

CHAPTER 68

GOVERNMENT - MUNICIPAL

SENATE BILL 03-057

BY SENATOR(S) Anderson, Hanna, Phillips, Arnold, Entz, Evans, Nichol, Sandoval, and Taylor;
also REPRESENTATIVE(S) Cadman, Boyd, Frangas, Carroll, Jahn, Ragsdale, and Weissmann.

AN ACT

**CONCERNING BENEFIT PLAN ALTERNATIVES WITHIN THE FIRE AND POLICE PENSION ASSOCIATION FOR
MEMBERS OF MONEY PURCHASE PLANS.**

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

SECTION 1. Article 31 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 11
ALTERNATIVES FOR MONEY
PURCHASE PLAN MEMBERS

31-31-1101. Entry into the statewide hybrid plan. (1) ANY EMPLOYER WHO HAS ESTABLISHED A LOCAL MONEY PURCHASE PLAN PURSUANT TO PART 6 OF THIS ARTICLE OR ARTICLE 30.5 OF THIS TITLE OR HAS WITHDRAWN INTO THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE MAY APPLY TO THE BOARD TO COVER THE EXISTING MEMBERS OF ITS MONEY PURCHASE PLAN UNDER THE STATEWIDE HYBRID PLAN ESTABLISHED PURSUANT TO SECTION 31-31-1102. AN APPLICATION MAY BE INITIATED BY FILING WITH THE BOARD A RESOLUTION ADOPTED BY THE EMPLOYER PURSUANT TO SUBSECTION (2) OF THIS SECTION NO LESS THAN SIX MONTHS PRIOR TO THE PROPOSED EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN, UNLESS A SHORTER WAITING PERIOD IS APPROVED BY THE BOARD.

(2) THE EMPLOYER'S RESOLUTION APPLYING FOR COVERAGE UNDER THE STATEWIDE HYBRID PLAN SHALL BE ADOPTED BY THE GOVERNING BODY OF THE EMPLOYER AND SHALL STATE THE EMPLOYER'S INTENT TO COVER THE MEMBERS OF ITS MONEY PURCHASE PLAN UNDER THE STATEWIDE HYBRID PLAN.

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) ANY APPLICATION FOR COVERAGE UNDER THE STATEWIDE HYBRID PLAN SHALL BE APPROVED BY AT LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS EMPLOYED BY THE EMPLOYER WHO ARE PARTICIPATING IN THE MONEY PURCHASE PLAN AT THE TIME OF THE APPLICATION.

(4) THE BOARD SHALL PROMULGATE RULES RELATING TO STANDARDS FOR DISCLOSURE OF ALL RAMIFICATIONS AND PROCEDURES FOR OBTAINING MEMBER APPROVAL PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE BOARD SHALL ALSO PROMULGATE RULES RELATING TO STANDARDS FOR GRANTING AN EMPLOYER'S APPLICATION FOR PARTICIPATION IN THE STATEWIDE HYBRID PLAN AND FOR THE SUBMISSION OF INFORMATION TO THE BOARD BY THE EMPLOYER. SUCH RULES SHALL CONTAIN A PROVISION SPECIFYING THAT AN EMPLOYER THAT OPTS TO PARTICIPATE IN THE STATEWIDE HYBRID PLAN SHALL NOT BE PERMITTED TO OPT OUT OF SUCH PLAN AT ANY LATER DATE.

(5) AN APPLICATION FOR COVERAGE UNDER THE STATEWIDE HYBRID PLAN FILED BY AN EMPLOYER WHO ADMINISTERS A LOCAL MONEY PURCHASE PLAN SHALL INCLUDE THE EMPLOYER'S CERTIFICATION TO THE BOARD:

(a) THAT THE EMPLOYER'S LOCAL MONEY PURCHASE PLAN MEETS THE QUALIFICATION REQUIREMENTS OF SECTION 401 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT ARE APPLICABLE TO GOVERNMENTAL PLANS;

