

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0481.02 Nicole Hoffman

HOUSE BILL 06-1083

HOUSE SPONSORSHIP

Stengel,

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION,
102 AND, IN CONNECTION THEREWITH, CREATING A NEW BOARD TO
103 ADMINISTER THE ASSOCIATION AND CREATING A DEFINED
104 CONTRIBUTION PLAN FOR PUBLIC EMPLOYEES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Provides that the state treasurer shall have direct oversight of the public employees' retirement association (PERA) and that PERA shall be subject to administrative direction by the state treasurer.

Abolishes the PERA board of trustees and terminates the terms of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

members of the PERA board of trustees as of a specified date.

Creates a new PERA board (board) to administer PERA's defined benefit plan and the newly created defined contribution plan. States that the board consists of the state auditor, the state treasurer, and 7 trustees to be appointed by the governor. Requires that all trustees of the board be professionally credentialed or have recognized competence in investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis. Requires the board to provide annual training to the trustees on the board on the duties and powers of a fiduciary of a state fund and other training as necessary to keep the trustees educated about pension management and investment.

Requires the board to submit an initial report to the general assembly within 120 days of the beginning of the terms of the trustees first appointed to the board. States that the report shall include a preliminary assessment of the financial status of PERA, including the defined benefit plan, and preliminary recommendations for improving the financial stability of PERA. Specifies the duties of the board.

Specifies that a maximum amortization period of 30 years shall be considered actuarially sound for the defined benefit plan. States that an actuarial necessity shall exist when the defined benefit plan is not actuarially sound and that in the event of an actuarial necessity, the general assembly may modify the benefits allowed to certain members of PERA.

Repeals the provision that allows members in the defined benefit plan to purchase service credit for service credit forfeited with a refund.

Eliminates the existing defined contribution plan administered by PERA, and specifies that all employees who are members of the existing defined contribution plan shall become members of a newly established defined contribution plan.

Establishes a defined contribution plan for public employees. Requires that employees first hired on or after a specified date shall become members of the defined contribution plan and shall not have the option to become a member of the defined benefit plan. Allows employees who are members of the defined benefit plan and who are not entitled to full or partial retirement benefits to elect to participate in the defined contribution plan. States that such an election shall be irrevocable.

Specifies the amount of employee and employer contributions that shall be made to the individual account of an employee who is a member of the defined contribution plan. States that on a specified date, the amount of the employee contribution shall increase by one-half of one percent of the employee's salary annually, until the amount of the employee contribution is an amount equal to the employer contribution.

Specifies the vesting requirements for members of the defined contribution plan. Allows each member of the defined contribution plan

to exercise control of the investment of the member's account under the defined contribution plan. Directs the board to select investment alternatives for the members of the defined contribution plan that provide a choice between risk and return in the investment. Specifies that PERA and employers shall not be responsible for any financial losses experienced by members in the defined contribution plan.

Directs the board to establish distribution options for members in the defined contribution plan. Specifies the rights of members in the defined contribution plan.

Makes conforming amendments. Defines terms.

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

2 **SECTION 1.** 24-51-101 (3), (5), (9), (21), (23), (28), (30), and
3 (31), Colorado Revised Statutes, are amended, and the said 24-51-101 is
4 further amended BY THE ADDITION OF THE FOLLOWING NEW
5 SUBSECTIONS, to read:

6 **24-51-101. Definitions - repeal.** As used in this article, unless
7 the context otherwise requires:

8 (3) "Actuarial valuation" means the determination, as of a
9 valuation date, of the normal cost, actuarial accrued liability, actuarial
10 value of assets, and related actuarial present values of the DEFINED
11 BENEFIT plan.

12 (5) "Amortization period" means the number of years ~~which~~ THAT
13 is required to gradually extinguish the unfunded actuarial accrued
14 liabilities of the DEFINED BENEFIT plan if future actuarial experience
15 exactly matches the assumptions set by the board.

