

CHAPTER 416

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 03-250

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AN ACT**CONCERNING THE MERGER OF A SCHOOL DISTRICT RETIREMENT SYSTEM WITH ANOTHER PUBLIC EMPLOYEE RETIREMENT SYSTEM.**

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

SECTION 1. Part 2 of article 64 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

22-64-220. Merger. (1) AS USED IN THIS SECTION AND SECTION 22-64-221, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONTINUING SYSTEM" MEANS THE PUBLIC EMPLOYEE RETIREMENT SYSTEM INTO WHICH A MERGING SYSTEM MERGES AS PROVIDED IN THIS SECTION.

(b) "MERGING SYSTEM" MEANS THE SCHOOL DISTRICT RETIREMENT SYSTEM THAT WILL MERGE INTO ANOTHER PUBLIC EMPLOYEE RETIREMENT SYSTEM AS PROVIDED IN THIS SECTION.

(c) "SCHOOL DISTRICT" MEANS THE SCHOOL DISTRICT SPONSORING THE MERGING SYSTEM.

(2) A SCHOOL DISTRICT RETIREMENT SYSTEM CREATED PURSUANT TO THIS PART 2 MAY MERGE INTO ANOTHER PUBLIC EMPLOYEE RETIREMENT SYSTEM, INCLUDING THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION CREATED IN SECTION 24-51-201, C.R.S., AND THE BOARDS OF THE RESPECTIVE RETIREMENT SYSTEMS ARE HEREBY AUTHORIZED TO ENTER INTO AN AGREEMENT TO MERGE IN ACCORDANCE WITH THE PROVISIONS AND PROCEDURES SPECIFIED IN THIS SECTION.

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

(3) THE TERMS OF A MERGER ENTERED INTO PURSUANT TO THIS SECTION SHALL BE BINDING ON THE GOVERNING BODIES OF THE MERGING SYSTEM, THE SCHOOL DISTRICT, AND THE CONTINUING SYSTEM. THE TERMS OF THE AGREEMENT TO MERGE MAY INCLUDE ADDITIONAL PROVISIONS NECESSARY OR CONVENIENT TO THE IMPLEMENTATION OF THE MERGER AS ARE ACCEPTABLE TO THE GOVERNING BODIES OF THE MERGING SYSTEM, THE SCHOOL DISTRICT, AND THE CONTINUING SYSTEM.

(4) (a) THE EFFECTIVE DATE OF THE MERGER, UNLESS TERMINATED AS HEREIN PROVIDED, SHALL BE JANUARY 1, 2005, AT WHICH TIME ALL ASSETS, LIABILITIES, AND OBLIGATIONS OF THE MERGING SYSTEM SHALL BECOME THE ASSETS, LIABILITIES, AND OBLIGATIONS OF THE CONTINUING SYSTEM WITHOUT ANY FURTHER ACT OR DOCUMENT OF TRANSFER BY THE GOVERNING BODIES OF THE MERGING SYSTEM, CONTINUING SYSTEM, AND SCHOOL DISTRICT. COSTS OF THE MERGER ALLOCATED TO THE SCHOOL DISTRICT AS CALCULATED IN THE DECEMBER 2003 VALUATION SHALL BE PAID ON THE EFFECTIVE DATE OF THE MERGER. ON OR BEFORE JULY 1, 2004, THE MERGING SYSTEM, SCHOOL DISTRICT, OR CONTINUING SYSTEM MAY TERMINATE THE MERGER BY GIVING WRITTEN NOTICE OF TERMINATION TO THE OTHER PARTIES. THE RIGHT TO TERMINATE THE MERGER ON OR BEFORE JULY 1, 2004, SHALL BE UNRESTRICTED AND MAY BE EXERCISED WITHOUT CAUSE. AFTER JULY 1, 2004, TO DECEMBER 31, 2004, THE MERGING SYSTEM, SCHOOL DISTRICT, OR CONTINUING SYSTEM SHALL HAVE THE RIGHT TO TERMINATE THE MERGER BY GIVING WRITTEN NOTICE OF TERMINATION TO THE OTHER PARTIES, BUT ONLY IN THE EVENT THAT ONE OR MORE OF THE FOLLOWING CONDITIONS EXISTS:

