

CHAPTER 58

GOVERNMENT - COUNTY

SENATE BILL 97-021

BY SENATOR Powers;
also REPRESENTATIVES Tucker and Mace.

AN ACT

CONCERNING RETIREMENT SYSTEMS FOR COUNTY OFFICERS AND EMPLOYEES.

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

SECTION 1. 24-54-108 (2) (b), (2) (c), and (4), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

24-54-108. Control and management of plan. (2) Such retirement board shall determine what type of retirement plan in which to participate and shall select, on the basis of the most sound proposal:

(b) A noninsured trust retirement plan, with a bank or trust company authorized to exercise trust powers in this state as trustee, invested by the trustee pursuant to the provisions of part 3 of article 1 of title 15, C.R.S., but of the initial and subsequent sums of money available for investment, the trustee shall invest ~~not more than fifty percent thereof in common and preferred stocks~~; ONLY IN SUCH INVESTMENTS AS ARE SPECIFIED IN SECTION 24-54-112; or

(c) A noninsured trust retirement plan, invested by the treasurer of the plan in such securities as are specified in section ~~24-51-206~~ 24-54-112; or

(4) The treasurer of the most populous county, municipality, or district shall be ex officio the treasurer of any association formed pursuant to the provisions of section 24-54-106 and establishing a noninsured trustee retirement plan. If any ~~county~~ municipality or district alone adopts such a plan, the treasurer thereof shall serve as the treasurer of such plan. No fee therefor shall be charged by the treasurer pursuant to the provisions of section 30-1-102, C.R.S., or any other provision of law.

SECTION 2. Article 54 of title 24, Colorado Revised Statutes, 1988 Repl. Vol.,

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

as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

24-54-108.5. Control and management of individual county plan. (1) THE RETIREMENT BOARD OF ANY INDIVIDUAL COUNTY RETIREMENT PLAN SHALL HAVE FULL AND COMPLETE CONTROL AND MANAGEMENT OF ANY RETIREMENT PLAN PROVIDED FOR AND AUTHORIZED BY THIS ARTICLE, OTHER THAN MATTERS RELATING TO PARTICIPATION IN THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION. SUCH RETIREMENT BOARD SHALL MAKE ALL NECESSARY RULES FOR MANAGING AND DISCHARGING ITS DUTIES, FOR ITS OWN GOVERNMENT AND PROCEDURE IN SO DOING, AND FOR THE PRESERVATION AND PROTECTION OF ANY FUND OR ANNUITY CONTRACT.

(2) THE RETIREMENT BOARD OF ANY INDIVIDUAL COUNTY RETIREMENT PLAN SHALL DETERMINE WHAT TYPE OF RETIREMENT PLAN IN WHICH TO PARTICIPATE AND SHALL SELECT, ON THE BASIS OF THE MOST SOUND PROPOSAL:

(a) AN INSURANCE COMPANY QUALIFIED UNDER SECTION 24-54-105 (1); OR

(b) A NONINSURED TRUST RETIREMENT PLAN, WITH A BANK OR TRUST COMPANY AUTHORIZED TO EXERCISE TRUST POWERS IN THIS STATE AS TRUSTEE, INVESTED BY THE TRUSTEE PURSUANT TO THE PROVISIONS OF PART 3 OF ARTICLE 1 OF TITLE 15, C.R.S., BUT, OF THE INITIAL AND SUBSEQUENT SUMS OF MONEY AVAILABLE FOR INVESTMENT, THE TRUSTEE SHALL INVEST ONLY IN SUCH INVESTMENTS AS ARE SPECIFIED IN SECTION 24-54-112; OR

(c) A NONINSURED TRUST RETIREMENT PLAN, INVESTED BY THE TREASURER OF THE PLAN IN SUCH SECURITIES AS ARE SPECIFIED IN SECTION 24-54-112; OR

(d) PARTICIPATION IN THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION, PURSUANT TO ARTICLE 51 OF THIS TITLE.

(3) THE RETIREMENT BOARD OF ANY INDIVIDUAL COUNTY RETIREMENT PLAN SHALL HEAR AND DECIDE ALL APPLICATIONS FOR RELIEF, PENSIONS, ANNUITIES, RETIREMENT, OR OTHER BENEFITS PURSUANT TO THE PLAN OR SYSTEM ADOPTED. A RECORD OF SUCH ACTION AND ALL OTHER MATTERS PROPERLY COMING BEFORE SAID RETIREMENT BOARD SHALL BE KEPT AND PRESERVED.

