

CHAPTER 217

GOVERNMENT - STATE

HOUSE BILL 94-1345

BY REPRESENTATIVES Ratterree, Chlouber, and Shoemaker;
also SENATOR Mutzebaugh.

AN ACT**CONCERNING THE ELIGIBILITY OF CERTAIN TEMPORARY EMPLOYEES OF THE COLORADO STATE
FAIR AUTHORITY FOR EMPLOYEE RETIREMENT PLANS.**

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

SECTION 1. 24-51-310 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(1) TEMPORARY EMPLOYEES OF THE COLORADO STATE FAIR AUTHORITY WHOSE EMPLOYMENT BY THE AUTHORITY DOES NOT EXCEED THIRTY DAYS WITHIN THE CALENDAR YEAR AND WHO ARE COVERED BY THE RETIREMENT PLAN ORGANIZED PURSUANT TO THE PROVISIONS OF SECTION 35-65-402, C.R.S.

SECTION 2. 35-65-401 (10), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is repealed as follows:

35-65-401. Colorado state fair authority - created - powers and duties. (10) ~~Any person who was an employee of the Colorado state fair and industrial exposition commission on June 2, 1983, and who becomes an employee of the authority on or after June 2, 1983, and who is then a member of the public employees' retirement association shall, while such employment continues, continue membership in the association with all attendant rights and duties. All subsequent employees of said authority shall, by acceptance of employment, be subject to the provisions of article 51 of title 24, C.R.S. The authority shall provide for the deduction of~~

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

~~employer and employee contributions from salary and for payment to the association of such deductions and for any other payments which would be due from a state employer.~~

SECTION 3. Part 4 of article 65 of title 35, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

35-65-402. Retirement plans for employees of authority. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ANY EMPLOYEE OF THE AUTHORITY WHO IS A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION SHALL, WHILE SUCH EMPLOYMENT CONTINUES, CONTINUE MEMBERSHIP IN THE ASSOCIATION WITH ALL ATTENDANT RIGHTS AND DUTIES. ALL SUBSEQUENT EMPLOYEES OF THE AUTHORITY SHALL, BY ACCEPTANCE OF EMPLOYMENT, BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION WITH THE RIGHTS AND BENEFITS PROVIDED BY ARTICLE 51 OF TITLE 24, C.R.S. THE AUTHORITY SHALL PROVIDE FOR THE DEDUCTION OF EMPLOYER AND EMPLOYEE CONTRIBUTIONS FROM SALARY AND FOR PAYMENT TO THE ASSOCIATION OF SUCH DEDUCTIONS AND FOR ANY OTHER PAYMENTS THAT WOULD BE DUE FROM A STATE EMPLOYER.

(2) (a) UNLESS FEDERAL LAW DOES NOT REQUIRE COVERAGE BY A RETIREMENT PLAN, A TEMPORARY EMPLOYEE OF THE AUTHORITY SHALL PARTICIPATE IN THE PLAN ESTABLISHED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) IF SUCH EMPLOYEES' EMPLOYMENT BY THE AUTHORITY DOES NOT EXCEED THIRTY DAYS WITHIN A CALENDAR YEAR. A TEMPORARY EMPLOYEE WHO IS EMPLOYED BY THE AUTHORITY FOR MORE THAN THIRTY DAYS WITHIN A CALENDAR YEAR SHALL CONTINUE MEMBERSHIP IN OR BECOME A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR THE ENTIRE PERIOD OF EMPLOYMENT DURING THE YEAR.

(b) THE BOARD OF COMMISSIONERS OF THE AUTHORITY SHALL ESTABLISH A RETIREMENT PLAN FOR TEMPORARY EMPLOYEES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2). UPON ESTABLISHMENT OF THE PLAN, THE BOARD SHALL:

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

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

(A) THE NATURE AND EXTENT OF THE RIGHTS AND BENEFITS TO BE PROVIDED BY SUCH CONTRACTS FOR TEMPORARY EMPLOYEES PARTICIPATING IN THE PLAN AND FOR THE BENEFICIARIES OF THOSE TEMPORARY EMPLOYEES;

(B) THE RELATION OF SUCH RIGHTS AND BENEFITS TO THE AMOUNT OF CONTRIBUTIONS AND ANY FEES TO BE PAID;

(C) THE SUITABILITY OF SUCH RIGHTS AND BENEFITS TO THE NEEDS AND INTERESTS OF TEMPORARY EMPLOYEES PARTICIPATING IN THE PLAN AND TO THE INTERESTS OF THE AUTHORITY; AND

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

(c) EXCEPT FOR ASSIGNMENTS FOR CHILD SUPPORT AS PROVIDED IN SECTIONS 14-10-118 (1) AND 14-14-107, C.R.S., AND EXCEPT FOR WRITS OF GARNISHMENT THAT ARE THE RESULT OF A JUDGMENT TAKEN FOR ARREARAGES FOR CHILD SUPPORT OR FOR CHILD SUPPORT DEBT, NO BENEFITS ACCRUED OR PAYABLE UNDER THE RETIREMENT PLAN FOR TEMPORARY EMPLOYEES ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (2) SHALL BE ASSIGNABLE EITHER IN LAW OR IN EQUITY OR BE SUBJECT TO EXECUTION, LEVY, ATTACHMENT, GARNISHMENT, OR OTHER LEGAL PROCESS.

SECTION 4. 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, 54.5, and 54.6 of title 24, ~~and~~ article 30 of title 31, C.R.S., AND SECTION 35-65-402 (2), C.R.S.

SECTION 5. 13-54.5-101 (2) (b), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

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

(2) (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, 54.5, and 54.6 of title 24, ~~and~~ article 30 of title 31, C.R.S., AND SECTION 35-65-402 (2), C.R.S.

SECTION 6. 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 OR HER 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, 54.5, and 54.6 of title 24, ~~and~~ article 30 of title 31, C.R.S., AND SECTION 35-65-402 (2), C.R.S.

SECTION 7. 14-14-102 (9), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

14-14-102. Definitions - repeal. 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, 54.5, and 54.6 of title 24, ~~and~~ article 30 of title 31, C.R.S., AND SECTION 35-65-402 (2), 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 8. Effective date. This act shall take effect July 1, 1994.

SECTION 9. 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: May 22, 1994