

CHAPTER 214

GOVERNMENT - STATE

SENATE BILL 04-132

BY SENATOR(S) Arnold, Anderson, and Jones;
also REPRESENTATIVE(S) Young, Hoppe, Weddig, Williams S., Williams T., Marshall, and Rippy.

AN ACT

CONCERNING THE MODIFICATION OF EXISTING BENEFIT PLANS FOR MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION.

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

SECTION 1. 24-51-101 (28) (c), Colorado Revised Statutes, is amended to read:

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

(28) "Interest" means:

(c) ~~On and after July 1, 1995, a rate equal to eighty percent of the actuarial investment assumption rate for interest on member contributions, calculated~~ THE RATE ESTABLISHED BY THE BOARD FOR EACH CALENDAR YEAR pursuant to the provisions of section 24-51-407 FOR INTEREST ON MEMBER CONTRIBUTIONS.

SECTION 2. 24-51-407 (3), Colorado Revised Statutes, is amended, and the said 24-51-407 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-407. Interest. (3) ~~After July 1, 1995, member contributions shall earn interest at the rate specified in section 24-51-101(28) (c), compounded annually, that is in effect at the time interest is earned.~~ FROM JULY 1, 1995, TO JUNE 30, 2004, MEMBER CONTRIBUTIONS SHALL EARN INTEREST AT A RATE EQUAL TO EIGHTY PERCENT OF THE ACTUARIAL INVESTMENT ASSUMPTION RATE, COMPOUNDED ANNUALLY, THAT WAS IN EFFECT AT THE TIME INTEREST WAS EARNED.

(4) ON AND AFTER JULY 1, 2004, MEMBER CONTRIBUTIONS SHALL EARN INTEREST

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

AT A RATE SPECIFIED BY THE BOARD, COMPOUNDED ANNUALLY, THAT IS IN EFFECT AT THE TIME INTEREST IS EARNED. IN NO EVENT SHALL THE BOARD SPECIFY A RATE PURSUANT TO THIS SUBSECTION (4) THAT EXCEEDS FIVE PERCENT.

SECTION 3. 24-51-401 (1.7) and (2), Colorado Revised Statutes, are amended, and the said 24-51-401 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-51-401. Employer and member contributions. (1.7) (a) Employers designated as state employers by rule of the board shall forward to the association by the tenth calendar day of each month SHALL DELIVER 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~~ TO THE ASSOCIATION WITHIN FIVE DAYS AFTER THE DATE MEMBERS ARE PAID. Except as provided in ~~subsection (7)~~ SUBSECTIONS (1.8) AND (7) of this section ~~section~~ AND SECTIONS 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 AS DEFINED IN SECTION 24-51-101 (42) paid to members for the ~~preceding month~~ PAYROLL PERIOD:

**TABLE A
CONTRIBUTION RATES**

Division	Membership	Employer Rate	Member Rate
State and School	All Members	+0.4% 10.15%	8.0%
	Except State Troopers	+3.1% 12.85%	10.0%
Municipal	All Members	10.0%	8.0%
Judicial	All Members	+4.0% 13.66%	8.0%

(b) CONTRIBUTIONS SHALL BE CALCULATED USING THE CONTRIBUTION RATES THAT WERE IN EFFECT ON THE LAST DAY OF THE PAYROLL PERIOD.

(c) CONTRIBUTIONS FOR SALARY PAYMENTS MADE TO A MEMBER FOR UNINTENTIONAL NONRECURRING ADJUSTMENTS OR CORRECTIONS THAT ARE PAID SEPARATE FROM ONE OF THE EMPLOYER'S REGULAR PAYROLL CYCLES MAY BE REPORTED AND PAID TO THE ASSOCIATION WITH THE EMPLOYER'S NEXT REGULAR PAYROLL CYCLE.

(d) IF AN EMPLOYER MAKES PAYMENT TO THE ASSOCIATION THROUGH AN AUTOMATED CLEARING HOUSE DEBIT TRANSACTION, PAYMENT WILL BE CONSIDERED RECEIVED ON TIME IF VALID AND EXECUTABLE AUTOMATED CLEARING HOUSE INSTRUCTIONS ARE RECEIVED BY THE ASSOCIATION BY THE DATE SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1.7).