16 (9) "Board" means:

17 (a) (I) PRIOR TO JANUARY 1, 2008, the board of trustees created
18 pursuant to the provisions of section 24-51-202 ~~which~~ THAT has such
19 duties and powers authorized by this article for the management of the
20 association.

1 (II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1,
2 2008.

3 (b) ON AND AFTER JANUARY 1, 2008, THE BOARD OF TRUSTEES
4 CREATED PURSUANT TO THE PROVISIONS OF SECTION 24-51-203.5 THAT
5 HAS SUCH DUTIES AND POWERS AUTHORIZED BY THIS ARTICLE FOR THE
6 MANAGEMENT OF THE ASSOCIATION.

7 (13.3) "DEFINED BENEFIT PLAN" MEANS THE DEFINED BENEFIT
8 PLAN ADMINISTERED PURSUANT TO PARTS 4 TO 11 OF THIS ARTICLE.

9 (13.7) "DEFINED CONTRIBUTION PLAN" MEANS THE DEFINED
10 CONTRIBUTION PLAN CREATED AND ADMINISTERED PURSUANT TO PART 16
11 OF THIS ARTICLE.

12 (21) "Employer contribution" means the money paid by an
13 employer to the association pursuant to the provisions of section
14 24-51-401 (1.7) AND PURSUANT TO THE PROVISIONS OF PART 16 OF THIS
15 ARTICLE for all member salaries paid and other required employer
16 contributions made pursuant to the provisions of section 24-51-402.

17 (23) "Fund" means the total assets of the association which are
18 credited to the various trust funds established and invested by the
19 association FOR PURPOSES OF THE DEFINED BENEFIT PLAN pursuant to the
20 provisions of this article.

21 (28) "Interest" means:

22 (a) The actuarial investment assumption rate compounded
23 annually for any interest charged to a member or benefit recipient
24 pursuant to the provisions of this article;

25 (b) The applicable actuarial investment assumption rate
26 compounded annually for any interest charged to an employer pursuant
27 to the provisions of this article; ~~and~~

1 (c) The rate established by the board for each calendar year
2 pursuant to the provisions of section 24-51-407 for interest on member
3 contributions; AND

4 (d) THE RATE ESTABLISHED BY THE BOARD FOR EACH CALENDAR
5 YEAR PURSUANT TO THE PROVISIONS OF PART 16 OF THIS ARTICLE FOR
6 INTEREST ON MEMBER CONTRIBUTIONS TO THE DEFINED CONTRIBUTION
7 PLAN.

8 (30) "Member contribution" means the money paid to the
9 association which equals a percentage of the member's salary as
10 determined pursuant to the provisions of section 24-51-401 (1.7) OR
11 PURSUANT TO THE PROVISIONS OF PART 16 OF THIS ARTICLE.

12 (31) "Member contribution account" means an account maintained
13 for each member IN THE DEFINED BENEFIT PLAN in the member
14 contribution reserve to which member contributions, interest on member
15 contributions, payments in lieu of member contributions, and payments
16 and interest made for purchases of service credit are credited.

17 **SECTION 2.** 24-51-201 (1) and the introductory portion to
18 24-51-201 (2), Colorado Revised Statutes, are amended to read:

19 **24-51-201. Public employees' retirement association - creation**
20 **- termination.** (1) There is hereby created the public employees'
21 retirement association, for the purpose of providing the benefits and
22 programs specified in this article, which shall be a body corporate with
23 the right to sue and be sued and the right to hold property for its use and
24 purposes. ~~Notwithstanding~~ IN ADDITION TO the applicability of sections
25 2-3-103, 24-4-103, 24-6-202, and 24-6-402, C.R.S., as provided for in
26 this article, the association shall ~~not~~ be subject to administrative direction
27 by THE STATE TREASURER AND any department, commission, board,

1 bureau, or agency of the state AS DETERMINED BY THE STATE TREASURER.

