

## CHAPTER 426

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**GOVERNMENT - STATE**

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HOUSE BILL 07-1377

BY REPRESENTATIVE(S) Pommer, Jahn, Labuda, Marostica, and Todd;  
also SENATOR(S) Gordon.**AN ACT****CONCERNING THE REPEAL OF THE AUTHORITY OF AN EMPLOYEE OF AN INSTITUTION OF HIGHER  
EDUCATION TO PARTICIPATE IN SPECIFIED PUBLIC RETIREMENT PLANS.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 24-51-310 (1) (b), Colorado Revised Statutes, as it will become effective January 1, 2008, is amended to read:**24-51-310. Persons not eligible for membership.** (1) Persons not eligible for membership in the association include:

(b) University of Colorado president, chancellors, deans, other professionals exempt from the state personnel system, and faculty whose retirement program as determined by the board of regents is provided by social security and the university's qualified retirement plan; ~~unless any such employee is an eligible employee as defined in section 24-51-1502 (2) (a);~~ except that persons covered by the plan shall remain members.

**SECTION 2.** 24-51-1502, Colorado Revised Statutes, as it will become effective January 1, 2008, is amended to read:**24-51-1502. New state employees - election - definitions.** (1) Any eligible employee pursuant to paragraph (a) of subsection (2) of this section, EXCEPT EMPLOYEES OF COMMUNITY COLLEGES GOVERNED BY THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION, 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. ~~or, for eligible employees of any state college or university as defined in section 24-54.5-102 (7) and any institution under the control of the board~~

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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.*

of regents of the university of Colorado, a defined contribution plan established for such employee by such college, university, or institution. 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 an employer as defined in section 24-52-202 (5) ~~other than a state college or university as defined in section 24-54.5-102 (7) and any institution under the control of the board of regents of the university of Colorado~~, who is hired on or after January 1, 2006, and who, if not commencing employment in a state elected official's position, has not been a member 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. ~~Effective January 1, 2008, "eligible employee" shall also include an employee of a state college or university as defined in section 24-54.5-102 (7) and any institution under the control of the board of regents of the university of Colorado who is hired on or after January 1, 2008, and who has not been a member of the association or an active participant in a defined contribution plan established pursuant to part 2 of article 52 of this title or active participant in a defined contribution plan established by such college, university, or institution during the twelve months prior to the date that he or she commences employment.~~ "Eligible employee" includes a retiree of the association who is serving in a state elected official's position, but does not include any other retiree of the association or a retiree of the association who has suspended benefits.

(b) An employee who is covered by a defined contribution plan pursuant to article 54.6 of this title or who is an employee of ANY STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7), ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, OR an institution governed pursuant to part 5 of article 21 of title 23, C.R.S., shall not be eligible to make the election pursuant to subsection (1) of this section.

**SECTION 3.** Part 15 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-51-1502.5. New community college employees - election.** AN EMPLOYEE OF A COMMUNITY COLLEGE GOVERNED BY THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION WHO IS HIRED ON OR AFTER JANUARY 1, 2008, AND WHO HAS NOT BEEN A MEMBER OF THE ASSOCIATION DURING THE TWELVE MONTHS PRIOR TO THE DATE THAT HE OR SHE COMMENCES EMPLOYMENT, SHALL BECOME A PARTICIPANT OF THE ASSOCIATION AND HAVE THE ELECTION PROVIDED IN SECTION 24-51-1503. THE EMPLOYEE SHALL BE CONSIDERED AN ELIGIBLE EMPLOYEE FOR PURPOSES OF SECTIONS 24-51-1503 AND 24-51-1506.

**SECTION 4.** 24-51-1503 (2), Colorado Revised Statutes, is amended to read:

**24-51-1503. Defined contribution plan option.** (2) An employee of an employer as defined in section 24-52-202 (5), who is hired on or after January 1, 2006, OR AN EMPLOYEE OF A COMMUNITY COLLEGE GOVERNED BY THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION WHO IS HIRED ON OR AFTER JANUARY 1, 2008, 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 5.** 24-51-1505, Colorado Revised Statutes, is amended to read:

**24-51-1505. Contributions - vesting.** (1) Contribution rates to the defined contribution plan by ~~the state~~ AN EMPLOYER and by members of the defined contribution plan established pursuant to this part 15 shall be the same as the rates that would be payable by the ~~state~~ EMPLOYER and the member pursuant to section 24-51-401.

(2) The ~~state~~ employer shall deliver all contributions to the service provider designated by the association within five days after the date members are paid and consistent with the provisions of section 24-51-401(1.7) (b) to (1.7) (d).

