

## CHAPTER 194

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**GOVERNMENT - STATE**

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SENATE BILL 07-156

BY SENATOR(S) Harvey, Kopp, and Tochtrop;  
also REPRESENTATIVE(S) Swalm, Lambert, and Loopier.**AN ACT****CONCERNING THE ADMINISTRATION OF STATE RETIREMENT PLANS THAT ARE NOT DEFINED BENEFIT PLANS.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 24-52-102 (2) (c) and (5), Colorado Revised Statutes, are amended to read:

**24-52-102. Deferred compensation plan - state deferred compensation committee.** (2) (c) The state deferred compensation plan, THE EMPLOYER MATCH PLAN ESTABLISHED PURSUANT TO SECTION 24-52-104, AND THE PUBLIC OFFICIALS' AND EMPLOYEES' DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO SECTION 24-52-201 shall be managed by the state personnel director, who shall be the executive officer of the ~~plan~~ PLANS, and such assistants and employees as in the opinion of the director are necessary to carry out the provisions of this part 1. All assistants and employees shall be appointed pursuant to section 13 of article XII of the state constitution and shall receive such compensation and reimbursement of expenses incurred in the performance of their duties as other employees of the state government.

(5) (a) The committee may assess each ~~state~~ participant a fee for administering the state deferred compensation plan that shall be automatically deducted and that shall not exceed one percent of the participating employee's assets in the state deferred compensation plan. All fees collected pursuant to this subsection (5) shall be transmitted to EITHER the state treasurer, who shall credit the same to the deferred compensation administration fund, which fund is hereby created OR HELD IN A SEPARATE FUND IN THE EXCLUSIVE BENEFIT TRUST CREATED PURSUANT TO SECTION 24-52-102 (2) (a). All investment income derived from moneys in ~~the~~ EACH fund shall be credited to the fund. At the end of any fiscal year, all unexpended and

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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.*

unencumbered moneys in ~~the~~ EACH fund shall remain therein and shall not be credited or transferred to the general fund or any other fund OF THE STATE. The general assembly shall make annual appropriations from such ~~fund~~ FUNDS for the direct and indirect costs of administration of the deferred compensation plan under this part 1. EACH YEAR THE COMMITTEE SHALL ESTABLISH A REASONABLE LEVEL OF RESERVES FOR THE FUNDS BASED UPON THE PRIOR YEARS' REVENUE AND EXPENSES AND THE PROJECTIONS FOR THE NEXT YEAR. Any fees or other moneys collected pursuant to this subsection (5) that are in excess of ~~expenditures~~ THE RESERVES ESTABLISHED BY THE COMMITTEE shall be used to reduce deferred compensation plan participants' annual fees in subsequent years OR, TO THE EXTENT PERMITTED BY LAW, MAY BE CREDITED BACK TO PARTICIPANT ACCOUNTS. In addition to assessing all or a portion of a fee pursuant to this paragraph (a), the committee may contract with a vendor to pay all or a portion of the vendor's costs and reimburse the state for any or a portion of any costs of administering the deferred compensation plan.

(b) Compensation deferred by participants in the state deferred compensation plan shall be ~~credited to the deferred compensation plan asset fund, which fund is hereby created. All investment income derived from compensation deferred by deferred compensation plan participants prior to the transmittal of such deferrals to the plan shall be credited to the state deferred compensation administration fund created in paragraph (a) of this subsection (5) for the purpose of reducing the administrative fees of plan participants~~ TRANSMITTED TO THE EXCLUSIVE BENEFIT TRUST CREATED PURSUANT TO SECTION 24-52-102 (2) (a) AS SOON AS ADMINISTRATIVELY FEASIBLE AND CREDITED TO EACH PARTICIPANT ACCOUNT.

**SECTION 2.** 24-52-203 (1) and (9) (b), Colorado Revised Statutes, are amended to read:

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

(1) The committee shall have the authority to establish and administer a defined contribution plan pursuant to the provisions of this part 2. The committee shall maintain such plan on and after July 1, 2002. ~~The department of personnel shall provide necessary administrative support to the committee in connection with the establishment and administration of a defined contribution plan established or administered by the committee.~~ THE PLAN SHALL BE MANAGED BY THE STATE PERSONNEL DIRECTOR, WHO SHALL BE THE EXECUTIVE OFFICER OF THE PLAN, AND SUCH ASSISTANTS AND EMPLOYEES AS IN THE OPINION OF THE DIRECTOR ARE NECESSARY TO CARRYOUT THE PROVISIONS OF THIS PART 2. THE COMMITTEE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF IT WERE TRANSFERRED TO THE DEPARTMENT OF PERSONNEL BY A **TYPE 1** TRANSFER, AS SUCH TRANSFER IS DEFINED BY THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF THIS TITLE.

(9) (b) All fees collected pursuant to paragraph (a) of this subsection (9) shall be transmitted to EITHER the state treasurer, who shall credit the same to the defined contribution plan administration fund, which fund is hereby created OR HELD IN A SEPARATE FUND IN THE EXCLUSIVE BENEFIT TRUST CREATED UNDER THE PLAN. The general assembly shall make annual appropriations from ~~the~~ EACH fund for the direct and indirect costs of administration of any plan established under this part 2. All investment income derived from moneys in ~~the~~ EACH fund shall be credited to

the fund. EACH YEAR THE COMMITTEE SHALL ESTABLISH A REASONABLE LEVEL OF RESERVES FOR THE FUNDS BASED ON THE PRIOR YEARS' REVENUE AND EXPENSES AND THE PROJECTIONS FOR THE NEXT YEAR. At the end of any fiscal year, all unexpended and unencumbered moneys in the ~~fund~~ FUNDS IN EXCESS OF THE RESERVE ESTABLISHED BY THE COMMITTEE shall remain therein and shall not be credited or transferred to the general fund or any other fund OF THE STATE. Any fees or other moneys in excess of expenditures shall be used to reduce defined contribution plan ~~providers'~~ PARTICIPANT annual fees in subsequent years, OR TO THE EXTENT PERMITTED BY LAW, MAY BE CREDITED BACK TO PARTICIPANT ACCOUNTS.

**SECTION 3.** 24-52-204, Colorado Revised Statutes, is amended to read:

**24-52-204. Employer and employee contributions.** Rates for employer and employee contributions to a defined contribution plan established pursuant to this part 2 shall be the same as the rates that would be payable by such employer and employee to the association for the state division pursuant to section 24-51-401. FOR PURPOSES OF DEFERRING FEDERAL INCOME TAX IMPOSED ON SALARY, THE EMPLOYEE CONTRIBUTIONS ASSUMED AND PAID FOR BY THE EMPLOYER SHALL BE IN LIEU OF PAYING SUCH AMOUNTS AS SALARY AND SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS PURSUANT TO THE PROVISIONS OF 26 U.S.C. SEC. 414 (h) (2), AS AMENDED. FOR ALL OTHER PURPOSES OF THIS ARTICLE, EMPLOYEE CONTRIBUTIONS ASSUMED AND PAID FOR BY THE EMPLOYER SHALL BE CONSIDERED EMPLOYEE CONTRIBUTIONS.

**SECTION 4. 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, (August 8, 2007, if adjournment sine die is on May 9, 2007); 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.

Approved: May 3, 2007