

CHAPTER 28

GOVERNMENT - STATE

HOUSE BILL 97-1114

BY REPRESENTATIVES Kaufman, George, Snyder, Saliman, and S. Williams;
also SENATOR Schroeder.

AN ACT

CONCERNING THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION.

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

SECTION 1. 24-51-204 (5), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-51-204. Duties of the board. (5) The board shall adopt and promulgate such rules for the administration of the association AND TO SPECIFY THE FACTORS TO BE USED IN ACTUARIAL DETERMINATIONS OR CALCULATIONS REQUIRED BY THIS ARTICLE. ALL RULES SHALL BE PROMULGATED in accordance with the provisions of section 24-4-103, and such rules shall be consistent with the provisions of this article or other provisions of law.

SECTION 2. 24-51-211, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-211. Amortization of liabilities. An amortization period for each of the state, school, municipal, and judicial division trust funds shall be calculated separately. A maximum amortization period of ~~sixty~~ FORTY years shall be deemed actuarially sound. Upon recommendation of the board, and with the advice of the actuary, the employer or member contribution rates for the plan may be adjusted by the general assembly when indicated by actuarial experience.

SECTION 3. 24-51-307 (1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-307. Elected municipal officials. (1) (a) Any elected official of a municipality which is affiliated with the association shall, within ~~thirty~~ SIXTY days

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

after taking office, ~~elect~~ MAKE A ONE-TIME, IRREVOCABLE WRITTEN ELECTION to become a member or to be exempted from membership. In the absence of a written ~~exemption~~ ELECTION TO BE EXEMPTED FROM MEMBERSHIP, an elected municipal official shall be considered a member. ~~An elected municipal official who has elected to be exempt from membership may become a member at any time during such official's term of office with the municipality.~~

SECTION 4. 24-51-308, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-51-308. City managers and key management staff. Any municipality affiliated with the association may authorize the city manager and key management staff who report directly to the city council or city manager to ~~elect~~ MAKE A ONE-TIME, IRREVOCABLE ELECTION to be exempted from membership. IF SO AUTHORIZED, THE CITY MANAGER AND KEY MANAGEMENT STAFF SHALL MAKE A WRITTEN ELECTION TO BECOME A MEMBER OR TO BE EXEMPTED FROM MEMBERSHIP WITHIN SIXTY DAYS AFTER BECOMING EMPLOYED IN THE POSITION. IN THE ABSENCE OF A WRITTEN ELECTION, SUCH PERSON SHALL BE A MEMBER. ~~Any person specified by this section who elects to be exempted from membership may later become a member after one year from the time the association receives notice of the intent of such person to begin membership.~~

SECTION 5. 24-51-316 (1) and (2), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

24-51-316. Inadequate reserves - excess reserves - nonpayment. (1) In the event that the amount of the reserves required pursuant to the provisions of section 24-51-315 exceeds the amount of the employer's share of the employer contribution reserve in the municipal division trust fund as calculated by the actuary, then the employer shall make an additional payment ~~on~~ AS OF the effective date of termination of affiliation in an amount equal to the difference between the amount of reserves required and the amount of reserves on deposit.

(2) In the event that the amount of the reserves on deposit in the municipal division trust fund as calculated by the actuary for the employer requesting termination of affiliation exceeds the amount of reserves required pursuant to the provisions of section 24-51-315, such excess amount and the amount required for the transfer of member contributions as provided in section 24-51-317 shall be ~~paid~~ TRANSFERRED BY A DIRECT TRUSTEE-TO-TRUSTEE TRANSFER to the ~~employer on~~ ALTERNATE PENSION PLAN OR SYSTEM REQUIRED BY SECTION 24-51-319 AS OF the effective date of termination of affiliation. ~~Any excess reserves and member contributions paid to such employer pursuant to the provisions of this subsection (2) shall be deposited by the employer in the alternative pension plan or system required by section 24-51-319.~~

SECTION 6. Part 4 of article 51 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-410. Anticipation of forfeitures in determining plan cost. ANY BENEFITS FORFEITED UPON A TERMINATION OF MEMBERSHIP IN THE ASSOCIATION SHALL BE ANTICIPATED IN DETERMINING THE COST OF THE PLAN.

