

CHAPTER 150

GOVERNMENT - STATE

SENATE BILL 05-171

BY SENATOR(S) Sandoval, Anderson, Shaffer, Spence, and Williams;
also REPRESENTATIVE(S) Frangas, Benefield, Coleman, Marshall, Merrifield, Todd, and Vigil.

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. The introductory portion to 22-64-220 (4) (a) and 22-64-220 (4) (a) (I), (4) (a) (IV), (4) (a) (V), (4) (c), (4) (d), (4) (f), (4) (h), (4) (i), (4) (j), (4) (k), (4) (l), (4) (m), (5), and (6), Colorado Revised Statutes, are amended, and the said 22-64-220 (4) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

22-64-220. Merger. (4) (a) The effective date of the merger, unless terminated as herein provided, shall be ~~January 1, 2005~~ JANUARY 1, 2007, 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~~ HOWEVER, IF THE CONTINUING SYSTEM, MERGING SYSTEM, AND SCHOOL DISTRICT DO NOT EXECUTE THE WRITTEN AGREEMENT SPECIFIED IN SUBSECTION (5) OF THIS SECTION ON OR BEFORE OCTOBER 1, 2005, THEN THE CONTINUING SYSTEM, MERGING SYSTEM, OR SCHOOL DISTRICT MAY, ON OR BEFORE OCTOBER 15, 2005, TERMINATE THE MERGER BY PROVIDING WRITTEN NOTICE OF TERMINATION OF THE MERGER TO THE OTHER PARTIES. ANY AMOUNTS DUE THE CONTINUING SYSTEM UPON THE MERGER IN ADDITION TO SUCCESSION TO THE ASSETS, LIABILITIES, AND

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

OBLIGATIONS OF THE MERGING SYSTEM AS PROVIDED SHALL BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPHS (j) AND (k) OF THIS SUBSECTION (4) AND PAID BY THE SCHOOL DISTRICT IN THE MANNER PROVIDED. ON OR BEFORE OCTOBER 1, 2006, 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~~ FOR one or more of the following ~~conditions exists~~ REASONS:

(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;~~ AS DESCRIBED IN PARAGRAPH (k) OF THIS SUBSECTION (4).

(IV) Litigation has been commenced against any of the parties wherein claims or damages are asserted that are uninsured, OTHER THAN CUSTOMARY RETENTIONS OR DEDUCTIBLES, 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 RULING~~ from the federal internal revenue service ~~as to~~ REGARDING THE TRANSFER OF ASSETS FROM THE MERGING SYSTEM TO THE CONTINUING SYSTEM UNDER the ~~continued qualified status of the continuing system based on the~~ merger agreement OR IF THE CONTINUING SYSTEM SEEKS A DETERMINATION LETTER THAT PERTAINS TO THE MERGER AND THE FEDERAL INTERNAL REVENUE SERVICE WILL NOT ISSUE A FAVORABLE LETTER.

(VI) THE SCHOOL DISTRICT HAS NOT APPROVED THE ISSUANCE OF PENSION CERTIFICATES OF PARTICIPATION, AND THE SCHOOL DISTRICT AND THE CONTINUING SYSTEM HAVE NOT MUTUALLY AGREED UPON ANOTHER FUNDING SOURCE, TO FUND THE AMOUNTS DUE TO THE CONTINUING SYSTEM UPON FINAL RECONCILIATION, AS DESCRIBED IN PARAGRAPH (j) OF THIS SUBSECTION (4).

(c) (I) The merger shall not result in a reduction of retirement benefits for any person who, as of the day ~~before~~ PRECEDING the effective date of the merger, is:

(A) A retiree or a beneficiary receiving a current benefit FROM THE MERGING SYSTEM, as such ~~benefits~~ BENEFIT existed on ~~the~~ SUCH PRECEDING day; ~~before the effective date of the merger.~~

(B) A MEMBER OF THE MERGING SYSTEM WHO HAD APPLIED FOR A DISABILITY RETIREMENT BENEFIT ON OR BEFORE SUCH PRECEDING DAY AND ESTABLISHES ELIGIBILITY FOR SUCH BENEFIT BASED ON SUCH APPLICATION; OR

(C) A PERSON WHO, BASED ON THE DEATH OF A MEMBER OF THE MERGING SYSTEM WHO DIED ON OR BEFORE SUCH PRECEDING DAY AND WHO, UPON DEATH, FULFILLED THE REQUIREMENTS OF THE MERGING SYSTEM PERMITTING PAYMENT OF SURVIVOR BENEFITS TO SUCH MEMBER'S SURVIVORS, WAS WITHIN THE CATEGORY OF PERSONS THEN ELIGIBLE OR WHO MIGHT BECOME ELIGIBLE FOR SURVIVOR BENEFITS THEREAFTER UPON MEETING THE QUALIFICATIONS FOR SUCH ENTITLEMENT UNDER THE

RULES OF THE MERGING SYSTEM.

