

CHAPTER 117

GOVERNMENT - STATE

SENATE BILL 99-090

BY SENATORS Anderson, Arnold, Dyer, Hernandez, Reeves, Nichol, and Wattenberg;
also REPRESENTATIVES Kaufman, Alexander, Miller, Bacon, Clarke, Coleman, Gagliardi, Keller, Mace, Ragsdale, Saliman,
Tochtrop, Tupa, and Zimmerman.

AN ACT

CONCERNING BENEFITS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION, AND, IN CONNECTION THEREWITH, AUTHORIZING AFFILIATED EMPLOYERS TO OBTAIN HEALTH CARE COVERAGE FOR EMPLOYEES, INCREASING THE AMOUNT OF MATCHING EMPLOYER CONTRIBUTIONS PAID BY THE ASSOCIATION, AND PROVIDING MATCHING EMPLOYER CONTRIBUTIONS TO TAX-DEFERRED RETIREMENT PROGRAMS.

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

SECTION 1. 24-51-208 (1) (f), Colorado Revised Statutes, is amended to read:

24-51-208. Allocation of moneys. (1) The moneys of the association shall be divided into several trust funds, including, but not limited to:

(f) The health care TRUST fund, created pursuant to the provisions of section 24-51-1201, which consists of a portion of the employer contributions equal to ~~eight-tenths of one~~ ONE AND ONE-TENTH percent of member salaries; deductions of premium amounts from monthly benefits of participating benefit recipients; premiums paid directly to the TRUST fund by participating benefit recipients, MEMBERS, and dependents; monthly payments made by employers on behalf of participating benefit recipients, MEMBERS, and dependents; and interest; in addition to a proportional share of investment income earned thereon;

SECTION 2. 24-51-401 (1.7), Colorado Revised Statutes, is amended to read:

24-51-401. Employer and member contributions. (1.7) Employers designated as state employers by rule of the board shall forward to the association by the tenth calendar day of each month a monthly contribution report and the full amount of employer and member contributions. Employers designated as school employers by

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

rule of the board and municipal division employers shall forward to the association, by the date established by rule of the board, a monthly contribution report and the full amount of employer and member contributions. Except as provided in subsection (7) of this section AND IN SECTION 24-51-408.5 (6) such contributions shall be based upon the rates for the appropriate division as set forth in the following table multiplied by the total gross salary paid to members for the preceding month:

**TABLE A
CONTRIBUTION RATES**

Division	Membership	Employer Rate	Member Rate
State and School	All Members	11.4%	8.0%
Except State Troopers		13.1% 11.5%	10.0%
Municipal	All Members	10.0%	8.0%
Judicial	All Members	15.0%	8.0%

SECTION 3. The introductory portion to 24-51-408 (1) and the introductory portion to 24-51-408 (2) are amended, and the said 24-51-408 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-408. Matching employer contributions. (1) For members who receive a benefit or who receive a refund payable after meeting the age and service requirements for a service or reduced service retirement benefit, or for payments made to survivors or beneficiaries of members who die before retirement, matching employer contributions shall be ~~one-half~~ of an amount equal to the member contribution account less:

(2) For members who receive a refund prior to ~~age~~ sixty-five YEARS OF AGE and prior to meeting the age and service requirements for a service or reduced service retirement benefit, the amount of matching employer contributions paid shall be ~~one-fourth~~ ONE-HALF of an amount equal to the member contribution account less:

(3) NOTWITHSTANDING SUBSECTIONS (1) AND (2) OF THIS SECTION, FOR MEMBERS OF THE MUNICIPAL DIVISION AND FOR PAYMENTS MADE TO SURVIVORS OR BENEFICIARIES OF SUCH MEMBERS WHO DIE BEFORE RETIREMENT, THE AMOUNT OF MATCHING EMPLOYER CONTRIBUTIONS SHALL BE EIGHTY PERCENT OF THE AMOUNT THAT WOULD BE PAID TO MEMBERS, SURVIVORS, OR BENEFICIARIES IN DIVISIONS OF THE ASSOCIATION OTHER THAN THE MUNICIPAL DIVISION IF THE MUNICIPAL DIVISION MEMBERS HAD THE SAME CONTRIBUTION HISTORY AND AGE AS THE MEMBERS OF THE OTHER DIVISIONS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (3) TO THE CONTRARY, THE AMOUNT OF MATCHING EMPLOYER CONTRIBUTIONS FOR MEMBERS OF THE MUNICIPAL DIVISION SHALL BE AS PROVIDED IN SUBSECTIONS (1) AND (2) OF THIS SECTION EFFECTIVE ON JULY 1 OF ANY YEAR IN WHICH THE MOST RECENT DETERMINATION OF THE ASSOCIATION'S ACTUARY SPECIFIES THAT SUCH CONTRIBUTIONS FOR THE MUNICIPAL DIVISION WILL NOT CAUSE THE AMORTIZATION PERIOD IN SUCH DIVISION TO EXCEED THIRTY YEARS.