2 The association is an instrumentality of the state.

3 (2) The DEFINED BENEFIT PLAN OF THE public employees'
4 retirement association, created pursuant to the provisions of subsection
5 (1) of this section, shall consist of the following divisions:

6 **SECTION 3.** 24-51-202, Colorado Revised Statutes, is amended
7 to read:

8 **24-51-202. Board of trustees - creation - termination - repeal.**

9 (1) (a) There is hereby created the board of trustees of the association,
10 which shall have the responsibilities, duties, and authorities as set forth
11 in this article.

12 (b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JANUARY 1,
13 2008.

14 (2) ON JANUARY 1, 2008, THE BOARD OF TRUSTEES OF THE PUBLIC
15 EMPLOYEES' RETIREMENT ASSOCIATION SHALL BE ABOLISHED AND THE
16 TERMS OF THE MEMBERS OF THE BOARD SERVING AS SUCH IMMEDIATELY
17 PRIOR TO JANUARY 1, 2008, SHALL BE TERMINATED.

18 (3) ON AND AFTER JANUARY 1, 2008, ANY REFERENCE TO THE
19 "BOARD" IN THIS ARTICLE SHALL BE A REFERENCE TO THE ASSOCIATION
20 BOARD, CREATED IN SECTION 24-51-203.5.

21 **SECTION 4.** 24-51-203, Colorado Revised Statutes, is amended
22 BY THE ADDITION OF A NEW SUBSECTION to read:

23 **24-51-203. Board - composition and election - repeal.** (6) THIS
24 SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2008.

25 **SECTION 5.** Part 2 of article 51 of title 24, Colorado Revised
26 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
27 SECTIONS to read:

1 SERVE AN INITIAL TERM OF THREE YEARS, AND THREE SHALL SERVE AN
2 INITIAL TERM OF FOUR YEARS. AT THE TIME OF THE APPOINTMENTS, THE
3 GOVERNOR SHALL DESIGNATE WHICH TRUSTEES SERVE WHICH INITIAL
4 TERMS. A TRUSTEE OF THE BOARD MAY SERVE NO MORE THAN TWO
5 CONSECUTIVE TERMS.

6 (4) THE GOVERNOR MAY, BY WRITTEN NOTICE TO THE TRUSTEE,
7 REMOVE AN APPOINTED TRUSTEE FOR CAUSE. AFTER AN APPOINTED
8 TRUSTEE RECEIVES WRITTEN NOTICE OF REMOVAL, THE TRUSTEE SHALL
9 NOT PARTICIPATE IN BOARD BUSINESS AND SHALL NOT BE COUNTED FOR
10 PURPOSES OF ESTABLISHING A QUORUM.

11 (5) A VACANCY ON THE BOARD SHALL BE PROMPTLY FILLED. A
12 PERSON FILLING A VACANCY HOLDS OFFICE FOR THE BALANCE OF THE
13 UNEXPIRED TERM OF THE PERSON'S PREDECESSOR. A VACANCY ON THE
14 BOARD SHALL NOT IMPAIR THE AUTHORITY OF A QUORUM OF THE BOARD
15 TO EXERCISE ALL THE POWERS AND PERFORM ALL THE DUTIES OF THE
16 BOARD.

17 (6) FIVE TRUSTEES SHALL CONSTITUTE A QUORUM FOR THE
18 TRANSACTION OF BUSINESS AND THE EXERCISE OF THE POWERS AND
19 DUTIES OF THE BOARD. A TRUSTEE SHALL NOT DESIGNATE ANOTHER
20 PERSON TO SERVE ON THE BOARD IN HIS OR HER ABSENCE.