(4) THE COUNTY TREASURER SHALL SERVE AS THE TREASURER OF THE INDIVIDUAL COUNTY RETIREMENT PLAN. NO FEE THEREFOR SHALL BE CHARGED BY THE TREASURER PURSUANT TO THE PROVISIONS OF SECTION 30-1-102, C.R.S., OR ANY OTHER PROVISION OF LAW.

SECTION 3. Article 54 of title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

24-54-112. Investments. (1) THE RETIREMENT BOARD SHALL HAVE COMPLETE CONTROL AND AUTHORITY TO INVEST THE FUNDS OF THE PLAN.

(2) INVESTMENTS MAY BE MADE WITHOUT LIMITATION IN THE FOLLOWING:

(a) OBLIGATIONS OF THE UNITED STATES GOVERNMENT;

(b) OBLIGATIONS FULLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY THE UNITED STATES GOVERNMENT;

(c) STATE AND MUNICIPAL BONDS;

(d) NOTES, BONDS, AND DEBENTURES, WHETHER OR NOT CONVERTIBLE;

(e) RAILROAD EQUIPMENT TRUST CERTIFICATES;

(f) REAL PROPERTY; EXCEPT THAT, ON OR AFTER JULY 1, 2002, THE AGGREGATE AMOUNT OF MONEYS INVESTED IN REAL PROPERTY SHALL NOT EXCEED TEN PERCENT OF THE THEN BOOK VALUE OF THE PLAN;

(g) LOANS SECURED BY FIRST OR SECOND MORTGAGES OR DEEDS OF TRUST ON REAL PROPERTY; EXCEPT THAT THE ORIGINATION OF MORTGAGES OR DEEDS OF TRUST ON RESIDENTIAL REAL PROPERTY IS PROHIBITED. FOR THE PURPOSES OF THIS PARAGRAPH (g), "RESIDENTIAL REAL PROPERTY" MEANS ANY REAL PROPERTY UPON WHICH THERE IS OR WILL BE PLACED A STRUCTURE DESIGNED PRINCIPALLY FOR THE OCCUPANCY OF NO MORE THAN FOUR FAMILIES, A MOBILE HOME, OR A CONDOMINIUM UNIT OR COOPERATIVE UNIT DESIGNED PRINCIPALLY FOR THE OCCUPANCY OF NO MORE THAN FOUR FAMILIES.

(h) INVESTMENTS IN STOCKS OR BENEFICIAL INTERESTS IN ENTITIES FORMED FOR THE OWNERSHIP OF REAL PROPERTY BY TAX-EXEMPT ORGANIZATIONS PURSUANT TO SECTION 501 (c) (25) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; EXCEPT THAT THE PERCENTAGE OF ANY ENTITY'S OUTSTANDING STOCKS OR BONDS OWNED BY THE PLAN SHALL NOT BE LIMITED BY THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION;

(i) PARTICIPATION AGREEMENTS WITH LIFE INSURANCE COMPANIES; AND

(j) ANY OTHER TYPE OF INVESTMENT AGREEMENTS.

(3) INVESTMENTS MAY ALSO BE MADE IN EITHER COMMON OR PREFERRED STOCK WITH THE FOLLOWING LIMITATIONS:

(a) THE AGGREGATE AMOUNT OF MONEYS INVESTED IN CORPORATE STOCKS OR CORPORATE BONDS, NOTES, OR DEBENTURES THAT ARE CONVERTIBLE INTO CORPORATE STOCK OR INVESTMENT TRUST SHARES SHALL NOT EXCEED SIXTY-FIVE PERCENT OF THE THEN BOOK VALUE OF THE PLAN.

(b) NO INVESTMENT OF THE PLAN IN COMMON OR PREFERRED STOCKS, OR BOTH, OF ANY SINGLE CORPORATION SHALL BE IN AN AMOUNT THAT EXCEEDS FIVE PERCENT OF THE THEN BOOK VALUE OF THE PLAN, AND THE PLAN SHALL NOT ACQUIRE MORE THAN TWELVE PERCENT OF THE OUTSTANDING STOCKS OR BONDS OF ANY SINGLE CORPORATION.

(c) THE LIMITATIONS SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND THIS SUBSECTION (3) SHALL NOT APPLY TO INVESTMENTS SELF-DIRECTED BY PARTICIPANTS IN THE PLAN.

SECTION 4. 24-54-101 (5), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 24-54-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-54-101. Authorization to establish and maintain retirement system.

(2.5) ANY PENSION PLAN OR SYSTEM OF RETIREMENT BENEFITS ESTABLISHED BY A COUNTY OR COUNTIES MAY INCLUDE PARTICIPATING COUNTY DEPARTMENTS OF HEALTH AND SOCIAL SERVICES, LIBRARY DISTRICTS ORGANIZED OR EXISTING PURSUANT TO PART 1 OF ARTICLE 90 OF THIS TITLE LOCATED IN WHOLE OR IN PART WITHIN THOSE COUNTIES, AND THE DISTRICT ATTORNEYS' OFFICES SERVING THOSE COUNTIES.

