specifying that an employer that opts to
14 ~~participate in the plan~~ FOR COVERAGE BY THE ASSOCIATION shall not be
15 permitted to opt out of the ~~plan~~ COVERAGE at any later date. The board
16 may adopt ~~a rule~~ RULES allowing an eligible individual active employee
17 of an affiliating department to elect to remain in a predecessor plan and
18 ~~not be covered under the social security supplemental plan~~ HAVE
19 COVERAGE BY THE ASSOCIATION.

20 (5) An application for coverage ~~under the social security~~
21 ~~supplemental plan~~ BY THE ASSOCIATION filed by an employer shall
22 include the employer's certification to the board:

23 (a) That all ~~active~~ fire and law enforcement employees WHO ARE
24 ACTIVE AT THE TIME OF AFFILIATION, EXCEPT THOSE THAT HAVE ELECTED
25 TO REMAIN IN A PREDECESSOR PLAN AS MAY BE ALLOWED BY RULE, AND
26 ALL FIRE AND LAW ENFORCEMENT EMPLOYEES WHO ARE HIRED AFTER
27 AFFILIATION as certified by the employer, will become participants in the

1 ~~social security supplemental~~ plan and the election to participate in the
2 plan is irrevocable; and

3 (b) That the employer agrees to participate in the ~~social security~~
4 ~~supplemental~~ plan and to be bound by the terms of the plan and the
5 decisions and actions of the board with respect to the plan.

6 (6) An employer that ~~participates in the social security~~
7 ~~supplemental plan established~~ AFFILIATES WITH THE ASSOCIATION
8 pursuant to ~~section 31-31-704.6~~ THIS SECTION shall not be prohibited from
9 participating in other governmental pension or benefit plans to the extent
10 allowed under the federal "Internal Revenue Code of 1986", as amended.

11 **SECTION 2. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2020 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.