(I) THE RETIREMENT ASSETS OF THE MERGING SYSTEM AND MONEYS AVAILABLE TO THE SCHOOL DISTRICT FOR TRANSFER TO THE CONTINUING SYSTEM UPON MERGER ARE INSUFFICIENT TO FULLY FUND ALL LIABILITIES ASSOCIATED WITH BENEFITS, AS CALCULATED UNDER THE RULES OF THE MERGING SYSTEM AS THEY EXISTED THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER, AND MERGER COSTS AND FUND ALL OTHER ACTUARIAL COSTS AT THE FUNDED RATIO OF THE CONTINUING SYSTEM AS OF DECEMBER 31, 2003;

(II) ANY ASSETS OF THE MERGING SYSTEM ARE PREVENTED FROM BECOMING THE ASSETS OF THE CONTINUING SYSTEM ON THE EFFECTIVE DATE OF THE MERGER;

(III) A MATERIAL CHANGE HAS OCCURRED IN THE PLAN PROVISIONS OR EARNINGS ASSUMPTIONS OF THE MERGING SYSTEM OR THE CONTINUING SYSTEM AFTER THE DATE OF THE MOST RECENT ACTUARIAL VALUATION;

(IV) LITIGATION HAS BEEN COMMENCED AGAINST ANY OF THE PARTIES WHEREIN CLAIMS OR DAMAGES ARE ASSERTED THAT ARE UNINSURED OR THE SUBJECT MATTER OF THE LITIGATION RELATES TO THE MERGER PROVIDED FOR HEREIN;

(V) THE CONTINUING SYSTEM IS UNSUCCESSFUL IN OBTAINING A DETERMINATION LETTER FROM THE FEDERAL INTERNAL REVENUE SERVICE AS TO THE CONTINUED QUALIFIED STATUS OF THE CONTINUING SYSTEM BASED ON THE MERGER AGREEMENT.

(b) UPON THE EFFECTIVE DATE OF THE MERGER, THE EMPLOYER, AS DEFINED IN SECTION 22-64-201, SHALL BECOME AN AFFILIATED EMPLOYER OF THE CONTINUING SYSTEM AND SHALL BE SUBJECT TO THE LAWS AND OTHER RULES RELATING TO AFFILIATED EMPLOYERS IN THE CONTINUING SYSTEM. UPON MERGER, ALL EMPLOYER

AND EMPLOYEE CONTRIBUTIONS OF ANY PARTICIPANT IN THE MERGING SYSTEM SHALL BE GOVERNED BY THE STATUTES AND RULES OF THE CONTINUING SYSTEM.

(c) THE MERGER SHALL NOT RESULT IN A REDUCTION OF RETIREMENT BENEFITS FOR ANY PERSON WHO, AS OF THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER, IS A RETIREE OR A BENEFICIARY RECEIVING A CURRENT BENEFIT AS SUCH BENEFITS EXISTED ON THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER.

(d) A RETIREE OR A BENEFICIARY OF A RETIREE OF THE MERGING SYSTEM RECEIVING A BENEFIT ON THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER SHALL RECEIVE THE SAME RETIREMENT BENEFIT INCREASES AND HAVE THE SAME ELIGIBILITY FOR HEALTH INSURANCE PARTICIPATION AND PREMIUM SUBSIDIES AS OTHER RETIREES OF THE CONTINUING SYSTEM. HOWEVER, ANY RETIREMENT BENEFIT INCREASE AWARDED TO RETIREES OF THE CONTINUING SYSTEM IN MARCH 2005 SHALL NOT BE AWARDED TO RETIREES OF THE MERGING SYSTEM AS THEY WILL RECEIVE AN ANNUAL COST OF LIVING INCREASE IN THEIR RETIREMENT BENEFITS EFFECTIVE ON OR BEFORE DECEMBER 31, 2004.