21 (7) THE TRUSTEES OF THE BOARD SHALL BE COMPENSATED ONE
22 HUNDRED DOLLARS PER DIEM. IN ADDITION TO PER DIEM COMPENSATION,
23 THE TRUSTEES SHALL BE REIMBURSED BY THE ASSOCIATION FOR ANY
24 NECESSARY EXPENSES INCURRED IN THE CONDUCT OF THEIR OFFICIAL
25 DUTIES AND SHALL SUFFER NO LOSS OF SALARY FROM AN EMPLOYER FOR
26 SERVICE ON THE BOARD.

27 (8) THE BOARD SHALL PROVIDE ANNUAL TRAINING TO ITS

1 TRUSTEES ON THE DUTIES AND POWERS OF A FIDUCIARY OF A STATE FUND
2 AND OTHER TRAINING AS NECESSARY TO KEEP THE TRUSTEES EDUCATED
3 ABOUT PENSION MANAGEMENT AND INVESTMENT.

4 **24-51-203.7. Initial report from the board.** WITHIN ONE
5 HUNDRED TWENTY DAYS OF THE BEGINNING OF THE FIRST TERM OF THE
6 INITIAL TRUSTEES OF THE BOARD, THE BOARD SHALL PROVIDE THE
7 GENERAL ASSEMBLY WITH A PRELIMINARY ASSESSMENT OF THE FINANCIAL
8 STATUS OF THE ASSOCIATION, INCLUDING THE DEFINED BENEFIT PLAN, AND
9 PRELIMINARY RECOMMENDATIONS FOR IMPROVING THE FINANCIAL
10 STABILITY OF THE ASSOCIATION.

11 **SECTION 6.** 24-51-204, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
13 read:

14 **24-51-204. Duties of the board.** (6.5) THE BOARD SHALL
15 CONTRACT FOR AN INDEPENDENT FINANCIAL AND PERFORMANCE AUDIT OF
16 ALL FINANCIAL TRANSACTIONS AND ACCOUNTS KEPT BY OR FOR THE
17 ASSOCIATION BY A PRIVATE AUDITOR AT LEAST ONCE EVERY TWO YEARS.
18 TO THE EXTENT PRACTICABLE, THE AUDITS CONDUCTED PURSUANT TO
19 THIS SUBSECTION (6.5) MAY BE STAGGERED WITH THE AUDITS CONDUCTED
20 PURSUANT TO SUBSECTION (6) OF THIS SECTION.

21 (11) THE BOARD SHALL DETERMINE THE APPROPRIATE
22 INVESTMENT OBJECTIVES FOR THE DEFINED BENEFIT PLAN ESTABLISHED
23 PURSUANT TO THIS ARTICLE.

24 (12) AFTER REVIEWING RECOMMENDATIONS FROM TWO FINANCIAL
25 INSTITUTIONS, THE BOARD SHALL ADOPT INVESTMENT POLICIES FOR EACH
26 OF THE FUNDS ENTRUSTED TO THE BOARD.

27 **SECTION 7.** 24-51-205 (1), Colorado Revised Statutes, is

1 amended to read:

2 **24-51-205. General authority of the board.** (1) The board shall
3 have the authority to determine membership status within the state,
4 school, local government, and judicial divisions OF THE DEFINED BENEFIT
5 PLAN; MEMBERSHIP STATUS FOR THE DEFINED CONTRIBUTION PLAN;
6 exemptions from membership; eligibility for benefits, life insurance,
7 health care, and the voluntary investment program; and service credit and
8 salary to be used in calculations pursuant to the provisions of this article.
9 Such decisions by the board may be appealed through the administrative
10 review procedures set forth in the board rules. Such final decision by the
11 board shall be subject only to review by proper court action.

12 **SECTION 8.** 24-51-206 (1), Colorado Revised Statutes, is
13 amended to read:

14 **24-51-206. Investments - defined benefit plan.** (1) The board
15 shall have ~~complete~~ control and authority to invest the funds of the
16 association ~~Preference shall be given to Colorado investments consistent~~
17 ~~with sound investment policy~~ AS SPECIFIED IN THIS SECTION.