(1.8) IF THE ACTUARIAL VALUE OF ASSETS EXCEEDS ONE HUNDRED TEN PERCENT OF THE ACTUARIAL ACCRUED LIABILITIES IN ANY DIVISION, AS DETERMINED BY THE ASSOCIATION'S ACTUARY, THE DIVISION SHALL BE CONSIDERED OVERFUNDED, AND EMPLOYER CONTRIBUTION RATES SHALL BE REDUCED AS PROVIDED IN SECTION 24-51-408.5 (5).

(2) Along with such contributions, the employer shall ~~forward~~ DELIVER to the association by the date established in subsection (1.7) of this section a ~~monthly~~ contribution report containing any member information required by the board to properly credit money to the employer contribution reserve and the member contribution accounts in the member contribution reserve.

SECTION 4. 24-51-408.5 (4) and (5), Colorado Revised Statutes, are amended to read:

24-51-408.5. Matching employer contribution on voluntary contributions made by members to tax-deferred retirement programs. (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: TERMINATE FOR PAYROLL PERIODS THAT END AFTER THE LAST DAY OF THE CALENDAR MONTH FOLLOWING THE MONTH IN WHICH THIS SECTION OF THE ACT BECOMES EFFECTIVE, AND THEREAFTER SHALL RESUME ONLY WHEN THE ACTUARY DETERMINES THAT THE ACTUARIAL VALUE OF ASSETS EXCEEDS ONE HUNDRED TEN PERCENT OF ACTUARIAL ACCRUED LIABILITIES. 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.

~~(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 ONE HUNDRED TEN PERCENT OF 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 not later than September 1 of each year the reduction in the employer contribution rates specified in section 24-51-401(1.7) necessary to amortize the overfunding IN EXCESS OF ONE HUNDRED TEN PERCENT UP TO ONE HUNDRED FIFTEEN PERCENT OF ACTUARIAL ACCRUED LIABILITIES over a period of ~~ten~~ THIRTY years. THE AMOUNT OF ANY OVERFUNDING IN EXCESS OF ONE HUNDRED FIFTEEN PERCENT OF ACTUARIAL ACCRUED LIABILITIES SHALL BE AMORTIZED OVER A PERIOD OF TWENTY YEARS. THE CALCULATION OF THE AMOUNT FOR ANY FISCAL YEAR OF ANY DECREASE IN THE EMPLOYER CONTRIBUTION RATES DUE TO OVERFUNDING SHALL BE DETERMINED USING THE ACTUARY'S CALCULATION FROM THE PRECEDING SEPTEMBER 1.

SECTION 5. 24-51-408.5 (6) (a), (6) (a.5), (6) (b), and (7), Colorado Revised Statutes, are amended to read:

24-51-408.5. Matching employer contribution on voluntary contributions made by members to tax-deferred retirement programs. (6) (a) IF A DIVISION'S TRUST FUND IS DETERMINED TO BE OVERFUNDED PURSUANT TO SUBSECTION (5) OF THIS SECTION, THEN commencing with the fiscal year that begins ~~July 1, 2001~~ FOLLOWING THE ACTUARY'S CALCULATION FROM THE PRECEDING SEPTEMBER 1, the employer contribution rate specified in section 24-51-401 (1.7) for state and school division employers, FOR MUNICIPAL DIVISION EMPLOYERS, and for judicial division employers shall be reduced to amortize any overfunding in the respective division's trust fund by twenty percent of the amount of any reduction in the employer contribution rates as determined in accordance with subsection (5) of this section. ~~but in any case such reduction shall be at least one-half of one percent of salary for the fiscal year that commences July 1, 2001, and at least one-fourth of one percent of salary for fiscal years that commence on or after July 1, 2002.~~ The calculation of the amount of any reduction in the employer contribution rates due to overfunding shall be determined using the actuary's calculation from the preceding September 1. ~~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.~~

(a.5) ~~The employer contribution rate for the municipal division for any calendar year shall be reduced to amortize any overfunding in the municipal division trust fund by twenty percent of the amount of any reduction in the employer contribution rates as determined in accordance with subsection (5) of this section. The calculation of the amount of any reduction in the employer contribution rates shall be determined using the actuary's calculation from the preceding September 1. For municipal division employers with a fiscal year that begins later than January 1, the calculation of the amount of any reduction in the employer contribution rate shall take effect at the start of the employer's fiscal 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.