(e) A PERSON WHO IS NOT RETIRED AND IS AN ACTIVE MEMBER OF THE MERGING SYSTEM ON THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER SHALL NOT HAVE HIS OR HER ENTITLEMENT TO RETIREMENT BENEFITS REDUCED FROM THE LEVEL PROVIDED BY THE MERGING SYSTEM. THE PERSON SHALL HAVE THE RIGHT TO ELECT TO RECEIVE BENEFITS AT THE TIME OF RETIREMENT CALCULATED EITHER UNDER THE STATUTES AND RULES GOVERNING THE MERGING SYSTEM AS THEY EXISTED ON THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER OR THE LAWS AND RULES GOVERNING THE CONTINUING SYSTEM, AS THEY MAY BE AMENDED, BUT NOT BOTH. THE ACCOUNTS OF INACTIVE PARTICIPANTS OF THE MERGING SYSTEM AT THE TIME OF THE MERGER WHO ARE ENTITLED TO DEFERRED BENEFITS UPON ATTAINMENT OF THE REQUIRED RETIREMENT AGE UNDER THE PROVISIONS OF THE MERGING SYSTEM SHALL BE MAINTAINED BY THE CONTINUING SYSTEM AS SEPARATE ACCOUNTS, AND ALL RIGHTS AND BENEFITS ASSOCIATED THEREWITH SHALL BE GOVERNED BY THE PROVISIONS OF THE MERGING SYSTEM IN EFFECT BEFORE THE MERGER. UPON RETIREMENT, SUCH PERSONS SHALL BE CONSIDERED RETIREES OF THE CONTINUING SYSTEM AND THEREBY ELIGIBLE TO RECEIVE THE SAME RETIREMENT BENEFIT INCREASES, HEALTH INSURANCE PARTICIPATION, AND PREMIUM SUBSIDIES AS OTHER RETIREES OF THE CONTINUING SYSTEM.

(f) THE RETIREMENT BENEFITS AND ANY OTHER BENEFITS OF THOSE PERSONS HIRED OR REHIRED BY THE EMPLOYER ON OR AFTER THE EFFECTIVE DATE OF THE MERGER SHALL BE GOVERNED EXCLUSIVELY BY THE STATUTES AND RULES OF THE CONTINUING SYSTEM AS THEY EXIST OR ARE AMENDED. THE BENEFITS OF SUCH PERSONS SHALL NOT BE GOVERNED BY ANY PROVISIONS OF PARAGRAPHS (c), (d), (e), AND (h) OF THIS SUBSECTION (2).

(g) THE BOARDS OF TRUSTEES OF THE MERGING AND CONTINUING SYSTEMS AND THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT SHALL DEVELOP AND IMPLEMENT A SCHEDULE FOR THE MERGER THAT SHALL BE SUFFICIENT TO ALLOW AN ORDERLY AND RESPONSIBLE TRANSITION AND IMPLEMENTATION OF THE TERMS OF THE MERGER.

(h) A PERSON WHO IS A RETIREE OF THE MERGING SYSTEM BEFORE THE EFFECTIVE DATE OF THE MERGER SHALL NOT BE SUBJECT TO A BENEFIT REDUCTION DUE TO

POSTRETIREMENT EMPLOYMENT WITH AN AFFILIATED EMPLOYER OF THE CONTINUING SYSTEM BEFORE THE EFFECTIVE DATE OF THE MERGER AS LONG AS THE RETIREE CONTINUES TO BE EMPLOYED BY THAT SAME EMPLOYER. A PERSON WHO IS A RETIREE OF THE CONTINUING SYSTEM BEFORE THE EFFECTIVE DATE OF THE MERGER SHALL NOT BE SUBJECT TO A BENEFIT REDUCTION DUE TO POSTRETIREMENT EMPLOYMENT WITH AN EMPLOYER AS LONG AS THE RETIREE CONTINUES TO BE EMPLOYED BY THE SAME EMPLOYER. A RETIREE SO SITUATED SHALL BE ENTITLED TO A SECOND AND ENTIRELY SEPARATE RETIREMENT COVERAGE SEGMENT UNDER THE LAWS AND RULES GOVERNING THE CONTINUING SYSTEM.

