

CHAPTER 54

**GOVERNMENT - STATE**

HOUSE BILL 05-1231

BY REPRESENTATIVE(S) Harvey;  
also SENATOR(S) Tochtrop.

**AN ACT**

**CONCERNING STATE EMPLOYEE DEFINED CONTRIBUTION RETIREMENT PLANS.**

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

**SECTION 1.** 24-51-1502 (1) and (2) (a), Colorado Revised Statutes, as they will become effective January 1, 2006, are amended to read:

**24-51-1502. New state employees - election - definitions.** (1) Any eligible employee ~~of state government~~ pursuant to paragraph (a) of subsection (2) of this section shall elect, within sixty days of commencing employment, either to become a member of the association or to participate in a defined contribution plan established pursuant to part 2 of article 52 of this title. If an employee does not make such election within the sixty-day period, the employee shall become a member of the association.

(2) (a) For purposes of this part 15, "eligible employee" means an employee of ~~state government~~ AN EMPLOYER AS DEFINED IN SECTION 24-52-202 (5), who is hired on or after January 1, 2006, and WHO has not been a member ~~or retiree~~ of the association or an active participant in a defined contribution plan established pursuant to part 2 of article 52 of this title during the twelve months prior to the date that he or she commences employment. "ELIGIBLE EMPLOYEE" DOES NOT INCLUDE A RETIREE OR A RETIREE OF THE ASSOCIATION WHO HAS SUSPENDED BENEFITS.

**SECTION 2.** 24-51-1503 (2), Colorado Revised Statutes, as it will become effective January 1, 2006, is amended to read:

**24-51-1503. Defined contribution plan option.** (2) ~~A member of the defined contribution plan pursuant to this part 15 shall be eligible to continue such participation upon commencing employment in a different state position for which the~~

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

~~defined contribution plan is not available pursuant to this part 15. Such employee shall make a one-time irrevocable election within sixty days of commencing such employment to participate in a plan for which the employee is eligible or to continue participating in the association's defined contribution plan. Notwithstanding section 24-51-1506 (1), the employee shall have no further option after the irrevocable election to become a member of the association's defined benefit plan.~~ AN EMPLOYEE OF AN EMPLOYER AS DEFINED IN SECTION 24-52-202 (5), WHO IS HIRED ON OR AFTER JANUARY 1, 2006, AND WHO HAS BEEN A MEMBER OF THE ASSOCIATION'S DEFINED BENEFIT PLAN OR DEFINED CONTRIBUTION PLAN DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT THE EMPLOYEE COMMENCES EMPLOYMENT SHALL AUTOMATICALLY CONTINUE TO BE A MEMBER OF SUCH PLAN UPON COMMENCING EMPLOYMENT. THE EMPLOYEE SHALL BE CONSIDERED AN ELIGIBLE EMPLOYEE FOR PURPOSES OF SECTION 24-51-1506.

**SECTION 3.** 24-52-202 (3), Colorado Revised Statutes, as it will become effective July 1, 2005, is amended to read:

**24-52-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(3) "Eligible employee" means a member of the general assembly, the governor, the lieutenant governor, the attorney general, the chief deputy attorney general, the solicitor general, the secretary of state, the deputy secretary of state, the state treasurer, the deputy state treasurer, a district attorney, an assistant district attorney, a chief deputy district attorney, a deputy district attorney, or other employee of a district attorney, a member of the public utilities commission, an executive director of a department of state appointed by the governor, an employee of the senate or the house of representatives, A NONCLASSIFIED EMPLOYEE OF THE OFFICE OF THE GOVERNOR, AND any employee who commences employment with an employer on or after January 1, 2006, and WHO has not been a member ~~or retiree of the association or an active participant in a defined contribution plan established pursuant to this part 2~~ OF THE ASSOCIATION'S DEFINED BENEFIT PLAN OR DEFINED CONTRIBUTION PLAN during the twelve months prior to the date that he or she commenced employment, ~~and a nonclassified employee of the office of the governor~~, for whom a defined contribution plan has been established pursuant to the provisions of this part 2. "ELIGIBLE EMPLOYEE" DOES NOT INCLUDE A RETIREE OF THE ASSOCIATION OR A RETIREE OF THE ASSOCIATION WHO HAS SUSPENDED BENEFITS.

**SECTION 4.** 24-52-203 (3) (c), Colorado Revised Statutes, as it will become effective July 1, 2005, is amended to read:

**24-52-203. Establishment and administration of defined contribution plans.**

(3) The committee, for the defined contribution plan established or administered by the committee pursuant to this part 2:

(c) Shall select three separate and distinct bundled providers of investment products for the defined contribution plan established pursuant to this part 2. No other investment products or educational or administrative services shall be offered under the defined contribution plan other than those offered by the bundled providers; EXCEPT THAT THE COMMITTEE MAY RETAIN PROFESSIONAL ADVISORS AND INDEPENDENT CONSULTANTS OR EXPERTS TO ADVISE IT REGARDING THE PROPER

DISCHARGE OF THE COMMITTEE'S FIDUCIARY DUTY IF NECESSARY. The bundled providers shall be offered to all eligible employees effective July 1, 2005.

**SECTION 5.** 24-52-205 (1) and (2.5), Colorado Revised Statutes, as they will become effective July 1, 2005, are amended to read:

**24-52-205. Participation.** (1) (a) ~~Except as otherwise provided in paragraph (b) of this subsection (1),~~ Only eligible employees of an employer for which a defined contribution plan is offered pursuant to this part 2 may elect to participate in a defined contribution plan established or administered pursuant to this part 2.

(b) ~~Notwithstanding the provisions of paragraph (a) of this subsection (1), any eligible employee who participates in the defined contribution plan pursuant to this part 2 shall be eligible to continue such participation upon commencing employment in a different state position for which the defined contribution plan is not available pursuant to this part 2. Such employee shall make a one-time irrevocable election within sixty days of commencing such employment to participate in a plan for which the employee is eligible or to continue participating in the defined contribution plan. UPON TERMINATION OF EMPLOYMENT FOR WHICH AN EMPLOYEE IS ELIGIBLE TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN PURSUANT TO THIS PART 2, THE PARTICIPANT'S ACCRUED BALANCE IN THE PLAN SHALL REMAIN FULLY VESTED AND THE PARTICIPANT MAY ROLLOVER, REQUEST DISTRIBUTION, TRANSFER, OR RETAIN HIS OR HER BALANCE IN THE PLAN PURSUANT TO THE TERMS OF THE PLAN, ANY CONTRACT APPLICABLE TO THE PLAN, AND THE REQUIREMENTS OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 401 ET SEQ., AS AMENDED.~~

(2.5) (a) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (2.5), any employee who becomes an eligible employee on or after January 1, 2006, shall make an irrevocable written election within sixty days of commencing employment in such position to participate in the association or in a defined contribution plan in which the employee is eligible to participate pursuant to the provisions of this part 2. In the absence of such written election, such person shall be a member of the association.

(b) ANY EMPLOYEE OF AN EMPLOYER WHO IS HIRED ON OR AFTER JANUARY 1, 2006, AND WHO HAS PARTICIPATED IN THE DEFINED CONTRIBUTION PLAN PURSUANT TO THIS PART 2 AT ANY TIME DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT THE EMPLOYEE COMMENCES EMPLOYMENT SHALL AUTOMATICALLY CONTINUE PARTICIPATION IN THE PLAN UPON COMMENCING EMPLOYMENT.

**SECTION 6. 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 7, 2005