SECTION 7. 24-51-505 (1) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-505. Purchase of service credit relating to noncovered employment.

(1) Service credit may be purchased for any period of previous employment with any public or private employer in the United States or its territories, subject to the following conditions:

(b) The member must provide ~~certification from the previous employer as to~~ DOCUMENTATION OF the dates of employment and ~~the~~ A record of salary received; and

SECTION 8. 24-51-506 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-506. Payments for purchased service credit. (1) Service credit purchases may be made by a lump-sum payment, ~~or~~ by installment payments, ~~OR BY~~ A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER FROM A QUALIFIED PLAN, AS DEFINED BY THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, INCLUDING BUT NOT LIMITED TO THE VOLUNTARY INVESTMENT PROGRAM ESTABLISHED PURSUANT TO THE PROVISIONS OF PART 14 OF THIS ARTICLE OR A CONDUIT INDIVIDUAL RETIREMENT ACCOUNT. Service credit purchases shall be initiated and payment received in full during membership. ~~except that, a member may purchase service credit with moneys distributed from the voluntary investment program established pursuant to the provisions of part 14 of this article no later than one hundred fifty days after termination of membership if such member agrees prior to termination to make such purchase of service credit.~~

SECTION 9. 24-51-611, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-611. Maximum limit under federal law. Notwithstanding any other provision of this article, no benefit paid to any benefit recipient shall exceed the maximum permitted for qualified retirement plans pursuant to section 401 (a) (17) or section 415 of the federal "Internal Revenue Code of 1986", as amended, INCLUDING BUT NOT LIMITED TO ALL COST-OF-LIVING ADJUSTMENTS PERMITTED BY SUCH CODE. NO CONTRIBUTION MADE PURSUANT TO PART 4 OF THIS ARTICLE OR TO SECTION 24-51-606 (2) SHALL CAUSE THE BENEFIT TO EXCEED THE MAXIMUM BENEFIT PERMITTED PURSUANT TO SECTION 415 (b) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

SECTION 10. 24-51-205 (3) and (6), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-51-205. General authority of the board. (3) The board is authorized to recover, ~~from ineligible benefit recipients or persons who received moneys on behalf of ineligible benefit recipients;~~ through legal process or benefit offset, any AMOUNT PAID AS benefits, ~~or~~ REFUNDS, SINGLE PAYMENTS, premium subsidies, ~~paid to them~~ OR OTHER PAYMENTS, to which ~~they are~~ THE RECIPIENT IS not entitled, ~~and to assess interest on such moneys~~ WITH INTEREST, PLUS ATTORNEY FEES AND COSTS ASSOCIATED WITH SUCH RECOVERY. IF IT IS DETERMINED THAT THE RECIPIENT WAS ENTITLED TO THE AMOUNT PAID, THE RECIPIENT SHALL BE ENTITLED TO THE

ATTORNEY FEES AND COSTS THAT HE OR SHE INCURRED IN DEFENDING THE LEGAL ACTION OR OFFSET INITIATED BY THE BOARD.

(6) (a) The board may delegate any of its responsibilities, duties, and authorities as set forth in this article to the executive director of the association or to designated agents of the association. SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (6), THE EXECUTIVE DIRECTOR MAY CORRECT AN ADMINISTRATIVE ERROR MADE BY THE BOARD, THE EXECUTIVE DIRECTOR, OR THE EMPLOYEES OF THE ASSOCIATION, AND MAY MAKE ANY APPROPRIATE CORRECTING ADJUSTMENTS UPON RECEIVING WRITTEN DOCUMENTATION OF THE FOLLOWING:

(I) THAT THE ERROR WAS AN ADMINISTRATIVE ERROR OF THE PLAN;

(II) THAT THE ERROR WAS NOT CAUSED OR CONTRIBUTED TO IN WHOLE OR IN PART BY AN EMPLOYER, MEMBER, RETIREE, OR OTHER PERSON ELIGIBLE TO RECEIVE PAYMENTS FROM THE ASSOCIATION; AND

(III) THAT THE ERROR WAS DISCOVERED ON OR AFTER JULY 1, 1997.