(i) AN ACTUARIAL VALUATION REGARDING THE MERGER SHALL ESTABLISH AN ESTIMATED COST OF THE MERGER, INCLUDING ASSETS, LIABILITIES, OTHER OBLIGATIONS, AND ADMINISTRATIVE COSTS, AS OF DECEMBER 31, 2003. IN DETERMINING THE COST OF THE MERGER, THE ASSETS OF THE MERGING SYSTEM SHALL BE VALUED AT THEIR MARKET VALUES ON THE RELEVANT VALUATION DATES, AND THE LIABILITIES, OBLIGATIONS, AND ADMINISTRATIVE COSTS SHALL BE ACTUARIALLY DETERMINED BASED UPON GENERALLY ACCEPTED ACTUARIAL PRINCIPLES.

(j) (I) A FINAL ACTUARIAL VALUATION OF THE COSTS OF THE MERGER, BASED UPON THE ACTUARIAL VALUATION DATED DECEMBER 31, 2004, SHALL BE RECEIVED NO LATER THAN JUNE 1, 2005. UPON RECEIPT OF THE FINAL ACTUARIAL VALUATION, A FINAL RECONCILIATION OF THE COSTS AND ACTUARIAL FUNDING OF THE MERGER BY THE RESPECTIVE PARTIES SHALL BE DETERMINED.

(II) IN THE EVENT OF AN ACTUARIAL FUNDING DIFFERENTIAL WHEREBY THE MERGING SYSTEM FUNDING RATIO IS BELOW THAT OF THE CONTINUING SYSTEM RELATING TO RETIREMENT BENEFITS, THE CONTRIBUTION RATE FOR EMPLOYERS, AS DEFINED IN SECTION 22-64-201 (10), SHALL BE INCREASED FOR SO LONG AS NECESSARY TO ACTUARIALLY AMORTIZE SUCH DIFFERENTIAL, TOGETHER WITH A RATE OF RETURN EQUIVALENT TO THE ACTUARIAL INVESTMENT ASSUMPTION RATE OF THE CONTINUING SYSTEM, OVER A PERIOD AGREED UPON BUT NOT TO EXCEED TEN YEARS.

(III) IN THE EVENT OF AN ACTUARIAL FUNDING DIFFERENTIAL WHEREBY THE MERGING SYSTEM FUNDING RATIO IS ABOVE THAT OF THE CONTINUING SYSTEM RELATING TO RETIREMENT BENEFITS, THE CONTRIBUTION RATE FOR EMPLOYERS, AS DEFINED IN SECTION 22-64-201 (10), SHALL BE REDUCED FOR SO LONG AS NECESSARY TO ACTUARIALLY AMORTIZE SUCH DIFFERENTIAL OVER A PERIOD AGREED UPON, BUT IN NO EVENT SHALL THE REDUCTION IN EMPLOYER CONTRIBUTION CAUSE THE CONTRIBUTION RATE OF EMPLOYERS, AS DEFINED IN SECTION 22-64-201 (10), TO BE BELOW THE AMOUNT NECESSARY TO PAY THE EMPLOYER ACTUARIAL NORMAL COST OF THE CONTINUING SYSTEM COMBINED WITH THE STATUTORY CONTRIBUTION RATE SPECIFIED TO BE MADE TO THE HEALTH CARE TRUST FUND OF THE CONTINUING SYSTEM.

(IV) FINAL RECONCILIATION OF ANY COSTS OF THE MERGER NOT RELATED TO RETIREMENT BENEFITS SHALL BE PAID WITHIN SIXTY DAYS FOLLOWING RECEIPT OF THE FINAL ACTUARIAL VALUATION.