18 **SECTION 9.** 24-51-211, Colorado Revised Statutes, is amended
19 to read:

20 **24-51-211. Amortization of liabilities.** An amortization period
21 for each of the state division, school division, local government division,
22 and judicial division trust funds shall be calculated separately. A
23 maximum amortization period of ~~forty~~ THIRTY years shall be deemed
24 actuarially sound. Upon recommendation of the board, and with the
25 advice of the actuary, the employer or member contribution rates for the
26 plan may be adjusted by the general assembly when indicated by actuarial
27 experience.

1 **SECTION 10.** Part 2 of article 51 of title 24, Colorado Revised
2 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
3 read:

4 **24-51-211.5. Actuarial necessity.** AN ACTUARIAL NECESSITY
5 SHALL EXIST FOR THE ASSOCIATION WHEN THE DEFINED BENEFIT PLAN IS
6 NOT ACTUARIALLY SOUND PURSUANT TO SECTION 24-51-211. IN THE
7 EVENT OF AN ACTUARIAL NECESSITY, THE GENERAL ASSEMBLY MAY BY
8 LAW MODIFY THE BENEFITS ALLOWED TO MEMBERS OF THE DEFINED
9 BENEFIT PLAN, SO LONG AS THE BENEFITS OF MEMBERS WHO ARE ELIGIBLE
10 FOR A SERVICE RETIREMENT BENEFIT OR A REDUCED SERVICE RETIREMENT
11 BENEFIT UNDER THE DEFINED BENEFIT PLAN PURSUANT TO SECTIONS
12 24-51-602 AND 24-51-604, RESPECTIVELY, ARE NOT MODIFIED.

13 **SECTION 11. Repeal.** 24-51-503, Colorado Revised Statutes,
14 is repealed as follows:

15 **24-51-503. Purchase of service credit relating to a refunded**
16 **member contribution account.** ~~(1) Except as otherwise provided in~~
17 ~~section 24-51-318, the service credit forfeited with a refund pursuant to~~
18 ~~the provisions of section 24-51-405 may be purchased upon the former~~
19 ~~member's resumption of membership and after completion of one year of~~
20 ~~earned service credit by such member.~~

21 ~~(2) The cost to purchase the forfeited service credit shall be the~~
22 ~~amount refunded plus interest accrued from the date of refund to~~
23 ~~completion of purchase.~~

24 ~~(3) Repealed.~~

25 **SECTION 12.** 24-51-1501, Colorado Revised Statutes, is
26 amended to read:

27 **24-51-1501. Defined contribution retirement plan -**

1 (2) ANY EMPLOYEE FIRST HIRED ON OR AFTER JANUARY 1, 2008,
2 SHALL BECOME A MEMBER OF THE DEFINED CONTRIBUTION PLAN AND
3 SHALL NOT HAVE THE OPTION TO BECOME A MEMBER OF THE DEFINED
4 BENEFIT PLAN.

5 **24-51-1602. Employee contributions.** (1) (a) EACH MEMBER OF
6 THE DEFINED CONTRIBUTION PLAN SHALL CONTRIBUTE TO HIS OR HER
7 INDIVIDUAL ACCOUNT AN AMOUNT EQUAL TO EIGHT PERCENT, OR ANY
8 OTHER AMOUNT DETERMINED BY THE BOARD, OF THE SALARY PAID TO THE
9 PARTICIPANT FOR THE PAYROLL PERIOD.