(b) THAT IN CONNECTION WITH THE EMPLOYER'S RESOLUTION PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE EMPLOYER'S GOVERNING BODY HAS ADOPTED A RESOLUTION FOR COMPLETE OR PARTIAL TERMINATION OF THE LOCAL MONEY PURCHASE PLAN IN ACCORDANCE WITH THE TERMS OF THAT PLAN AND THAT:

(I) THE TERMINATION RESOLUTION DOES NOT ADVERSELY AFFECT THE QUALIFIED STATUS OF THE LOCAL MONEY PURCHASE PLAN; AND

(II) THE RIGHTS OF ALL PARTICIPANTS IN THE LOCAL MONEY PURCHASE PLAN WHO ARE AFFECTED BY THE TERMINATION OF THE LOCAL MONEY PURCHASE PLAN TO BENEFITS ACCRUED TO THE DATE OF TERMINATION ARE NONFORFEITABLE;

(c) THAT ALL ACTIVE FIRE AND POLICE PARTICIPANTS IN THE LOCAL MONEY PURCHASE PLAN WILL BECOME PARTICIPANTS IN THE STATEWIDE HYBRID PLAN;

(d) WHETHER THE EMPLOYER WILL TRANSFER OR CAUSE TO BE TRANSFERRED TO THE STATEWIDE HYBRID PLAN ALL ASSETS OF THE LOCAL MONEY PURCHASE PLAN THAT ARE ATTRIBUTABLE TO THE ACCRUED BENEFITS OF THE TRANSFERRED PARTICIPANTS, PURSUANT TO THE PROCEDURE ESTABLISHED BY THE BOARD;

(e) THAT ALL EMPLOYER AND EMPLOYEE CONTRIBUTIONS REQUIRED TO BE MADE TO THE LOCAL MONEY PURCHASE PLAN AS OF THE DATE OF TERMINATION HAVE BEEN PAID;

(f) THAT PARTICIPANTS IN THE LOCAL MONEY PURCHASE PLAN WILL NOT INCUR A REDUCTION IN THEIR ACCOUNT BALANCES IN THEIR LOCAL MONEY PURCHASE PLAN, DETERMINED AS OF THE DATE OF TRANSFER, AS A RESULT OF THEIR TRANSFER TO THE

STATEWIDE HYBRID PLAN. FOR VESTING PURPOSES WITH REGARD TO THE LOCAL MONEY PURCHASE PLAN ACCOUNT BALANCES, YEARS OF SERVICE IN THE LOCAL MONEY PURCHASE PLAN SHALL BE COMBINED WITH YEARS OF SERVICE IN THE STATEWIDE HYBRID PLAN. FOR VESTING PURPOSES WITH REGARD TO THE STATEWIDE HYBRID PLAN, YEARS OF SERVICE SHALL BE BASED UPON SERVICE CREDIT EITHER EARNED OR PURCHASED IN THE STATEWIDE HYBRID PLAN.

(g) THAT THE EMPLOYER AGREES TO PARTICIPATE IN THE STATEWIDE HYBRID PLAN AND TO BE BOUND BY THE TERMS OF THE PLAN AND THE DECISIONS AND ACTIONS OF THE BOARD WITH RESPECT TO THE PLAN.

(6) AN APPLICATION FOR COVERAGE UNDER THE STATEWIDE HYBRID PLAN FILED BY AN EMPLOYER WHO PARTICIPATES IN THE STATEWIDE MONEY PURCHASE PLAN SHALL INCLUDE THE EMPLOYER'S CERTIFICATION TO THE BOARD THAT:

(a) ALL ACTIVE FIRE AND POLICE PARTICIPANTS IN THE STATEWIDE MONEY PURCHASE PLAN WILL BECOME PARTICIPANTS IN THE STATEWIDE HYBRID PLAN;

(b) THE BOARD IS AUTHORIZED BY THE EMPLOYER TO TRANSFER TO THE STATEWIDE HYBRID PLAN ALL ASSETS OF THE STATEWIDE MONEY PURCHASE PLAN THAT ARE ATTRIBUTABLE TO THE ACCRUED BENEFITS OF THE TRANSFERRED PARTICIPANTS;

