

CHAPTER 312

GOVERNMENT - STATE

HOUSE BILL 93-1328

BY REPRESENTATIVES May and Anderson;
also SENATORS Bishop, Meiklejohn, Mendez, Peterson, and Schroeder.

AN ACT

CONCERNING THE ELIGIBILITY OF CERTAIN STUDENTS FOR EMPLOYEE RETIREMENT PLANS.

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

SECTION 1. 24-51-310 (1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-310. Persons not eligible for membership. (1) Persons not eligible for membership in the association include:

(a) (I) ~~Students enrolled in a high school, whose employment by a public school, college, or university employer~~ AN undergraduate or graduate program AT AND EMPLOYED BY A STATE COLLEGE OR UNIVERSITY OR BY A PUBLIC EMPLOYER AFFILIATED WITH A COLLEGE OR UNIVERSITY, INCLUDING THE AURARIA HIGHER EDUCATION CENTER, WHEN SUCH EMPLOYMENT is predicated on student status, ~~and other employees who are~~ WHETHER OR not required by federal law to be covered by a public employee retirement system or social security; ~~except that, if said students or other employees were members upon commencement of such employment, such membership shall continue.~~

(II) STUDENTS ENROLLED AND REGULARLY ATTENDING CLASSES IN A SCHOOL DISTRICT AND WHO HAVE NOT GRADUATED FROM HIGH SCHOOL WHOSE EMPLOYMENT BY SUCH DISTRICT IS PREDICATED ON STUDENT STATUS;

(III) ANY OTHER EMPLOYEES NOT DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a) WHO ARE NOT REQUIRED BY FEDERAL LAW TO BE COVERED BY A PUBLIC EMPLOYEE RETIREMENT SYSTEM OR SOCIAL SECURITY;

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

~~(H)~~ (IV) Notwithstanding the provision of subparagraph ~~(H)~~ (III) of this paragraph (a), retirees for whom coverage is not required by federal law shall resume membership if such retirees return to work in a position subject to membership, or in a position described in section 24-51-308, and if such retirees voluntarily suspend their benefits.

SECTION 2. Title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 54.6
Student Employees' Retirement Plan

24-54.6-101. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS ESSENTIAL FOR THE GOVERNING BOARDS OF THE STATE COLLEGES AND UNIVERSITIES AND THE AFFILIATED AGENCIES THEREOF, THE AURARIA HIGHER EDUCATION CENTER, AND THE LOCAL DISTRICT JUNIOR COLLEGES TO COMPLY WITH FEDERAL LEGISLATION REGARDING RETIREMENT PLAN COVERAGE OF STUDENT EMPLOYEES IN THE MOST COST EFFICIENT MANNER. THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IMPERATIVE THAT THE DEPARTMENT OF HIGHER EDUCATION HAVE THE MAXIMUM FLEXIBILITY TO PROVIDE RETIREMENT PLANS FOR STUDENT EMPLOYEES.

24-54.6-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ASSOCIATION" MEANS THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION ESTABLISHED PURSUANT TO SECTION 24-51-201.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF HIGHER EDUCATION.

(3) "ELIGIBLE STUDENT EMPLOYEE" MEANS:

(a) ANY STUDENT EMPLOYEE OF A GOVERNING BOARD, STATE COLLEGE OR UNIVERSITY, OR AFFILIATED AGENCY OF A STATE COLLEGE OR UNIVERSITY, OR THE AURARIA HIGHER EDUCATION CENTER WHO IS EXEMPT FROM THE STATE PERSONNEL SYSTEM UNDER SECTION 13(2) OF ARTICLE XII OF THE COLORADO CONSTITUTION AS A STUDENT AND WHO IS REQUIRED BY FEDERAL LAW TO BE COVERED BY A RETIREMENT PLAN; AND

(b) ANY STUDENT EMPLOYEE OF A LOCAL DISTRICT JUNIOR COLLEGE WHO IS REQUIRED BY FEDERAL LAW TO BE COVERED BY A RETIREMENT PLAN.