(k) THE MERGER SHALL NOT REQUIRE SUBSIDY BY OR BETWEEN THE MERGING SYSTEM AND THE CONTINUING SYSTEM OR THE SCHOOL DISTRICT AND THE CONTINUING SYSTEM. THE CONTINUING SYSTEM SHALL RECEIVE FROM THE MERGING

SYSTEM AND SCHOOL DISTRICT ASSETS SUFFICIENT TO FULLY FUND ALL LIABILITIES ASSOCIATED WITH BENEFITS CALCULATED UNDER THE RULES OF THE MERGING SYSTEM AS THEY EXISTED THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER AND MERGER COSTS AND FUND ALL OTHER ACTUARIAL COSTS AT THE FUNDED RATIO OF THE CONTINUING SYSTEM AS OF DECEMBER 31, 2004.

(l) CONTINUING FIDUCIARY LIABILITY INSURANCE PROTECTION AND GENERAL BUSINESS AND EMPLOYER'S LIABILITY INSURANCE COVERAGE SHALL BE PROVIDED TO MEMBERS AND FORMER MEMBERS OF THE GOVERNING BODY OF THE MERGING SYSTEM AND TO EMPLOYEES AND FORMER EMPLOYEES OF THE MERGING SYSTEM ON AND AFTER THE EFFECTIVE DATE OF THE MERGER. THE INSURANCE SHALL ALSO NAME THE CONTINUING SYSTEM, THE MEMBERS OF THE GOVERNING BODY, AND EMPLOYEES AS NAMED INSURED. THE INSURANCE SHALL BE MAINTAINED BY THE CONTINUING SYSTEM FOR NOT LESS THAN TEN YEARS AFTER THE DATE OF MERGER, AND THE COST SHALL BE PAID BY THE SCHOOL DISTRICT OR MERGING SYSTEM.

(m) EACH STAFF MEMBER EMPLOYED BY THE MERGING SYSTEM ON THE DATE OF THE MERGER SHALL BECOME AN EMPLOYEE-AT-WILL OF THE CONTINUING SYSTEM AT A SALARY NOT LESS THAN THE ANNUAL SALARY RECEIVED FROM THE MERGING SYSTEM AS OF JUNE 1, 2004, AND THE STAFF MEMBER'S EMPLOYMENT THEREAFTER SHALL BE GOVERNED BY THE POLICIES, RULES, AND STATUTES APPLICABLE TO THE EMPLOYEES OF THE CONTINUING SYSTEM. THE SCHOOL DISTRICT OR MERGING SYSTEM SHALL BE RESPONSIBLE FOR THE PAYMENT TO THE CONTINUING SYSTEM OF ANY ACCRUED EMPLOYMENT BENEFITS OTHER THAN BENEFITS PROVIDED FOR UNDER THE RETIREMENT SYSTEM OWED TO EACH EMPLOYEE OF THE MERGING SYSTEM.

(5) THE FINAL TERMS OF THE MERGER SHALL BE FIXED BY AGREEMENT AMONG THE GOVERNING BODIES OF THE MERGING SYSTEM, CONTINUING SYSTEM, AND SCHOOL DISTRICT IN ACCORDANCE WITH THEIR RESPECTIVE INTERNAL PROCEDURES AND THE REQUIREMENTS SET FORTH IN THIS SECTION. THE AGREEMENT, ONCE EXECUTED BY THE GOVERNING BODIES OF THE MERGING SYSTEM, CONTINUING SYSTEM, AND SCHOOL DISTRICT, SHALL BE BINDING UPON THE MERGING SYSTEM, CONTINUING SYSTEM, AND SCHOOL DISTRICT AND SHALL THEREAFTER GOVERN THE RESULTING RELATIONSHIP AMONG THE MERGING SYSTEM, CONTINUING SYSTEM, AND SCHOOL DISTRICT AND THE PAYMENT OF BENEFITS TO MEMBERS OF THE MERGING SYSTEM AND THEIR BENEFICIARIES.