(c) ALL EMPLOYER AND EMPLOYEE CONTRIBUTIONS REQUIRED TO BE MADE TO THE STATEWIDE MONEY PURCHASE PLAN AS OF THE DATE OF TERMINATION HAVE BEEN PAID;

(d) PARTICIPANTS IN THE STATEWIDE MONEY PURCHASE PLAN WILL NOT INCUR A REDUCTION IN THEIR ACCOUNT BALANCES IN THE STATEWIDE MONEY PURCHASE PLAN, DETERMINED AS OF THE DATE OF TRANSFER, AS A RESULT OF THEIR TRANSFER TO THE STATEWIDE HYBRID PLAN. FOR VESTING PURPOSES WITH REGARD TO THE STATEWIDE MONEY PURCHASE PLAN ACCOUNT BALANCES, YEARS OF SERVICE IN THE STATEWIDE MONEY PURCHASE PLAN SHALL BE COMBINED WITH YEARS OF SERVICE IN THE STATEWIDE HYBRID PLAN. FOR VESTING PURPOSES WITH REGARD TO THE STATEWIDE HYBRID PLAN, YEARS OF SERVICE SHALL BE BASED UPON SERVICE CREDIT EITHER EARNED OR PURCHASED IN THE STATEWIDE HYBRID PLAN.

(e) THE EMPLOYER AGREES TO PARTICIPATE IN THE STATEWIDE HYBRID PLAN AND TO BE BOUND BY THE TERMS OF THE PLAN AND THE DECISIONS AND ACTIONS OF THE BOARD WITH RESPECT TO THE PLAN.

31-31-1102. Statewide hybrid plan - creation - management. (1) THE BOARD IS AUTHORIZED TO DEVELOP, MAINTAIN, AND AMEND A STATEWIDE HYBRID PLAN DOCUMENT THAT OFFERS A COMBINATION OF DEFINED BENEFIT AND DEFINED CONTRIBUTION BENEFITS AND THAT IS INTENDED TO COMPLY WITH THE QUALIFICATION REQUIREMENTS SPECIFIED IN SECTION 401 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT ARE APPLICABLE TO GOVERNMENTAL PLANS. THE PLAN SHALL COVER THE MEMBERS OF THOSE EMPLOYERS THAT HAVE ELECTED COVERAGE UNDER THE PLAN PURSUANT TO SECTION 31-31-1101.

(2) (a) THERE IS HEREBY CREATED THE FIRE AND POLICE MEMBERS' STATEWIDE

HYBRID PLAN BENEFIT FUND THAT SHALL CONSIST OF MONEYS OF EMPLOYERS THAT HAVE ELECTED COVERAGE PURSUANT TO SECTION 31-31-1101, INCLUDING MEMBER AND EMPLOYER CONTRIBUTIONS AND SUCH AMOUNTS AS MAY BE TRANSFERRED PURSUANT TO SECTION 31-31-1101. THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF THE FUND, EACH MEMBER'S SEPARATE ACCOUNT IN THE FUND, AND EACH MEMBER'S SERVICE CREDIT EARNED UNDER THE STATEWIDE HYBRID PLAN. THE BOARD MAY ALLOW A MEMBER TO EXERCISE CONTROL OF THE INVESTMENT OF PART OF THE MEMBER'S ACCRUED BENEFIT UNDER THE PLAN. IN ALLOWING A MEMBER TO EXERCISE SUCH CONTROL, THE BOARD SHALL:

(I) SELECT AT LEAST THREE INVESTMENT ALTERNATIVES, EACH OF WHICH IS DIVERSIFIED IN ITSELF, THAT ALLOW THE MEMBER A BROAD RANGE OF INVESTMENTS AND A MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF THE MEMBER'S ACCRUED BENEFIT;

(II) ALLOW THE MEMBER TO CHANGE INVESTMENTS AT LEAST ONCE EACH CALENDAR QUARTER; AND

(III) PROVIDE THE MEMBER WITH INFORMATION DESCRIBING THE INVESTMENT ALTERNATIVES, THE NATURE, INVESTMENT PERFORMANCE, FEES, AND EXPENSES OF INVESTMENT ALTERNATIVES, AND OTHER INFORMATION TO ENABLE A MEMBER TO MAKE INFORMED INVESTMENT DECISIONS.