(II) A PERSON DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (C) SHALL, ON AND AFTER THE EFFECTIVE DATE OF THE MERGER, RECEIVE BENEFITS FROM AND ADMINISTERED BY THE CONTINUING SYSTEM. SUCH BENEFITS SHALL BE PAID IN ACCORDANCE WITH THE RULES OF THE MERGING SYSTEM AS THEY EXISTED ON THE DAY PRECEDING THE EFFECTIVE DATE OF THE MERGER, INCLUDING, WITHOUT LIMITATION, ANY ANNUAL BENEFIT ADJUSTMENTS. FOR ADMINISTRATIVE CONVENIENCE, SUCH ANNUAL BENEFIT ADJUSTMENTS MAY BE SCHEDULED SO THAT THEY WILL COINCIDE WITH THE DATES ON WHICH BENEFIT ADJUSTMENTS ARE EFFECTIVE UNDER THE RULES OF THE CONTINUING SYSTEM. HOWEVER, NO ANNUAL BENEFIT ADJUSTMENT SHALL BE PAID IN 2007 TO RETIREES AND BENEFICIARIES OF THE MERGING SYSTEM WHO RECEIVED AN ADJUSTMENT IN THEIR RETIREMENT BENEFITS EFFECTIVE ON OR BEFORE DECEMBER 31, 2006, AND IN ADDITION TO THE REGULAR ADJUSTMENT EFFECTIVE JANUARY 1, 2006.

(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.~~

(f) The retirement benefits and any other benefits of those persons hired or rehired by the employer, AS DEFINED IN SECTION 22-64-201 (10), 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)~~ SUBSECTION (4).

(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 EXISTING 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 DEFINED IN SECTION 22-64-201 (10) AND EXISTING BEFORE THE EFFECTIVE DATE OF THE MERGER 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~~; DECEMBER 31, 2004, AND DECEMBER 31, 2005. 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~~ DECEMBER 31, 2006, shall be received no later than ~~June 1, 2005~~: JUNE 1, 2007. 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.~~ THAT AMOUNTS ARE DUE THE CONTINUING SYSTEM IN ADDITION TO THE ASSETS OF THE MERGING SYSTEM IN ORDER TO MEET THE REQUIREMENTS OF PARAGRAPH (k) OF THIS SUBSECTION (4), SUCH AMOUNTS SHALL BE PAID BY THE SCHOOL DISTRICT NO LATER THAN SIXTY DAYS AFTER RECEIPT OF THE FINAL ACTUARIAL VALUATION OR AT THE END OF THE SCHOOL DISTRICT'S THEN-CURRENT FISCAL YEAR, WHICHEVER IS EARLIER.

(III) ~~In the event of~~ IF THERE IS an actuarial funding differential whereby the merging system ~~funding~~ FUNDED 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~~ NO LATER THAN sixty days following receipt of the final actuarial valuation OR AT THE END OF THE SCHOOL DISTRICT'S THEN-CURRENT FISCAL YEAR, WHICHEVER IS EARLIER.

(k) (I) The merger shall not require subsidy by or between the merging system and the continuing system or the school district and the continuing system, RECOGNIZING THAT ACTUARIAL CALCULATIONS AND VALUATIONS ARE BASED ON VARYING ASSUMPTIONS. The continuing system shall receive from the merging system and school district assets sufficient, BASED ON ACTUARIAL VALUATIONS, 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.~~

(A) FULLY FUND ALL LIABILITIES ASSOCIATED WITH BENEFITS PAYABLE TO RETIREES AND BENEFICIARIES OF THE MERGING SYSTEM, AS OF THE DAY PRECEDING THE EFFECTIVE DATE OF THE MERGER IN ACCORDANCE WITH THE RULES OF THE MERGING SYSTEM AS THEY EXIST ON SUCH PRECEDING DAY, INCLUDING ALL THOSE PERSONS DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (c) OF THIS SUBSECTION (4);