(6) IT IS THE INTENT OF THIS SECTION TO PROTECT, PRESERVE, AND, IN SOME INSTANCES, IMPROVE THE BENEFITS OF THE MEMBERS AND BENEFICIARIES OF THE MERGING SYSTEM. HOWEVER, INTEGRATING THE TWO SYSTEMS, AVOIDING UNNECESSARY ADMINISTRATIVE BURDENS, AND PRESERVING FLEXIBILITY IN THE FUTURE WILL REQUIRE A COMPLEX AGREEMENT AMONG THE GOVERNING BODIES OF THE MERGING SYSTEM, CONTINUING SYSTEM, AND SCHOOL DISTRICT AND ONE WITH MANY INTERRELATIONSHIPS. IN RECOGNITION OF THE FOREGOING, OF THE INCREASED PORTABILITY OF BENEFITS, AND OF OTHER ADVANTAGES THAT WILL ACCRUE TO THE PARTIES TO THE AGREEMENT, THE SCHOOL DISTRICTS OF COLORADO, AND THE PUBLIC, IT SHALL BE PRESUMED THAT THE AGREEMENT, ONCE EXECUTED, SUBSTANTIALLY MEETS THE REQUIREMENTS OF THIS SECTION, IMPROVES THE BENEFITS OF MEMBERS OF THE MERGING SYSTEM AND THEIR BENEFICIARIES, AND COMPLIES WITH ALL APPLICABLE LEGAL AND FIDUCIARY REQUIREMENTS. ANY PERSON WHO CONTENDS OTHERWISE SHALL BEAR THE BURDEN OF PROVING THAT ANY PROVISION CHALLENGED

DOES NOT SUBSTANTIALLY MEET ALL LEGAL REQUIREMENTS APPLICABLE IN THE CIRCUMSTANCES AND CONSIDERING THE AGREEMENT IN ITS TOTALITY.

22-64-221. Transfer of assets. UPON THE EFFECTIVE DATE OF A MERGER, AS PROVIDED IN SECTION 22-64-220, ALL ASSETS OF THE MERGING SYSTEM OR ITS PREDECESSOR SHALL BE TRANSFERRED TO AND SHALL VEST IN THE CONTINUING SYSTEM WITHOUT ANY FURTHER ACT OR DOCUMENT OF TRANSFER BY ANY OF THE THREE GOVERNING BODIES OF THE MERGING SYSTEM, THE CONTINUING SYSTEM, OR THE SCHOOL DISTRICT. THE MERGING SYSTEM, THE CONTINUING SYSTEM, OR BOTH MAY NEVERTHELESS TAKE SUCH ACTIONS AND EXECUTE SUCH CERTIFICATIONS OR OTHER INSTRUMENTS AS MAY BE CONVENIENT TO EVIDENCE THE CONSUMMATION OF SUCH MERGER, ITS EFFECTIVE DATE, AND THE ASSETS OR ANY PARTICULAR ASSET TRANSFERRED. ANY SUCH CERTIFICATION OR OTHER INSTRUMENT PURPORTEDLY EXECUTED BY AN AUTHORIZED OFFICER OF EITHER SYSTEM AND BEARING THE SEAL OF SUCH SYSTEM SHALL BE PRIMA FACIE EVIDENCE OF ALL MATTERS STATED IN THE CERTIFICATION OR INSTRUMENT AND MAY BE RELIED UPON BY ANY THIRD PARTY, WITHOUT FURTHER INQUIRY, INCLUDING, WITHOUT LIMITATION, ANY PUBLIC TRUSTEE OR OTHER PUBLIC OFFICIAL OF THIS OR ANY OTHER STATE OR LOCAL GOVERNMENT. IF ANY CERTIFICATION OR OTHER INSTRUMENT IS RECORDED IN THE APPROPRIATE REAL ESTATE RECORDS IN THIS OR ANY OTHER STATE OR LOCAL GOVERNMENT, A COPY OF THE CERTIFICATION OR INSTRUMENT, WHEN DULY CERTIFIED BY THE CUSTODIAN OF THE REAL ESTATE RECORDS TO BE A TRUE COPY OF THE RECORDED ORIGINAL, SHALL HAVE THE SAME EFFECT AS THE ORIGINAL.