(b) THE STATEWIDE HYBRID PLAN DOCUMENT CREATED BY THE BOARD PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL GOVERN THE ACCRUAL OF SERVICE CREDIT, VESTING, THE BENEFITS TO BE OFFERED BASED ON AGE AND SERVICE, THE ALLOCATION OF CONTRIBUTIONS TOWARDS FUNDING THE DEFINED BENEFIT AND THE DEFINED CONTRIBUTION, THE CALCULATION AND ALLOCATION OF EARNINGS AND LOSSES UNDER THE VARIOUS INVESTMENT ALTERNATIVES WHICH THE BOARD MAY OFFER, THE TRANSFER OF ASSETS BETWEEN FUNDS UNDER EACH INVESTMENT ALTERNATIVE, THE ALLOCATION OF A MEMBER'S ACCOUNT BETWEEN INVESTMENT ALTERNATIVES, AND SUCH OTHER MATTERS AS MAY BE NECESSARY TO THE BOARD'S ADMINISTRATION AND MANAGEMENT OF THE STATEWIDE HYBRID PLAN BENEFIT FUND CREATED PURSUANT TO THIS SECTION.

(c) IN ITS ADMINISTRATION, INVESTMENT, AND MANAGEMENT OF THE DEFINED CONTRIBUTION ASSETS WITHIN THE STATEWIDE HYBRID PLAN BENEFIT FUND, THE BOARD SHALL BE SUBJECT TO THE SAME PROVISIONS APPLICABLE TO ITS ADMINISTRATION, INVESTMENT, AND MANAGEMENT OF THE FIRE AND POLICE MEMBERS' MONEY PURCHASE PLAN BENEFIT FUND AS SET FORTH IN SECTION 31-31-703 (2) TO (7). IN ITS ADMINISTRATION, INVESTMENT, AND MANAGEMENT OF THE DEFINED BENEFIT ASSETS WITHIN THE STATEWIDE HYBRID PLAN BENEFIT FUND, THE BOARD SHALL BE SUBJECT TO THE SAME PROVISIONS APPLICABLE TO ITS ADMINISTRATION OF THE FIRE AND POLICE MEMBER'S BENEFIT FUND AS SET FORTH IN SECTION 31-31-302.

(3) EACH MEMBER'S MEMBER AND EMPLOYER CONTRIBUTIONS TRANSFERRED TO THE STATEWIDE HYBRID PLAN BENEFIT FUND PURSUANT TO SECTION 31-31-1101 SHALL BE ALLOCATED TO THE MEMBER'S SEPARATE ACCOUNT WITHIN THE FUND.

(4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), UPON THE

EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE HYBRID PLAN, EACH MEMBER COVERED BY THE PLAN SHALL PAY INTO THE FUND EIGHT PERCENT OF SALARY PAID. THE PAYMENT SHALL BE MADE BY THE EMPLOYER BY DEDUCTION FROM THE SALARY PAID TO SUCH MEMBER. EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), FOR EACH SUCH MEMBER, THE EMPLOYER SHALL PAY INTO THE STATEWIDE HYBRID PLAN BENEFIT FUND EIGHT PERCENT OF THE SALARY PAID TO SUCH MEMBER. PAYMENTS ARE DUE NO LATER THAN TEN DAYS FOLLOWING THE DATE OF PAYMENT OF SALARY TO THE MEMBER, UNLESS THE SALARY IS PAID MORE THAN ONCE MONTHLY, IN WHICH EVENT SUCH PAYMENTS ARE DUE NO LATER THAN THE TENTH DAY OF THE MONTH FOLLOWING THE MONTH THE SALARY IS PAID TO THE MEMBER. AN INTEREST CHARGE OF ONE-HALF OF ONE PERCENT PER MONTH SHALL BE LEVIED AGAINST ANY UNPAID AMOUNT AND ADDED TO THE EMPLOYER PAYMENTS REQUIRED PURSUANT TO THIS SECTION.