(5) Any county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY not participating in the social security system pursuant to the provisions of article 53 of this title shall also have the authority to establish a plan extending benefits to its employees in lieu of those benefits provided by the social security act, as defined in section 24-53-101.

(6) THE BOARD OF ANY RETIREMENT PLAN ESTABLISHED IN ACCORDANCE WITH SUBSECTIONS (1), (2), AND (2.5) OF THIS SECTION MAY ALLOW ITS EMPLOYEES TO PARTICIPATE AS MEMBERS OF SUCH PLAN.

SECTION 5. 24-54-103, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-54-103. Prior service benefits. Employees of a county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY ~~which~~ THAT adopts a retirement plan or system may receive prior service benefits not to exceed five years to be funded entirely by the county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY; but prior service benefits in excess of five years may be allowed if funded entirely by the employee.

SECTION 6. 24-54-104, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-54-104. Funds for plan or system - additional contribution. (1) Except as otherwise provided in this section, any plan or system adopted pursuant to the provisions of this article shall require participants to contribute a percentage of their salaries toward the cost thereof, such rate of contribution to be not less than that made by the county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY, and the employee contributions pursuant to any such plan shall be not more than six percent of said employee's basic salary or wage. Participation in the public employees' retirement association shall be as provided by article 51 of this title.

(2) At such time as the county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY and the employee each contributes six percent of the basic salary or wage of the employee, the county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY may elect to make an additional contribution out of federal revenue-sharing funds not otherwise appropriated of not more than two percent of said basic salary or wage, but such additional contribution shall be contingent upon an additional contribution by the employee of an equal amount.

(3) When a plan in lieu of social security benefits is established pursuant to the provisions of section 24-54-101 (5), such plan may require additional contributions from the county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY and its employees, and said contributions shall be set at a rate not to exceed the total contribution required by the county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY and its employees pursuant to the "Federal Insurance Contributions Act", as defined in section 24-53-101.

(4) Any plan or system adopted pursuant to this article may, pursuant to the provisions of section 414 (h) (2) of the federal "Internal Revenue Code of 1986", as amended, provide that the county, municipality, ~~or~~ district, OR OTHER PARTICIPATING ENTITY may elect to pick up the contributions of employee or elected official participants required in this section.

SECTION 7. 24-54-106, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-54-106. Association shall be formed. Any county, or group of counties, any municipality or group of municipalities, ~~or~~ any district or group of districts, OR ANY OTHER PARTICIPATING ENTITY OR GROUP OF PARTICIPATING ENTITIES adopting a retirement plan or system pursuant to the provisions of this article shall form and maintain an association for the purchase, establishment, or procurement of a group annuity retirement plan or a noninsured trust retirement plan. Any such association so formed shall be an instrumentality of the members thereof. The cost and expenses incident to the formation and maintenance of such an association and the consideration paid by any county, any municipality, ~~or~~ any district, OR ANY OTHER PARTICIPATING ENTITY as an employer pursuant to any such plan are proper charges against the county, the municipality, ~~or~~ the district, OR ANY OTHER PARTICIPATING ENTITY comprising the association.

SECTION 8. 24-54-107, Colorado Revised Statutes, 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-54-107. Boards of retirement. (4) THE MANAGEMENT OF A COUNTY RETIREMENT SYSTEM UNDER SECTION 24-54-101 (2.5) SHALL BE VESTED IN A COUNTY BOARD OF RETIREMENT CONSISTING OF FIVE MEMBERS, ONE OF WHOM SHALL BE THE COUNTY TREASURER OF THE COUNTY IN THE SYSTEM OR FROM THE COUNTY WITH THE LARGEST POPULATION IF TWO OR MORE COUNTIES ARE INVOLVED, TWO OF WHOM SHALL BE NONELECTED EMPLOYEES OF THE PLAN'S PARTICIPATING EMPLOYERS ELECTED BY THE PLAN'S PARTICIPATING EMPLOYEES WITHIN THIRTY DAYS AFTER THE RETIREMENT SYSTEM BECOMES OPERATIVE, AND TWO OF WHOM SHALL BE REGISTERED ELECTORS OF THE COUNTY CHOSEN BY THE BOARD OF COUNTY COMMISSIONERS OF SUCH COUNTY. THE COUNTY BOARD OF RETIREMENT SHALL ESTABLISH, BY ITS OWN RULES, STAGGERED FOUR-YEAR TERMS FOR ITS BOARD MEMBERS.

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: March 28, 1997