SECTION 2. 24-51-101 (20), Colorado Revised Statutes, is amended to read:

24-51-101. Definitions. As used in this article, unless the context otherwise requires:

(20) "Employer" means the state of Colorado, the general assembly, any state department, board, commission, bureau, agency, or institution, the Colorado association of school boards, the Colorado high school activities association, the fire and police pension association, the special districts association, the Colorado water resources and power development authority, the public employees' retirement association, all school districts in Colorado including a charter school district, ~~except in the city and county of Denver~~, and any political subdivision, city, municipality, county, housing authority, special district, library district, regional planning commission, public hospital, county or district health department, state university, state college, state junior college, or other public entity that is affiliated with the plan.

SECTION 3. Part 2 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-51-219. Merger of school district retirement system. THE BOARD SHALL BE EMPOWERED TO NEGOTIATE AND IMPLEMENT A MERGER OF A SCHOOL DISTRICT RETIREMENT SYSTEM CREATED PURSUANT TO PART 2 OF ARTICLE 64 OF TITLE 22, C.R.S., INTO THE ASSOCIATION IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 22-64-220 AND 22-64-221, C.R.S.

SECTION 4. The introductory portion to 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 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), AND SECTION 22-64-220 (4) (j), C.R.S., 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:

SECTION 5. The introductory portion to 24-51-1101 (1) and 24-51-1101 (1.5) (a), Colorado Revised Statutes, are amended to read:

24-51-1101. Employment after service retirement - repeal. (1) Except as otherwise provided in subsection (1.5) or (1.7) of this section OR SECTION 22-64-220 (4) (h), C.R.S., a service retiree from any division may be employed by an employer, whether or not in a position subject to membership, and receive a salary without reduction in benefits if the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement, and if:

(1.5) (a) EXCEPT AS OTHERWISE PROVIDED IN SECTION 22-64-220 (4) (h), C.R.S., a service retiree who is hired as a nonlicensed employee of a school district in which the district board of education has adopted a resolution declaring a critical shortage of nonlicensed employees pursuant to section 22-32-109 (1) (f) (II) (A), C.R.S., may receive a salary from the school district without reduction in benefits, regardless of the number of hours or days worked in the calendar year, if the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement. A service retiree described in this paragraph (a) who works for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement shall be subject to a reduction in benefits as provided in section 24-51-1102 (2).

SECTION 6. 24-51-1102 (1), Colorado Revised Statutes, is amended to read:

24-51-1102. Reduction of a service retirement benefit. (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 22-64-220 (4) (h), C.R.S., employment of a retiree by an employer, whether or not in a position subject to membership, that exceeds the daily or hourly calendar year limits stated in section 24-51-1101 (1) shall result in a reduction of the benefit of such retiree by five percent per day for any part of a day that exceeds said limits. Any reduction of benefits pursuant to the provisions of this subsection (1) that exceeds one hundred percent of the benefit shall be carried forward to reduce future months' benefits.

SECTION 7. 24-51-1103 (1), Colorado Revised Statutes, is amended to read:

24-51-1103. Contributions for a retiree who returns to membership - benefit calculation upon subsequent retirement - survivor benefit rights - disability retirement benefits. (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 22-64-220

(4) (h), C.R.S., a retiree who returns to work in a position ~~which~~ THAT is subject to membership may voluntarily suspend the service retirement benefits or the reduced service retirement benefits and resume membership. Upon such suspension, employer and member contributions are required to be made pursuant to the provisions of part 4 of this article. Any additional service credit accumulated and any increase in the highest average salary of such person shall be reflected in the benefit calculation upon subsequent termination of membership only after one year of service credit has been earned.

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 5, 2003