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

24-51-408.5. Matching employer contribution on voluntary contributions made by members to tax-deferred retirement programs. (1) FOR ANY MEMBER WHO MAKES A VOLUNTARY CONTRIBUTION TO ANY ELIGIBLE TAX-DEFERRED RETIREMENT PROGRAM, THE EMPLOYER SHALL MAKE A MATCHING CONTRIBUTION ON SUCH VOLUNTARY CONTRIBUTION TO THE ELIGIBLE TAX-DEFERRED RETIREMENT PROGRAM SUBJECT TO THE PROVISIONS OF THIS SECTION.

(2) THE TAX-DEFERRED RETIREMENT PROGRAMS THAT ARE ELIGIBLE TO RECEIVE MATCHING EMPLOYER CONTRIBUTIONS IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION SHALL INCLUDE ANY TAX-DEFERRED RETIREMENT PROGRAM IN WHICH THE MEMBER PARTICIPATES:

(a) THAT IS AVAILABLE TO MEMBERS AND IS EITHER ESTABLISHED IN ACCORDANCE WITH STATE LAW OR SPONSORED BY THE EMPLOYER; AND

(b) (I) THAT IS AUTHORIZED UNDER SECTION 401 (k), 403 (b), OR 457 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; OR

(II) THAT IS AUTHORIZED AS A DEFINED CONTRIBUTION PLAN UNDER SECTION 401(a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(3) THE LEVEL OF THE MATCHING EMPLOYER CONTRIBUTION ON VOLUNTARY CONTRIBUTIONS BY MEMBERS TO ELIGIBLE TAX-DEFERRED RETIREMENT PROGRAMS SHALL BE SET BY THE BOARD ANNUALLY NOT LATER THAN SEPTEMBER 1 OF EACH YEAR. THE LEVEL SET BY THE BOARD SHALL APPLY FOR THE FOLLOWING CALENDAR YEAR. THE LEVEL SHALL BE SET SEPARATELY FOR EACH DIVISION OF THE ASSOCIATION AND SHALL BE BASED ON THE PERCENTAGE OF SALARY FOR EACH DIVISION AVAILABLE FOR MATCHING CONTRIBUTIONS ACCORDING TO SUBSECTION (4) OF THIS SECTION. WHEN SETTING THE LEVEL OF THE MATCHING EMPLOYER CONTRIBUTION ON VOLUNTARY CONTRIBUTIONS TO ELIGIBLE TAX-DEFERRED RETIREMENT PROGRAMS, THE BOARD SHALL SPECIFY THE PERCENTAGE OF A MEMBER'S VOLUNTARY CONTRIBUTION TO BE MATCHED BY THE EMPLOYER AND THE MAXIMUM VOLUNTARY CONTRIBUTION BY ANY MEMBER SUBJECT TO THE MATCHING EMPLOYER CONTRIBUTION.

(4) THE MATCHING EMPLOYER CONTRIBUTION ON VOLUNTARY CONTRIBUTIONS TO ELIGIBLE TAX-DEFERRED RETIREMENT PROGRAMS SHALL BEGIN ON JANUARY 1, 2001, IF THE ASSOCIATION'S ACTUARY DETERMINES THAT THE AMORTIZATION PERIOD FOR THE ASSOCIATION IS ZERO YEARS. IF THE AMORTIZATION PERIOD IS GREATER THAN ZERO YEARS ON THAT DATE, THE MATCHING EMPLOYER CONTRIBUTIONS SHALL BEGIN IN THE CALENDAR YEAR FOLLOWING THE YEAR IN WHICH THE ASSOCIATION'S ACTUARY DETERMINES THAT THE AMORTIZATION PERIOD IS ZERO YEARS. THE PERCENTAGE OF SALARY AVAILABLE FOR EACH DIVISION FOR MATCHING EMPLOYER CONTRIBUTIONS SHALL BE:

(a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), TWO PERCENT OF SALARY OF MEMBERS IN THE STATE AND SCHOOL DIVISION AND FOR THE JUDICIAL DIVISION AND ONE-HALF OF ONE PERCENT OF SALARY OF MEMBERS OF THE

MUNICIPAL DIVISION. IN ADDITION, ONE-HALF OF THE AMOUNT OF A REDUCTION IN THE EMPLOYER CONTRIBUTION RATES AS DETERMINED IN SUBSECTION (5) OF THIS SECTION TO AMORTIZE ANY OVERFUNDING IN THE RESPECTIVE DIVISION'S TRUST FUND SHALL BE AVAILABLE FOR MATCHING EMPLOYER CONTRIBUTIONS.

(b) IF THE AMORTIZATION PERIOD OF ANY DIVISION INCREASES TO EXCEED TEN YEARS, THE BOARD SHALL REDUCE THE PERCENTAGE OF SALARY AVAILABLE FOR MATCHING CONTRIBUTIONS IN THAT DIVISION AS NEEDED TO PRODUCE AN AMORTIZATION PERIOD OF TEN YEARS.

(c) NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, IN NO EVENT SHALL THE PERCENTAGE OF SALARY AVAILABLE FOR MATCHING EMPLOYER CONTRIBUTIONS CHANGE BY MORE THAN ONE PERCENT OF SALARY FROM ONE YEAR TO THE FOLLOWING YEAR.

(5) IF THE ACTUARIAL VALUE OF ASSETS EXCEEDS THE ACTUARIAL ACCRUED LIABILITIES IN ANY DIVISION, AS DETERMINED BY THE ASSOCIATION'S ACTUARY, THE DIVISION SHALL BE CONSIDERED OVERFUNDED BY THE AMOUNT OF THE DIFFERENCE. IF A DIVISION IS OVERFUNDED, THE ASSOCIATION'S ACTUARY SHALL DETERMINE THE REDUCTION IN THE EMPLOYER CONTRIBUTION RATES SPECIFIED IN SECTION 24-51-401 (1.7) NECESSARY TO AMORTIZE THE OVERFUNDING OVER A PERIOD OF TEN YEARS.

(6) (a) EXCEPT FOR THE STATE EMPLOYER CONTRIBUTION RATE FOR STATE TROOPERS, THE EMPLOYER CONTRIBUTION RATE SPECIFIED IN SECTION 24-51-401 (1.7) FOR STATE AND SCHOOL DIVISION EMPLOYERS AND FOR JUDICIAL DIVISION EMPLOYERS SHALL BE REDUCED BY ONE PERCENT OF SALARY WHEN MATCHING EMPLOYER CONTRIBUTIONS FIRST BEGIN. IN ADDITION, THE EMPLOYER CONTRIBUTION RATE FOR EACH DIVISION FOR ANY CALENDAR YEAR SHALL BE REDUCED TO AMORTIZE ANY OVERFUNDING IN THE RESPECTIVE DIVISION'S TRUST FUND BY ONE-HALF OF THE AMOUNT OF ANY REDUCTION IN THE EMPLOYER CONTRIBUTION RATES AS DETERMINED IN ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION. IN NO EVENT SHALL THE TOTAL REDUCTION IN ANY DIVISION'S EMPLOYER CONTRIBUTION RATE PURSUANT TO THIS PARAGRAPH (a) CHANGE BY MORE THAN ONE PERCENT OF SALARY FROM ONE YEAR TO THE FOLLOWING YEAR.

(b) EACH EMPLOYER SHALL SUBTRACT FROM THEIR REGULAR MONTHLY CONTRIBUTION TO THE ASSOCIATION AN AMOUNT EQUAL TO THE AMOUNT THAT THE EMPLOYER PAID AS MATCHING CONTRIBUTIONS ON MEMBERS' VOLUNTARY CONTRIBUTIONS TO ELIGIBLE TAX-DEFERRED RETIREMENT PROGRAMS PURSUANT TO THIS SECTION.