10 (b) BEGINNING ON JANUARY 1, 2009, THE EMPLOYEE
11 CONTRIBUTION SHALL BE INCREASED BY ONE-HALF OF ONE PERCENT OF
12 THE EMPLOYEE'S SALARY AND SHALL INCREASE BY AN ADDITIONAL
13 ONE-HALF OF ONE PERCENT OF THE EMPLOYEE'S SALARY EVERY YEAR
14 THEREAFTER UNTIL THE EMPLOYEE CONTRIBUTION IS AN AMOUNT EQUAL
15 TO THE EMPLOYER CONTRIBUTION. IN THE EVENT THAT INCREASING THE
16 EMPLOYEE CONTRIBUTION BY AN ADDITIONAL ONE-HALF OF ONE PERCENT
17 OF THE EMPLOYEE'S SALARY WOULD CAUSE THE EMPLOYEE CONTRIBUTION
18 TO BE AN AMOUNT THAT EXCEEDS THE EMPLOYER CONTRIBUTION, THE
19 PERCENTAGE OF THE INCREASE IN THE EMPLOYEE CONTRIBUTION FOR THAT
20 YEAR SHALL BE REDUCED TO THE PERCENTAGE OF THE EMPLOYEE'S
21 SALARY NECESSARY TO MAKE THE EMPLOYEE CONTRIBUTION AN AMOUNT
22 EQUAL TO THE EMPLOYER CONTRIBUTION.

23 (2) THE EMPLOYER SHALL DEDUCT THE MEMBER'S CONTRIBUTION
24 FROM THE MEMBER'S SALARY EACH PAYROLL PERIOD, AND THE
25 CONTRIBUTION SHALL BE CREDITED BY THE ASSOCIATION TO THE
26 MEMBER'S INDIVIDUAL ACCOUNT.

27 (3) SUBJECT TO THE LIMITATIONS SPECIFIED IN SECTION

1 24-51-1604, A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY ELECT
2 TO MAKE ADDITIONAL CONTRIBUTIONS TO THE MEMBER'S INDIVIDUAL
3 ACCOUNT.

4 (4) ALL EMPLOYEE CONTRIBUTIONS DEDUCTED PURSUANT TO THIS
5 SECTION SHALL BE TRANSMITTED TO THE ASSOCIATION FOR DEPOSIT IN THE
6 MEMBER'S INDIVIDUAL ACCOUNT WITHIN FIVE DAYS AFTER THE DATE THAT
7 THE MEMBER IS PAID.

8 **24-51-1603. Employer contributions.** (1) AN EMPLOYER SHALL
9 CONTRIBUTE AN AMOUNT EQUAL TO EIGHT PERCENT, OR ANY OTHER
10 AMOUNT DETERMINED BY THE BOARD, OF THE SALARY PAID TO THE
11 MEMBER OF THE DEFINED CONTRIBUTION PLAN FOR EACH PAY PERIOD INTO
12 EACH MEMBER'S INDIVIDUAL ACCOUNT.

13 (2) ALL EMPLOYEE CONTRIBUTIONS DEDUCTED PURSUANT TO THIS
14 SECTION SHALL BE TRANSMITTED TO THE ASSOCIATION FOR DEPOSIT IN THE
15 MEMBER'S INDIVIDUAL ACCOUNT WITHIN FIVE DAYS AFTER THE DATE THAT
16 THE MEMBER IS PAID.

17 **24-51-1604. Limitation on contributions.** NOTWITHSTANDING
18 ANY OTHER PROVISION OF THIS PART 16, THE ANNUAL ADDITIONS TO EACH
19 MEMBER'S INDIVIDUAL ACCOUNT IN THE DEFINED CONTRIBUTION PLAN
20 MAY NOT EXCEED THE AMOUNT PERMITTED UNDER FEDERAL LAW AT ANY
21 TIME. IF THE AMOUNT OF A MEMBER'S DEFINED CONTRIBUTION PLAN
22 CONTRIBUTIONS EXCEEDS SUCH LIMITATION, THE BOARD OR THE
23 EXECUTIVE DIRECTOR SHALL TAKE THE NECESSARY REMEDIAL ACTION TO
24 CORRECT THE EXCESS CONTRIBUTION.