(b) (I) UPON THE REQUEST OF AN EMPLOYER, THE BOARD SHALL PERMIT A HIGHER MANDATORY EMPLOYER CONTRIBUTION RATE, MANDATORY EMPLOYEE CONTRIBUTION RATE, OR BOTH, THAN IS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (4) IF THE BOARD DETERMINES THAT:

(A) A LOCAL RESOLUTION OR ORDINANCE SETTING FORTH THE HIGHER MANDATORY CONTRIBUTION RATE OR RATES WAS ENACTED AND IS IN EFFECT; AND

(B) AN EMPLOYEE ELECTION WAS CONDUCTED AND THE HIGHER MANDATORY CONTRIBUTION RATE OR RATES WAS APPROVED BY SIXTY-FIVE PERCENT OF THE EMPLOYER'S ACTIVE MEMBERS OF THE PLAN.

(II) ANY ACTIVE MEMBER AND ANY EMPLOYER MAY MAKE VOLUNTARY CONTRIBUTIONS TO THE STATEWIDE HYBRID PLAN BY PAYROLL DEDUCTION. VOLUNTARY MEMBER CONTRIBUTIONS ARE NOT SUBJECT TO THE EMPLOYER PICKUP PROVISIONS OF SECTION 414 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(III) IN NO EVENT SHALL INCREASED CONTRIBUTIONS RESULTING FROM A HIGHER CONTRIBUTION RATE OR RATES CAUSE A MEMBER TO EXCEED THE LIMIT ON ANNUAL ADDITIONS UNDER THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT ARE APPLICABLE TO GOVERNMENT PLANS.

(5) EXCEPT WITH RESPECT TO AMENDMENTS NECESSARY TO COMPLY WITH STATE AND FEDERAL LAW OR NECESSARY TO MAINTAIN THE ACTUARIAL SOUNDNESS OF THE STATEWIDE HYBRID PLAN, THE BOARD MAY AMEND THE PLAN DOCUMENT CREATED PURSUANT TO SUBSECTION (1) OF THIS SECTION ONLY UPON THE APPROVAL OF AT LEAST SIXTY-FIVE PERCENT OF THE ACTIVE MEMBERS OF THE PLAN AND MORE THAN FIFTY PERCENT OF THE EMPLOYERS HAVING ACTIVE MEMBERS COVERED BY THE PLAN, EACH EMPLOYER TO BE ASSIGNED ONE VOTE; EXCEPT THAT EMPLOYERS HAVING BOTH ACTIVE POLICE AND FIRE MEMBERS IN THE PLAN SHALL BE ASSIGNED TWO VOTES.

31-31-1103. Entry into the statewide defined benefit plan. (1) (a) ANY EMPLOYER WHO HAS ESTABLISHED A LOCAL MONEY PURCHASE PLAN PURSUANT TO PART 6 OF THIS ARTICLE OR ARTICLE 30.5 OF THIS TITLE OR HAS WITHDRAWN INTO THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE MAY APPLY TO THE BOARD TO COVER THE MEMBERS OF ITS MONEY PURCHASE PLAN AND

ITS FUTURE MEMBERS UNDER THE STATEWIDE DEFINED BENEFIT PLAN PURSUANT TO PART 4 OF THIS ARTICLE. AN APPLICATION MAY BE INITIATED BY FILING WITH THE BOARD A RESOLUTION ADOPTED BY THE EMPLOYER PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1) NO LESS THAN SIX MONTHS PRIOR TO THE PROPOSED EFFECTIVE DATE OF COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN, UNLESS A SHORTER WAITING PERIOD IS APPROVED BY THE BOARD.