(B) FULLY FUND THE LIABILITY ASSOCIATED WITH ENHANCED BENEFITS RESULTING

FROM THE MERGER AND PAYABLE TO MEMBERS AND BENEFICIARIES OF THE MERGING SYSTEM;

(C) FUND ALL OTHER ACTUARIAL COSTS AT THE FUNDED RATIO OF THE CONTINUING SYSTEM BASED ON THE ACTUARIAL VALUATIONS AS OF DECEMBER 31, 2006; AND

(D) FULLY FUND THOSE COSTS INCIDENTAL TO THE MERGER IDENTIFIED IN THE MERGER AGREEMENT.

(II) IF THE PARTIES WISH TO TAKE INTO ACCOUNT EXPERIENCE FOLLOWING THE MERGER, THE PARTIES SHALL PROVIDE IN THE MERGER AGREEMENT FOR AN ESCROW ARRANGEMENT AS FOLLOWS:

(A) THE ACTUARIAL COST OF SUCH BENEFITS SHALL FIRST BE CALCULATED IN ACCORDANCE WITH THE HIGHEST REASONABLE ESTIMATE DETERMINED BY THE ACTUARIES FOR THE CONTINUING SYSTEM, AND FROM THE AMOUNT SO CALCULATED SHALL BE DEDUCTED AN AMOUNT CALCULATED AS THE LOWEST REASONABLE COST OF SUCH BENEFITS, SIMILARLY DETERMINED. THE RESULTING AMOUNT, PLUS INTEREST ON SUCH AMOUNT AT THE EARNINGS ASSUMPTION RATE APPLICABLE AT THE TIME THE ESCROW IS ESTABLISHED AND COMPOUNDED ANNUALLY FROM SUCH DATE TO THE DATE OF THE TERMINATION OF THE ESCROW, SHALL BE PLACED IN AN ESCROW ACCOUNT FOR ULTIMATE DISTRIBUTION AS HEREINAFTER PROVIDED. PAYMENT INTO THE ESCROW ACCOUNT SHALL BE MADE BY THE SCHOOL DISTRICT NO LATER THAN SIXTY DAYS AFTER THE EARLIER OF THE RECEIPT OF THE FINAL ACTUARIAL VALUATION OR THE END OF THE SCHOOL DISTRICT'S THEN-CURRENT FISCAL YEAR. THE PARTIES SHALL DETERMINE IN THE MERGER AGREEMENT DESCRIBED IN SUBSECTION (5) OF THIS SECTION THE PERIOD FOLLOWING THE EFFECTIVE DATE OF THE MERGER OVER WHICH ADDITIONAL EXPERIENCE IS TO BE ACCUMULATED REGARDING THE COST OF SUCH BENEFITS, WHICH PERIOD SHALL NOT EXCEED TEN YEARS FOLLOWING THE EFFECTIVE DATE OF THE MERGER. AT THE END OF SUCH PERIOD, A FINAL ACTUARIAL VALUATION OF THE COST OF THE PARTICULAR BENEFITS INVOLVED SHALL BE MADE.

(B) UPON CERTIFICATION OF SUCH COST BY THE ACTUARIES FOR THE CONTINUING SYSTEM, THE AMOUNT IN THE ESCROW ACCOUNT SHALL BE DISBURSED AS FOLLOWS: THE CONTINUING SYSTEM SHALL RECEIVE THE AMOUNT OF THE ACTUARIAL COST OF SUCH BENEFITS SO DETERMINED IN EXCESS OF THE AMOUNT PREVIOUSLY PAID AS THE LOWEST REASONABLE ESTIMATE OF SUCH COST PLUS INTEREST ON SUCH EXCESS FROM THE DATE OF ESTABLISHMENT OF THE ESCROW, CALCULATED AT THE EARNINGS ASSUMPTION RATE UTILIZED BY THE CONTINUING SYSTEM OVER THE PERIOD OF THE ESCROW AND COMPOUNDED ANNUALLY; AND ANY REMAINDER OF THE ESCROW ACCOUNT SHALL BE RETURNED TO THE SCHOOL DISTRICT.