25 **24-51-1605. Rollover contributions and distributions.** A
26 MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY ELECT, AT A TIME AND
27 IN A MANNER DETERMINED BY THE BOARD, TO HAVE ALL OR PART OF AN

1 ELIGIBLE DIRECT ROLLOVER DISTRIBUTION PAID DIRECTLY INTO THE
2 MEMBER'S INDIVIDUAL ACCOUNT. A ROLLOVER CONTRIBUTION SHALL NOT
3 BE CONSIDERED A PURCHASE OF SERVICE CREDIT FOR PURPOSES OF
4 DETERMINING THE MEMBER'S YEARS OF SERVICE.

5 **24-51-1606. Vesting.** (1) MEMBERS IN THE DEFINED
6 CONTRIBUTION PLAN SHALL BE IMMEDIATELY AND FULLY VESTED IN THEIR
7 OWN CONTRIBUTIONS TO THE PLAN, TOGETHER WITH ACCUMULATED
8 INVESTMENT GAINS OR LOSSES.

9 (2) MEMBERS IN THE DEFINED CONTRIBUTION PLAN SHALL BE
10 VESTED IN EMPLOYER CONTRIBUTIONS TO THE PLAN, TOGETHER WITH
11 ACCUMULATED INVESTMENT GAINS OR LOSSES ON THE VESTED PORTION
12 AS FOLLOWS:

13 (a) TWENTY-FIVE PERCENT AFTER TWO YEARS IN THE
14 ASSOCIATION;

15 (b) FIFTY PERCENT AFTER THREE YEARS IN THE ASSOCIATION;

16 (c) SEVENTY-FIVE PERCENT AFTER FOUR YEARS IN THE
17 ASSOCIATION; AND

18 (d) ONE HUNDRED PERCENT AFTER FIVE YEARS IN THE
19 ASSOCIATION.

20 **24-51-1607. Investments.** (1) THE ASSOCIATION SHALL ALLOW
21 A MEMBER OF THE DEFINED CONTRIBUTION PLAN TO EXERCISE CONTROL
22 OF THE INVESTMENT OF THE MEMBER'S INDIVIDUAL ACCOUNT UNDER THE
23 PLAN, SUBJECT TO THE FOLLOWING PROVISIONS:

24 (a) THE BOARD SHALL SELECT AT LEAST FIVE INVESTMENT
25 ALTERNATIVES, SUBJECT TO THE PROVISIONS OF SUBSECTION (2) OF THIS
26 SECTION, THAT ALLOW A MEMBER OF THE DEFINED CONTRIBUTION PLAN A
27 MEANINGFUL CHOICE BETWEEN RISK AND RETURN IN THE INVESTMENT OF

1 THE MEMBER'S ACCOUNT.

2 (b) THE ASSOCIATION SHALL ALLOW THE MEMBER TO CHANGE
3 INVESTMENTS REGULARLY.

4 (c) THE ASSOCIATION SHALL PROVIDE THE MEMBER WITH THE
5 INFORMATION DESCRIBING THE INVESTMENT ALTERNATIVES, INCLUDING
6 INFORMATION ON THE NATURE, INVESTMENT PERFORMANCE, FEES, AND
7 EXPENSES OF THE INVESTMENT ALTERNATIVES.

8 (2) THE BOARD SHALL DESIGNATE FROM TIME TO TIME THE
9 COMPANIES FROM WHICH INVESTMENT PRODUCTS SHALL BE PURCHASED.
10 IN DESIGNATING SUCH COMPANIES, THE BOARD SHALL TAKE INTO
11 CONSIDERATION:

12 (a) THE SUITABILITY OF SUCH RIGHTS AND BENEFITS TO THE NEEDS
13 AND INTERESTS OF EMPLOYEES WHO PARTICIPATE IN THE DEFINED
14 CONTRIBUTION PLAN AND TO THE INTERESTS OF THE STATE GOVERNMENT
15 IN THE EMPLOYMENT AND RETENTION OF ELIGIBLE EMPLOYEES;