(b) THE EMPLOYER'S RESOLUTION APPLYING FOR COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN SHALL BE ADOPTED BY THE GOVERNING BODY OF THE EMPLOYER AND SHALL STATE THE EMPLOYER'S INTENT TO COVER THE MEMBERS OF ITS MONEY PURCHASE PLAN UNDER THE STATEWIDE DEFINED BENEFIT PLAN.

(c) ANY APPLICATION FOR COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN SHALL BE APPROVED BY AT LEAST SIXTY-FIVE PERCENT OF ALL ACTIVE MEMBERS EMPLOYED BY THE EMPLOYER WHO ARE PARTICIPATING IN THE MONEY PURCHASE PLAN AT THE TIME OF THE APPLICATION.

(d) THE BOARD SHALL PROMULGATE RULES RELATING TO STANDARDS FOR DISCLOSURE OF ALL RAMIFICATIONS AND PROCEDURES FOR OBTAINING THE MEMBER APPROVAL DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (1). THE BOARD SHALL ALSO PROMULGATE RULES RELATING TO STANDARDS FOR GRANTING AN EMPLOYER'S APPLICATION FOR PARTICIPATION IN THE STATEWIDE DEFINED BENEFIT PLAN AND FOR THE SUBMISSION OF INFORMATION TO THE BOARD BY THE EMPLOYER.

(e) AN APPLICATION FOR COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN FILED BY AN EMPLOYER WHO ADMINISTERS A LOCAL MONEY PURCHASE PLAN SHALL INCLUDE THE EMPLOYER'S CERTIFICATION TO THE BOARD THAT:

(I) THE EMPLOYER'S LOCAL MONEY PURCHASE PLAN MEETS THE QUALIFICATION REQUIREMENTS OF SECTION 401 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT ARE APPLICABLE TO GOVERNMENTAL PLANS;

(II) IN CONNECTION WITH THE EMPLOYER'S RESOLUTION PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1), THE EMPLOYER'S GOVERNING BODY HAS ADOPTED A RESOLUTION FOR COMPLETE OR PARTIAL TERMINATION OF THE LOCAL MONEY PURCHASE PLAN IN ACCORDANCE WITH THE TERMS OF THAT PLAN AND THAT:

(A) THE TERMINATION RESOLUTION DOES NOT ADVERSELY AFFECT THE QUALIFIED STATUS OF THE LOCAL MONEY PURCHASE PLAN; AND

(B) THE RIGHTS OF ALL PARTICIPANTS IN THE LOCAL MONEY PURCHASE PLAN WHO ARE AFFECTED BY THE TERMINATION TO BENEFITS ACCRUED TO THE DATE OF TERMINATION ARE NONFORFEITABLE;

(III) ALL ACTIVE FIRE AND POLICE PARTICIPANTS IN THE LOCAL MONEY PURCHASE PLAN WILL BECOME PARTICIPANTS IN THE STATEWIDE DEFINED BENEFIT PLAN;

(IV) ALL EMPLOYER AND EMPLOYEE CONTRIBUTIONS REQUIRED TO BE MADE TO THE LOCAL MONEY PURCHASE PLAN AS OF THE DATE OF TERMINATION HAVE BEEN PAID;

(V) PARTICIPANTS IN THE LOCAL MONEY PURCHASE PLAN WILL NOT INCUR A REDUCTION IN THEIR ACCOUNT BALANCES IN THEIR LOCAL MONEY PURCHASE PLAN, DETERMINED AS OF THE DATE OF TRANSFER, AS A RESULT OF THEIR TRANSFER TO THE STATEWIDE DEFINED BENEFIT PLAN. FOR VESTING PURPOSES WITH REGARD TO THE LOCAL MONEY PURCHASE PLAN ACCOUNT BALANCES, YEARS OF SERVICE IN THE LOCAL MONEY PURCHASE PLAN SHALL BE COMBINED WITH YEARS OF SERVICE IN THE STATEWIDE DEFINED BENEFIT PLAN. FOR VESTING PURPOSES WITH REGARD TO THE STATEWIDE DEFINED BENEFIT PLAN, YEARS OF SERVICE SHALL BE BASED UPON SERVICE CREDIT EITHER EARNED OR PURCHASED IN THE STATEWIDE DEFINED BENEFIT PLAN.