(4) "GOVERNING BOARD" MEANS ANY GOVERNING BOARD OF A STATE COLLEGE OR UNIVERSITY.

(5) "STATE COLLEGE OR UNIVERSITY" MEANS ANY POSTSECONDARY EDUCATIONAL INSTITUTION, INCLUDING LOCAL DISTRICT JUNIOR COLLEGES, ESTABLISHED AND EXISTING PURSUANT TO TITLE 23, C.R.S., AS AN AGENCY OF THE STATE OF COLORADO AND SUPPORTED WHOLLY OR IN PART BY TAX REVENUES AND INCLUDES THE AURARIA HIGHER EDUCATION CENTER. FOR PURPOSES OF THIS SUBSECTION (5), "LOCAL DISTRICT JUNIOR COLLEGE" SHALL INCLUDE AIMS COMMUNITY COLLEGE, COLORADO

MOUNTAIN COLLEGE, NORTHEASTERN JUNIOR COLLEGE, AND COLORADO NORTHWESTERN COMMUNITY COLLEGE.

(6) "STUDENT EMPLOYEE RETIREMENT PLAN" OR "PLAN" MEANS ANY BENEFIT PLAN ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE FOR THE BENEFIT OF ELIGIBLE STUDENT EMPLOYEES.

24-54.6-103. Authority of department and governing boards - establishment of student employee retirement plan. THE DEPARTMENT OR ANY GOVERNING BOARD IS AUTHORIZED TO ESTABLISH A STUDENT EMPLOYEE RETIREMENT PLAN PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

24-54.6-104. Requirements for student employee retirement plan - contributions and purchase of contracts. (1) THE DEPARTMENT OR ANY GOVERNING BOARD SHALL, UPON MAKING A DETERMINATION TO ESTABLISH A STUDENT EMPLOYEE RETIREMENT PLAN AT A STATE COLLEGE OR UNIVERSITY, SET THE TERMS AND CONDITIONS OF SUCH PLAN.

(2) UPON ESTABLISHING A STUDENT EMPLOYEE RETIREMENT PLAN, THE DEPARTMENT OR ANY GOVERNING BOARD SHALL:

(a) PROVIDE FOR THE ADMINISTRATION OF SUCH PLAN; AND

(b) DESIGNATE FROM TIME TO TIME THE ORGANIZATION OR ORGANIZATIONS FROM WHICH CONTRACTS FOR SUCH STUDENT EMPLOYEE RETIREMENT PLAN SHALL BE PURCHASED. IN DESIGNATING SUCH AN ORGANIZATION OR ORGANIZATIONS, THE DEPARTMENT OR GOVERNING BOARD SHALL TAKE INTO CONSIDERATION:

(I) THE NATURE AND EXTENT OF THE RIGHTS AND BENEFITS TO BE PROVIDED BY SUCH CONTRACTS FOR ELIGIBLE STUDENT EMPLOYEES PARTICIPATING IN SUCH PLAN AND FOR THE BENEFICIARIES OF SUCH ELIGIBLE STUDENT EMPLOYEES;

(II) THE RELATION OF SUCH RIGHTS AND BENEFITS TO THE AMOUNT OF CONTRIBUTIONS TO BE MADE;

(III) THE SUITABILITY OF SUCH RIGHTS AND BENEFITS TO THE NEEDS AND INTERESTS OF ELIGIBLE STUDENT EMPLOYEES PARTICIPATING IN SUCH PLAN AND TO THE INTERESTS OF THE DEPARTMENT OR SUCH STATE COLLEGE OR UNIVERSITY; AND

(IV) THE ABILITY OF THE DESIGNATED ORGANIZATION OR ORGANIZATIONS TO PROVIDE THE REQUIRED RIGHTS AND BENEFITS UNDER THE CONTRACT OR CONTRACTS FOR SUCH STUDENT EMPLOYEE RETIREMENT PLAN.