(3) Members of the defined contribution plan shall be immediately and fully vested in their own contributions to the plan, together with accumulated investment gains or losses. Members shall be immediately vested in fifty percent of the ~~state's~~ EMPLOYER'S contribution to the plan, together with accumulated investment gains or losses on that vested portion. For each full year of membership in the defined contribution plan, the vesting percentage shall increase by ten percent. The vesting percentage in the ~~state's~~ EMPLOYER'S contribution, with accumulated earnings or losses, shall be one hundred percent for all members with five or more years of membership in the defined contribution plan.

**SECTION 6.** 24-52-202 (3) and (5), Colorado Revised Statutes, as they will become effective January 1, 2008, are 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 ~~other than a state college or university as defined in section 24-54.5-102 (7) and any institution under the control of the board of regents of the university of Colorado~~, on or after January 1, 2006, and who, if not commencing employment in a state elected official's position, has not been a member 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, for whom a defined contribution plan has been established pursuant to the provisions of this part 2. ~~Effective January 1, 2008, "eligible employee" shall also include any employee who commences employment with a state college or university as defined in section 24-54.5-102 (7) and any~~

~~institution under the control of the board of regents of the university of Colorado on or after January 1, 2008, and who has not been a member of the association's defined benefit plan or defined contribution plan or an active participant in a defined contribution plan established by such college, university, or institution during the twelve months prior to the date that he or she commenced employment, for whom a defined contribution plan has been established pursuant to the provisions of this part 2. "Eligible employee" includes a retiree of the association who is serving in a state elected official's position, but does not include any other retiree of the association or a retiree of the association who has suspended benefits.~~

(5) "Employer" means the state, the general assembly, the office of a district attorney in a judicial district, and any state department that employs an eligible employee. ~~and any state college or university as defined in section 24-54.5-102 (7) and any institution under control of the board of regents of the university of Colorado.~~ "Employer" shall not include ANY STATE COLLEGE OR UNIVERSITY AS DEFINED IN SECTION 24-54.5-102 (7), ANY INSTITUTION UNDER THE CONTROL OF THE BOARD OF REGENTS OF THE UNIVERSITY OF COLORADO, OR an institution governed pursuant to part 5 of article 21 of title 23, C.R.S.

**SECTION 7.** 24-52-205 (2.5) (a), Colorado Revised Statutes, as it will become effective January 1, 2008, is amended to read:

**24-52-205. Participation.** (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. ~~or, for eligible employees of a state college or university as defined in section 24-54.5-102 (7) and any institution under the control of the board of regents of the university of Colorado, a defined contribution plan established for such employees by such college, university, or institution.~~ In the absence of such written election, such person shall be a member of the association.

**SECTION 8. Repeal.** 24-54.5-105 (2) (b.5), Colorado Revised Statutes, as it will become effective January 1, 2008, is repealed as follows:

**24-54.5-105. Participation.** (2) (b.5) ~~Notwithstanding paragraphs (a) and (b) of this subsection (2), any eligible employee who is initially appointed to an eligible position on or after the later of January 1, 2008, or the effective date of the establishment of one or more optional retirement plans at such eligible employee's employer institution shall elect, within thirty days after such appointment, either:~~

~~(f) To join the association or the defined contribution plan established pursuant to part 2 of article 52 of this title in accordance with the provisions of the laws applicable thereto; or~~

~~(H) To participate in an optional retirement plan established by the eligible employee's employing institution pursuant to the provisions of this article.~~

**SECTION 9.** 24-54.5-106 (2) and (3), Colorado Revised Statutes, as they will become effective January 1, 2008, are amended to read:

**24-54.5-106. Public employees' retirement association - ineligibility.** (2) ANY ELIGIBLE EMPLOYEE WHO PARTICIPATES IN AN OPTIONAL RETIREMENT PLAN ESTABLISHED FOR SUCH ELIGIBLE EMPLOYEE'S EMPLOYING INSTITUTION SHALL BE INELIGIBLE FOR MEMBERSHIP IN THE ASSOCIATION SO LONG AS SUCH ELIGIBLE EMPLOYEE IS EMPLOYED IN ANY ELIGIBLE POSITION BY A STATE COLLEGE OR UNIVERSITY. In the event an optional retirement plan participant accepts a government position for which an optional retirement plan is not available, such participant shall cease participation in the optional retirement plan at the time of termination of employment in an eligible position and shall begin participation in the association to the extent that participation in the association is otherwise required by law.

~~(3) Notwithstanding the provisions of subsection (1) of this section, eligible employees of state colleges and universities who are initially appointed to an eligible position on or after January 1, 2008, for which no optional retirement plan has been established shall participate in plans as provided in part 15 of article 51 or part 2 of article 52 of this title.~~

**SECTION 10. Effective date.** (1) This act shall take effect January 1, 2008.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-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, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

Approved: June 1, 2007