(c) IN NO EVENT SHALL THE TOTAL REDUCTION IN ANY DIVISION'S EMPLOYER CONTRIBUTION RATE PURSUANT TO THIS SUBSECTION (6) CAUSE THE EMPLOYER CONTRIBUTION RATE TO BE INADEQUATE TO PAY CONTRIBUTIONS REQUIRED FOR THE HEALTH CARE TRUST FUND AS SPECIFIED IN SECTION 24-51-208 (1) (f).

(7) EMPLOYERS SHALL PAY A MATCHING CONTRIBUTION ON A MEMBER'S VOLUNTARY CONTRIBUTION DIRECTLY TO THE ELIGIBLE TAX-DEFERRED RETIREMENT PROGRAM OR PROGRAMS TO WHICH THE MEMBER CONTRIBUTES. EMPLOYERS SHALL SUBMIT A MONTHLY REPORT TO THE ASSOCIATION CONCERNING PAYMENTS MADE PURSUANT TO THIS SUBSECTION (7). THE REPORT SHALL INCLUDE THE AMOUNT OF

THE VOLUNTARY CONTRIBUTIONS AND MATCHING CONTRIBUTIONS AND THE PROGRAMS TO WHICH THE CONTRIBUTIONS WERE PAID.

SECTION 5. 24-51-603 (2) (b), (2) (c), and (2) (d), Colorado Revised Statutes, are amended to read:

24-51-603. Benefit formula for service retirement. (2) (b) Except as otherwise provided in paragraph (c) of this subsection (2), on and after July 1, ~~1988~~ 1999, members of the judicial division who were members of that division on or before July 1, 1973, shall be eligible to receive an option 1 benefit upon retiring, which shall be calculated by multiplying the highest average salary by four percent times each year and fraction of a year for the first ten years of service credit, and by one and two-thirds percent times each year and fraction of a year in excess of ten years up to sixteen years of service credit, and by one and one-half percent times each year and fraction of a year in excess of sixteen years UP TO TWENTY YEARS of service credit, AND BY TWO AND ONE-HALF PERCENT TIMES EACH YEAR AND FRACTION OF A YEAR IN EXCESS OF TWENTY YEARS OF SERVICE CREDIT. The following formula shall be used for this calculation:

Highest Average Salary x [(0.04 x Years and Fraction of a Year through 10 Years) + (.0166 x Years and Fraction of a Year over 10 and up to 16 Years) + (.015 x Years and Fraction of a Year over 16 AND UP TO 20 Years) + (.025 x YEARS AND A FRACTION OF A YEAR OVER 20 YEARS)].

(c) For any member of the judicial division who retires on or after July 1, ~~1997~~ 1999, and who is eligible to receive a benefit under this subsection (2), the association shall calculate the member's option 1 benefit under either subsection (1) OF THIS SECTION or THIS SUBSECTION (2), ~~of this section~~, whichever results in the greater benefit.

(d) On July 1, ~~1997~~ 1999, for any member of the judicial division whose benefit became effective prior to July 1, ~~1997~~ 1999, and who is eligible to receive a benefit under this subsection (2), the association shall calculate the member's option 1 base benefit prospectively for benefit payments payable on or after July 1, ~~1997~~ 1999, under either subsection (1) OF THIS SECTION or THIS SUBSECTION (2), ~~of this section~~, whichever results in the greater benefit. The association shall provide benefits to all such benefit recipients based upon such recalculated base benefits effective July 1, ~~1997~~ 1999.

SECTION 6. 24-51-1201, Colorado Revised Statutes, is amended to read:

24-51-1201. Health care trust fund. There is hereby created a health care TRUST fund to provide a premium subsidy for health care to benefit recipients choosing to enroll in the health care program and for expenses of the program.

SECTION 7. 24-51-1202 (1) and (3) (b), Colorado Revised Statutes, are amended, and the said section 24-51-1202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-1202. Health care program - design. (1) (a) The board shall design a group health care program for retirees, MEMBERS, and their dependents with or

without full medicare coverage provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended. This program shall provide health care benefits and a level of reimbursement for health care expenses which are consistent with prevailing community practices and other governmental health care systems, protection from catastrophic financial loss, and current and long-term fiscal soundness of the TRUST fund as determined by the board.