(III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY PROCEEDS THAT ARE HELD IN A SEPARATE ACCOUNT TO SECURE THE SCHOOL DISTRICT'S OBLIGATION TO MAKE PAYMENTS TO THE CONTINUING SYSTEM IN CONNECTION WITH SUCH MERGER MAY BE INVESTED BY THE SCHOOL DISTRICT IN ANY INVESTMENT IN WHICH MONEYS OF THE CONTINUING SYSTEM MAY BE INVESTED. IF THE PROCEEDS SO INVESTED AND EARNINGS THEREON ARE IN EXCESS OF THE AMOUNTS PAYABLE TO THE CONTINUING SYSTEM IN CONNECTION WITH THE MERGER, THE EXCESS SHALL BE DEPOSITED IN THE GENERAL FUND OF THE SCHOOL DISTRICT AND SHALL BE USED TO PAY THE SCHOOL DISTRICT'S EMPLOYER CONTRIBUTION TO THE CONTINUING SYSTEM AFTER THE

MERGER, OR AS OTHERWISE AGREED BY THE SCHOOL DISTRICT AND THE CONTINUING SYSTEM.

(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~~ OF THE CONTINUING SYSTEM, employees OF THE CONTINUING SYSTEM AND THE SCHOOL DISTRICT, MEMBERS OF THE GOVERNING BODY OF THE SCHOOL DISTRICT, AND EMPLOYEES OF THE SCHOOL DISTRICT as named insureds. The insurance shall be maintained by the continuing system for ~~not less than ten years~~ A PERIOD AS AGREED UPON BY THE PARTIES after the date of merger, and the cost shall be paid by the school district or merging system OR BY THE ESCROW ACCOUNT DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (k) OF THIS SUBSECTION (4).

(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~~ A DATE AGREED UPON IN THE MERGER AGREEMENT DESCRIBED IN SUBSECTION (5) OF THIS SECTION, 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. THE SCHOOL DISTRICT AND THE CONTINUING SYSTEM MAY AGREE IN THE WRITTEN AGREEMENT TO AN ARRANGEMENT FOR FUNDING COSTS RELATED TO PREPARATION FOR THE MERGER, WITHOUT REGARD FOR WHETHER THE MERGER BECOMES EFFECTIVE.

(6) It is the intent of this section to protect AND 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.

SECTION 2. 22-64-220 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-64-220. Merger. (4) (a.5) IF, ON OR BEFORE DECEMBER 13, 2006, THE SCHOOL DISTRICT HAS NOT COMPLETED ISSUANCE OF AND RECEIVED THE PROCEEDS FROM THE PENSION CERTIFICATES OF PARTICIPATION IN CONNECTION WITH THE SALE OF LANDS, BUILDINGS, OR LANDS AND BUILDINGS AS DESCRIBED IN SECTION 22-45-112 (3), IN AN AMOUNT SUFFICIENT TO FUND THE AMOUNTS DUE TO THE CONTINUING SYSTEM UPON FINAL RECONCILIATION, AS DESCRIBED IN PARAGRAPHS (j) AND (k) OF THIS SUBSECTION (4) AS DETERMINED BY THE CONTINUING SYSTEM IN ACCORDANCE WITH THE TERMS OF THE WRITTEN AGREEMENT SPECIFIED IN SUBSECTION (5) OF THIS SECTION AND THE SCHOOL DISTRICT AND THE CONTINUING SYSTEM HAVE NOT MUTUALLY AGREED UPON ANOTHER FUNDING SOURCE, THEN THE CONTINUING SYSTEM MAY TERMINATE THE MERGER BY PROVIDING WRITTEN NOTICE OF THE TERMINATION TO THE OTHER PARTIES ON OR BEFORE DECEMBER 15, 2006.

SECTION 3. 22-45-112 (1), Colorado Revised Statutes, is amended, and the said 22-45-112 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-45-112. Sale of assets. (1) Except as authorized by subsection (2) OR (3) of this section, if lands, buildings, or lands and buildings are sold by a school district, the proceeds, less the costs, of such sale shall be deposited in and expended from either the bond redemption fund or the capital reserve fund, or both such funds of the school district, as determined by the board of education. This provision shall apply also to the proceeds from any insurance which may accrue as a result of fire, explosion, or other casualty when such insurance proceeds cannot be used in an advantageous manner to repair the property to which the damage occurred.