(b) THE EXECUTIVE DIRECTOR SHALL FILE A REPORT MONTHLY WITH THE BOARD SETTING FORTH THE ADMINISTRATIVE ERRORS CORRECTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6). SUCH CORRECTIONS SHALL BE SUBJECT TO BOARD REVIEW AFTER WHICH THE BOARD MAY TAKE ANY ACTION IT DEEMS APPROPRIATE WITH REGARD TO SUCH ERRORS.

SECTION 11. 24-51-212, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-212. Funds not subject to legal process. Except for FEDERAL TAX LIENS ON DISTRIBUTIONS PAYABLE BY THE ASSOCIATION, AND EXCEPT FOR assignments for child support purposes as provided for in sections 14-10-118 (1) and 14-14-107, C.R.S., as they existed prior to July 1, 1996, and except for income assignments for child support purposes pursuant to section 14-14-111.5, C.R.S., for writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, and for payments from the association in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), C.R.S., none of the moneys, trust funds, reserves, accounts, contributions pursuant to parts 4 and 5 of this article, or benefits referred to in this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, bankruptcy proceedings, or other legal process. Member contributions are subject to garnishment resulting from a judgment taken for arrearages for child support or for child support debt only if the membership has terminated and the member is not vested.

SECTION 12. The introductory portion to 24-51-905 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-51-905. Deceased member who was not eligible for service or reduced service retirement. (1) In accordance with the provisions of this part 9, if a member met the service credit requirements specified in section 24-51-904 (1) (a) (I) or (1) (a) (II) but did not meet the age and service credit requirements for service

retirement as of the date of death, pursuant to the provisions of section 24-51-602 OR 24-51-604, survivor benefits or a single payment shall be payable in the following order:

SECTION 13. The introductory portion to 24-51-906 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-51-906. Deceased member who was eligible for service or reduced service retirement. (1) In accordance with the provisions of this part 9, if a member met the age and service credit requirements for service retirement as of the date of death, pursuant to the provisions of section 24-51-602 OR 24-51-604, survivor benefits or a single payment shall be payable in the following order:

SECTION 14. 24-51-912 (4), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-51-912. Termination of survivor benefits. (4) IN THE EVENT THAT A SURVIVING SPOUSE REMARRIES PRIOR TO JULY 1, 1997, survivor benefits paid as surviving spouse's benefits pursuant to the provisions of section 24-51-909 shall terminate upon the remarriage of such spouse.

SECTION 15. 24-51-1205 (3), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-51-1205. Enrollment. (3) ~~Enrollment of an eligible person in the health care program at any time other than when first eligible shall subject such person to a limitation in coverage for medical conditions which existed prior to enrollment.~~

SECTION 16. Part 12 of article 51 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-1208. Long-term care insurance. THE BOARD IS AUTHORIZED TO IDENTIFY AND DESIGNATE ONE OR MORE INSURANCE PROVIDERS TO OFFER LONG-TERM CARE INSURANCE TO MEMBERS OR RETIREES, OR BOTH. LONG-TERM CARE INSURANCE OFFERED PURSUANT TO THIS SECTION SHALL BE FUNDED SOLELY THROUGH PREMIUM PAYMENTS BY MEMBERS OR RETIREES ELECTING TO CONTRACT FOR SUCH INSURANCE.

SECTION 17. Effective date. This act shall take effect July 1, 1997.

SECTION 18. 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: March 24, 1997