(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 6. 24-51-1402 (4), Colorado Revised Statutes, is amended to read:

24-51-1402. Contributions to the voluntary investment program. (4) The employer shall ~~forward~~ DELIVER all voluntary contributions to the SERVICE PROVIDER DESIGNATED BY THE association ~~by the date specified in rules adopted by the board~~ WITHIN FIVE DAYS AFTER THE DATE MEMBERS ARE PAID AND CONSISTENT WITH THE PROVISIONS OF SECTION 24-51-401(1.7) (c) AND (1.7) (d).

SECTION 7. 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 one and ~~one-tenth~~ TWO ONE-HUNDREDTHS percent of member salaries; a portion of the amount paid by members to purchase service credit relating to noncovered employment as determined pursuant to section 24-51-505 (7); thirty percent of the amount of any reduction in the employer contribution rates as determined in section 24-51-408.5 (5) to amortize any overfunding in each division's trust fund; 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 8. 24-51-602 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-51-602. Service retirement eligibility. (1) (a.5) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (1), ANY PERSON EXCEPT A STATE TROOPER WHO BECOMES A MEMBER ON OR AFTER JULY 1, 2005, AND WAS NOT A MEMBER, INACTIVE MEMBER, OR A RETIREE ON JULY 1, 2005, SHALL, UPON WRITTEN APPLICATION AND APPROVAL OF THE BOARD, RECEIVE SERVICE RETIREMENT BENEFITS PURSUANT TO THE BENEFIT FORMULA SET FORTH IN SECTION 24-51-603 (1) (a), (2), AND (3) IF THE MEMBER HAS MET THE AGE AND SERVICE CREDIT REQUIREMENTS STATED IN THE FOLLOWING TABLE:

TABLE B.05

SERVICE RETIREMENT ELIGIBILITY

AGE REQUIREMENT (YEARS)	SERVICE CREDIT REQUIREMENT (YEARS)
ANY AGE	35
55	30

60	20
65	5

SECTION 9. 24-51-1002 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-51-1002. Annual percentages to be used. (1) (a.5) (I) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, THE INCREASE APPLIED TO BENEFITS OF PERSONS WHO BECOME MEMBERS ON OR AFTER JULY 1, 2005, AND WERE NOT MEMBERS, INACTIVE MEMBERS, OR RETIREES ON JULY 1, 2005, SHALL BE THE LESSER OF THREE PERCENT OR THE ACTUAL INCREASE, AS CALCULATED BY THE UNITED STATES DEPARTMENT OF LABOR, IN THE NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS DURING THE CALENDAR YEAR PRECEDING THE INCREASE IN THE BENEFIT. THE INCREASE APPLIED TO SUCH BENEFITS SHALL BE RECALCULATED ANNUALLY AS OF MARCH 1, AND SHALL BE THE COMPOUNDED ANNUAL PERCENTAGE OF THE ANNUAL INCREASES APPLIED TO SUCH BENEFITS. IF THE BENEFIT HAS NOT BEEN PAID DURING ALL TWELVE MONTHS OF THE CALENDAR YEAR PRECEDING MARCH 1, THEN THE ANNUAL INCREASE SHALL BE PRORATED.

(II) BENEFITS FOR VESTED INACTIVE MEMBERS WITH AT LEAST TWENTY-FIVE YEARS OF SERVICE CREDIT WHO BECOME MEMBERS ON OR AFTER JULY 1, 2005, AND WERE NOT MEMBERS, INACTIVE MEMBERS, OR RETIREES ON JULY 1, 2005, AS WELL AS BENEFITS FOR SURVIVORS OF SUCH DECEASED VESTED INACTIVE MEMBERS WHO HAD AT LEAST TWENTY-FIVE YEARS OF SERVICE CREDIT SHALL BE INCREASED BY THE ANNUAL INCREASE SPECIFIED IN SECTIONS 24-51-1001 AND 24-51-1003 AND SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5), FROM THE DATE OF TERMINATION OF MEMBERSHIP TO THE DATE BENEFITS COMMENCE.

SECTION 10. Effective date. Section 4 of this act shall take effect upon passage, sections 8 and 9 of this act shall take effect on July 1, 2005, and the remaining sections of this act shall take effect on July 1, 2004.

SECTION 11. 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 30, 2004