(3) THE PROCEEDS, LESS THE COSTS, OF THE SALE OF LANDS, BUILDINGS, OR LANDS AND BUILDINGS THAT ARE SOLD BY A SCHOOL DISTRICT MAY BE APPLIED, IN THE DISCRETION OF THE BOARD OF EDUCATION, TO PENSION LIABILITIES OF THE DISTRICT OR TO MAKE PAYMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION OF COLORADO OR OTHERS IN CONNECTION WITH THE MERGER OF THE RETIREMENT SYSTEM OF THE SCHOOL DISTRICT INTO THE ASSOCIATION PURSUANT TO SECTION 22-64-220. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY SUCH PROCEEDS THAT ARE HELD IN A SEPARATE ACCOUNT TO SECURE THE SCHOOL DISTRICT'S OBLIGATION TO MAKE PAYMENTS TO THE ASSOCIATION OR OTHERS IN CONNECTION WITH SUCH MERGER MAY BE INVESTED BY THE DISTRICT IN ANY INVESTMENT IN WHICH MONEYS OF THE ASSOCIATION MAY BE INVESTED. IF THE PROCEEDS SO INVESTED AND EARNINGS THEREON ARE IN EXCESS OF THE AMOUNTS PAYABLE TO THE ASSOCIATION OR OTHERS IN CONNECTION WITH THE MERGER, THE EXCESS SHALL BE DEPOSITED IN THE GENERAL FUND OF THE SCHOOL DISTRICT AND SHALL BE USED TO PAY THE SCHOOL DISTRICT'S EMPLOYER CONTRIBUTION TO THE ASSOCIATION AFTER THE MERGER.

SECTION 4. 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 Colorado association of school executives, 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, EXCEPT, UNTIL THE EFFECTIVE DATE OF THE MERGER DESCRIBED IN SECTIONS 22-64-220 (4) (a) AND 22-64-221, C.R.S., IN THE CITY AND COUNTY OF DENVER including a charter school district, 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 5. 24-51-219, Colorado Revised Statutes, is amended to read:

24-51-219. Merger of school district retirement system. (1) 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.

(2) ON AND AFTER THE EFFECTIVE DATE OF THE MERGER DESCRIBED IN SECTIONS 22-64-220 (4) (a) AND 22-64-221, C.R.S., THE BOARD SHALL BE AUTHORIZED TO ADMINISTER BENEFITS IN ACCORDANCE WITH SECTION 22-64-220 AND THE WRITTEN AGREEMENT DESCRIBED IN SECTION 22-64-220 (5), INCLUDING, BUT NOT LIMITED TO, ADMINISTERING THE PROVISIONS REGARDING THE BENEFIT INCREASES PURSUANT TO SECTION 22-64-220 (4) (c) (II), C.R.S.

SECTION 6. 24-51-602, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-51-602. Service retirement eligibility. (4) PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL APPLY TO PERSONS WHO:

(a) ON THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER WERE MEMBERS OF THE SCHOOL DISTRICT RETIREMENT SYSTEM CREATED PURSUANT TO PART 2 OF ARTICLE 64 OF TITLE 22, C.R.S., AND

(b) BECAME MEMBERS OF THE ASSOCIATION BECAUSE OF THE MERGER DESCRIBED IN SECTIONS 22-64-220 (4) (a) AND 22-64-221, C.R.S.

SECTION 7. 24-51-1002 (1) (a.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-51-1002. Annual percentages to be used. (1) (a.5) (III) SUBSECTION (1) OF THIS SECTION SHALL APPLY TO PERSONS WHO:

(A) WERE HIRED ON OR BEFORE JUNE 30, 2005, BY AN EMPLOYER PARTICIPATING IN A SCHOOL DISTRICT RETIREMENT SYSTEM CREATED PURSUANT TO PART 2 OF

ARTICLE 64 OF TITLE 22, C.R.S.;

(B) ON THE DAY BEFORE THE EFFECTIVE DATE OF THE MERGER, WERE MEMBERS OF THE SCHOOL DISTRICT RETIREMENT SYSTEM CREATED PURSUANT TO PART 2 OF ARTICLE 64 OF TITLE 22, C.R.S.; AND

(C) BECAME MEMBERS OF THE ASSOCIATION BECAUSE OF THE MERGER DESCRIBED IN SECTIONS 22-64-220 (4) (a) AND 22-64-221, C.R.S.

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: May 24, 2005