(b) ANY GROUP HEALTH CARE PLAN OFFERED BY THE BOARD THAT PROVIDES PHARMACY BENEFITS THROUGH THE SERVICES OF A PHARMACY BENEFITS MANAGER SHALL REQUIRE SUCH MANAGER TO ALLOW PARTICIPATION BY ANY NONMAIL ORDER RETAIL PHARMACY PROVIDER LICENSED IN THE STATE OF COLORADO IF SUCH PHARMACY PROVIDER AGREES TO ACCEPT THE FEE SCHEDULE, TERMS, AND CONDITIONS OF PARTICIPATION ESTABLISHED BY THE PLAN'S PHARMACY BENEFITS MANAGER.

(1.5) ANY EMPLOYER, AS DEFINED BY SECTION 24-51-101 (20), MAY ELECT TO PROVIDE HEALTH CARE COVERAGE THROUGH THE HEALTH CARE PROGRAM FOR ITS EMPLOYEES WHO ARE MEMBERS. PARTICIPATION IN THE HEALTH CARE PROGRAM BY AN EMPLOYER SHALL BE VOLUNTARY AND IN THE EMPLOYER'S SOLE DISCRETION AND SHALL NOT BE MANDATORY FOR THE EMPLOYER.

(3) (b) The premium amount for a benefit recipient shall be deducted from monthly benefits. If the premium amount exceeds the monthly benefits, the excess amount shall be collected from the benefit recipient directly. THE PREMIUM AMOUNT FOR A MEMBER SHALL BE COLLECTED DIRECTLY FROM THE MEMBER'S EMPLOYER.

SECTION 8. 24-51-1204 (1) (d) and (1) (e), Colorado Revised Statutes, are amended, and the said section 24-51-1204 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-51-1204. Health care program - eligibility. (1) The following persons are eligible to enroll in the health care program:

(d) The guardian of a child receiving survivor benefits while the child is enrolled in the health care program; ~~and~~

(e) A member while receiving short-term disability program payments pursuant to part 7 of this article; AND

(f) A MEMBER WHOSE EMPLOYER HAS ELECTED TO PROVIDE COVERAGE THROUGH THE HEALTH CARE PROGRAM AND SUCH MEMBER'S DEPENDENTS.

SECTION 9. 24-51-1205 (2), Colorado Revised Statutes, is amended to read:

24-51-1205. Enrollment. (2) Any benefit recipient OR MEMBER enrolled in the health care program who has a change in dependents may, within thirty days after such change, add the dependents to be enrolled in the health care program.

SECTION 10. 24-51-1206 (2), Colorado Revised Statutes, is amended to read:

24-51-1206. Premium subsidy. (2) Except as otherwise provided in this section,

on and after July 1, 1990 2000, the premium subsidy shall be: ~~one hundred fifteen dollars per month for benefit recipients.~~

(a) TWO HUNDRED THIRTY DOLLARS PER MONTH FOR BENEFIT RECIPIENTS WHO ARE UNDER SIXTY-FIVE YEARS OF AGE AND WHO ARE NOT ENTITLED TO MEDICARE HOSPITAL INSURANCE BENEFITS PROVIDED BY THE FEDERAL "HEALTH INSURANCE FOR THE AGED ACT", 42 U.S.C. SEC. 1395, AS AMENDED.

(b) ONE HUNDRED FIFTEEN DOLLARS PER MONTH FOR BENEFIT RECIPIENTS WHO ARE SIXTY-FIVE YEARS OF AGE OR OLDER OR WHO ARE UNDER SIXTY-FIVE YEARS OF AGE AND ENTITLED TO MEDICARE HOSPITAL INSURANCE BENEFITS PROVIDED BY THE FEDERAL "HEALTH INSURANCE FOR THE AGED ACT", 42 U.S.C. SEC. 1395, AS AMENDED.

SECTION 11. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 12. Effective date. Sections 4 and 10 of this act shall take effect on July 1, 2000, sections 7, 8, and 9 of this act shall take effect on January 1, 2001, and the remainder of this act shall take effect July 1, 1999.

SECTION 13. 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: April 16, 1999