24-54.6-105. Participation. ALL ELIGIBLE STUDENT EMPLOYEES OF A STATE COLLEGE OR UNIVERSITY FOR WHICH A STUDENT EMPLOYEE RETIREMENT PLAN IS OFFERED SHALL PARTICIPATE IN SUCH PLAN.

24-54.6-106. Moneys not subject to legal process. EXCEPT FOR ASSIGNMENTS FOR CHILD SUPPORT AS PROVIDED FOR IN SECTIONS 14-10-118 (1) AND 14-14-107, C.R.S., AND EXCEPT FOR WRITS OF GARNISHMENT WHICH ARE THE RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR FOR CHILD SUPPORT

DEBT, NO ANNUITY CONTRACT OR CERTIFICATE PURCHASED UNDER A STUDENT EMPLOYEE RETIREMENT PLAN ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL BE ASSIGNABLE EITHER IN LAW OR IN EQUITY OR BE SUBJECT TO EXECUTION, LEVY, ATTACHMENT, GARNISHMENT, OR OTHER LEGAL PROCESS.

SECTION 3. 13-54-104 (1) (b) (II), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-54-104. Restrictions on garnishment and levy under execution or attachment. (1) As used in this section, unless the context otherwise requires:

(b) (II) For the purposes of writs of garnishment which are the result of a judgment taken for arrearages for child support or for child support debt, "earnings" also means workers' compensation benefits and any pension or retirement benefits or payments, including but not limited to those paid pursuant to article 64 of title 22, articles 51, 54, ~~and~~ 54.5, AND 54.6 of title 24, and article 30 of title 31, C.R.S.

SECTION 4. 13-54.5-101 (2) (b), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-54.5-101. Definitions. (2) As used in this article, unless the context otherwise requires:

(b) For the purposes of writs of garnishment which are the result of a judgment taken for arrearages for child support or for child support debt, "earnings" also means workers' compensation benefits and any pension or retirement benefits or payments, including but not limited to those paid pursuant to article 64 of title 22, articles 51, 54, ~~and~~ 54.5, AND 54.6 of title 24, and article 30 of title 31, C.R.S.

SECTION 5. 14-10-118 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-10-118. Assignments and enforcement of orders. (1) The court may order the person obligated to pay support or maintenance to make an assignment of a part of his periodic earnings or trust income to the person entitled to receive the payments. The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon him of notice that it has been made. The payor shall withhold from the earnings or trust income payable to the person obligated to support the amount specified in the assignment and shall transmit the payments to the person specified in the order. The payor may deduct from the remainder of the employee's earnings or trust income a sum not exceeding five dollars as reimbursement for costs. An employer shall not discharge or otherwise discipline an employee as a result of a wage or salary assignment authorized by this section. This section shall not apply to trusts commonly referred to as "spendthrift trusts". The provisions of this section relating to assignment for child support shall apply to retirement benefits and pensions, including but not limited to those paid pursuant to article 64 of title 22, articles 51, 54, ~~and~~ 54.5, AND 54.6 of title 24, and article 30 of title 31, C.R.S.

SECTION 6. 14-14-102 (9), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-102. Definitions. As used in this article, unless the context otherwise requires:

(9) "Wages" means income to an obligor in any form, including, but not limited to, earnings from an employer, payment to an independent contractor for labor or services, commissions, rents, bonuses, retirement benefits and pensions, including but not limited to those paid pursuant to article 64 of title 22, articles 51, 54, ~~and 54.5~~, AND 54.6 of title 24, and article 30 of title 31, C.R.S., workers' compensation benefits, dividends, royalties, trust account distributions, and any moneys drawn by a self-employed individual for personal use. "Wages", for the purposes of child support enforcement, may also include unemployment compensation benefits, but only subject to the provisions and requirements of section 8-73-102 (5), C.R.S.

SECTION 7. Effective date. This act shall take effect upon passage.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993