(VI) THE EMPLOYER AGREES TO PARTICIPATE IN THE STATEWIDE DEFINED BENEFIT PLAN AND TO BE BOUND BY THE TERMS OF THE PLAN AND THE DECISIONS AND ACTIONS OF THE BOARD WITH RESPECT TO THE PLAN. THE EMPLOYER FURTHER AGREES THAT ALL MEMBERS HIRED AFTER THE EFFECTIVE DATE OF COVERAGE SHALL BE MEMBERS OF THE PLAN PURSUANT TO PART 4 OF THIS ARTICLE.

(f) AN APPLICATION FOR COVERAGE UNDER THE STATEWIDE DEFINED BENEFIT PLAN FILED BY AN EMPLOYER WHO PARTICIPATES IN THE STATEWIDE MONEY PURCHASE PLAN SHALL INCLUDE THE EMPLOYER'S CERTIFICATION TO THE BOARD THAT:

(I) ALL ACTIVE FIRE AND POLICE PARTICIPANTS IN THE STATEWIDE MONEY PURCHASE PLAN WILL BECOME PARTICIPANTS IN THE STATEWIDE DEFINED BENEFIT PLAN;

(II) ALL EMPLOYER AND EMPLOYEE CONTRIBUTIONS REQUIRED TO BE MADE TO THE STATEWIDE MONEY PURCHASE PLAN AS OF THE DATE OF TERMINATION HAVE BEEN PAID;

(III) PARTICIPANTS IN THE STATEWIDE MONEY PURCHASE PLAN WILL NOT INCUR A REDUCTION IN THEIR ACCOUNT BALANCES IN THEIR LOCAL MONEY PURCHASE PLAN, DETERMINED AS OF THE DATE OF TRANSFER, AS A RESULT OF THEIR TRANSFER TO THE STATEWIDE DEFINED BENEFIT PLAN. FOR VESTING PURPOSES WITH REGARD TO THE LOCAL MONEY PURCHASE PLAN ACCOUNT BALANCES, YEARS OF SERVICE IN THE STATEWIDE MONEY PURCHASE PLAN SHALL BE COMBINED WITH YEARS OF SERVICE IN THE STATEWIDE DEFINED BENEFIT PLAN. FOR VESTING PURPOSES WITH REGARD TO THE STATEWIDE DEFINED BENEFIT PLAN, YEARS OF SERVICE SHALL BE BASED UPON SERVICE CREDIT EITHER EARNED OR PURCHASED IN THE STATEWIDE DEFINED BENEFIT PLAN.

(IV) THE EMPLOYER AGREES TO PARTICIPATE IN THE STATEWIDE DEFINED BENEFIT PLAN AND TO BE BOUND BY THE TERMS OF THE PLAN AND THE DECISIONS AND ACTIONS OF THE BOARD WITH RESPECT TO THE PLAN. THE EMPLOYER FURTHER AGREES THAT ALL MEMBERS HIRED AFTER THE EFFECTIVE DATE OF COVERAGE SHALL BE MEMBERS OF THE PLAN PURSUANT TO PART 4 OF THIS ARTICLE.

(2) THE BOARD SHALL DETERMINE A CONTINUING UNIFORM RATE OF CONTRIBUTION FOR ALL MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE DATE OF COVERAGE TO FUND THE BENEFITS PAYABLE BY THE ASSOCIATION UNDER THE STATEWIDE DEFINED BENEFIT PLAN. THE CONTINUING RATE OF CONTRIBUTION SHALL BE DETERMINED BY THE BOARD UTILIZING CERTIFIED ACTUARIAL REPORTS PREPARED BY THE ACTUARY

FOR THE PLAN. ANY SUCH ACTUARIAL REPORT SHALL ALSO CERTIFY, IN ACCORDANCE WITH ACCEPTED ACTUARIAL PRINCIPALS, THAT THE EMPLOYERS' COVERAGE SHALL NOT HAVE AN ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE PLAN. CONTINUING CONTRIBUTIONS FOR EACH MEMBER WHO IS ACTIVE ON THE EFFECTIVE DATE OF COVERAGE SHALL BE MADE AT THE RATE ESTABLISHED ON SAID DATE UNTIL THE MEMBER'S RETIREMENT OR TERMINATION. THE BOARD MAY PERIODICALLY ADJUST THE RATE PRIOR TO THE ELECTION OF COVERAGE BY AN EMPLOYER BASED ON CERTIFIED ACTUARIAL REPORTS PREPARED BY THE ACTUARY FOR THE PLAN.

SECTION 2. 31-31-403 (2) (a) (II), Colorado Revised Statutes, is amended to read:

31-31-403. Normal retirement - statewide defined benefit plan. (2) (a) If in any year the board determines pursuant to this part 4 that the cost of the benefits described in paragraph (b) of subsection (1) of this section, excluding the benefit described in section 31-31-405, may not be fully funded on an actuarially sound basis without necessitating an increase in the eight percent employer and eight percent member contribution made pursuant to section 31-31-402, the board shall not increase such employer or member contributions unless:

(II) The board has transferred all funds in the stabilization reserve account to the actuarial account as required by section 31-31-301 (3) (b) and (3) (c), except such funds as are attributable to the separate retirement account of any member who has terminated service after at least ~~ten~~ FIVE years of credited service.

SECTION 3. 31-31-404 (2) (a), Colorado Revised Statutes, is amended to read:

31-31-404. Return or transfer of contributions - vested retirement. (2) (a) In lieu of having the member's contributions returned as provided in paragraph (a) of subsection (1) of this section, a member who has at least ~~ten~~ FIVE years of credited service may leave the contributions with the fund. When the inactive member attains age fifty-five, the member shall be eligible to receive an annual vested benefit equal to two percent of the member's average highest three years' salary multiplied by years, not to exceed twenty-five, of active service. Any such member shall be eligible to receive the applicable vested benefit as provided in this section or to make an election for a reduced pension in the manner provided in section 31-31-403 (5). All the provisions of section 31-31-403 (5) shall apply to the member; except that the benefits used to calculate the reduced benefits shall be the vested benefit provided to the member under this section rather than the retirement benefit provided in section 31-31-403. The member may not elect one of the options earlier than sixty days prior to the commencement of vested benefit payments. In the event that an inactive member who is eligible for vested benefits dies prior to the commencement of the member's benefit payments, the fire and police pension association shall refund the inactive member's contributions to the member's estate, and no vested benefits shall be payable to the inactive member's survivors or beneficiaries.

SECTION 4. 31-31-406 (1), (6), and (7) (b), Colorado Revised Statutes, are amended to read:

31-31-406. Separate retirement accounts - administration. (1) Any member

having a separate retirement account who terminates service and at the time of termination has less than ~~ten~~ FIVE years of credited service or who terminates service and at the time of termination has more than ~~ten~~ FIVE years of credited service but elects a refund of contributions as provided under section 31-31-404 (1) (a) shall forfeit the entire balance in the member's separate retirement account to the actuarial account.

(6) If a member terminates service with less than ~~ten~~ FIVE years of credited service and does not elect a refund of accumulated contributions, the amount in the member's separate retirement account shall not be forfeited but shall continue to be subject to the earnings and reduction provisions of section 31-31-405, and, upon the member's return to active service with an employer covering its members under the normal retirement provisions of this part 4, the member shall be credited with any amount which has accrued in the member's separate retirement account.

(7) The balance in a member's separate retirement account, the member's accumulated contributions to the account, and the earnings on the account shall be paid to the member's estate if the member:

(b) Has more than ~~ten~~ FIVE years of credited service;

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Became Law: March 25, 2003