16 (b) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE THE
17 INVESTMENT PRODUCTS;

18 (c) THE EFFICACY OF SUCH CONTRACTS IN THE RECRUITMENT AND
19 RETENTION OF QUALIFIED PUBLIC OFFICIALS AND EMPLOYEES;

20 (d) THE ABILITY OF THE DESIGNATED COMPANIES TO PROVIDE HIGH
21 QUALITY INFORMATION AND ADVICE ON INVESTMENT PRODUCTS AND
22 ASSET ALLOCATIONS; AND

23 (e) THE FEES AND COSTS OF THE INVESTMENT PRODUCTS.

24 (3) THE ASSOCIATION AND EMPLOYERS SHALL NOT BE
25 RESPONSIBLE OR LIABLE FOR ANY FINANCIAL LOSSES EXPERIENCED BY
26 MEMBERS OF THE DEFINED CONTRIBUTION PLAN.

27 **24-51-1608. Distribution - election - options determined by**

1 **retirement board.** (1) THE BOARD SHALL DETERMINE THE DISTRIBUTION
2 OPTIONS BY WHICH A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY
3 ELECT TO RECEIVE THE DISTRIBUTION OF HIS OR HER INDIVIDUAL
4 ACCOUNT. THE DISTRIBUTION OPTIONS SHALL INCLUDE, AT A MINIMUM,
5 A ONE-TIME LUMP SUM PAYMENT OPTION, A PERIODIC LUMP SUM PAYMENT
6 OPTION, A PERIOD CERTAIN ANNUITY OPTION, A LIFE ANNUITY WITH PERIOD
7 CERTAIN PAYMENT OPTION, AND A JOINT AND SURVIVOR PAYMENT OPTION.

8 (2) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL BE
9 ELIGIBLE TO ELECT DISTRIBUTION OF THE MEMBER'S ACCOUNT AFTER
10 TERMINATION OF EMPLOYMENT. THE DISTRIBUTION OF ALL OR A PORTION
11 OF A MEMBER'S ACCOUNT SHALL OCCUR WITHIN A TIME PERIOD
12 DETERMINED BY THE BOARD.

13 (3) IF A MEMBER DIES BEFORE BENEFITS COMMENCE, THE
14 MEMBER'S BENEFICIARY SHALL BE IMMEDIATELY ELIGIBLE TO ELECT A
15 DISTRIBUTION OPTION OF THE MEMBER'S INDIVIDUAL ACCOUNT.

16 **24-51-1609. Rights of members of the defined contribution**
17 **plan.** (1) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL NOT BE
18 CONSIDERED A MEMBER OR A RETIREE FOR THE PURPOSES OF PARTS 4 TO
19 11 OF THIS ARTICLE, NOR SHALL HIS OR HER SURVIVORS OR BENEFICIARIES
20 BE CONSIDERED BENEFIT RECIPIENTS.

21 (2) A MEMBER OF THE DEFINED CONTRIBUTION PLAN MAY
22 PARTICIPATE IN OPTIONAL LIFE INSURANCE, LONG-TERM CARE INSURANCE,
23 AND THE VOLUNTARY INVESTMENT PROGRAM, AS PROVIDED IN THIS
24 ARTICLE.

25 (3) A MEMBER OF THE DEFINED CONTRIBUTION PLAN SHALL BE
26 ELIGIBLE TO ENROLL IN THE HEALTH CARE PROGRAM AS A BENEFIT
27 RECIPIENT PURSUANT TO SECTION 24-51-1204 (1) (a) ONLY IF THE MEMBER

1 ELECTS A LIFETIME ANNUITY DISTRIBUTION OPTION.

2 (4) A MEMBER OF THE DEFINED CONTRIBUTION PLAN WHO HAS
3 REACHED THE AGE AT WHICH A DISTRIBUTION WOULD NOT BE SUBJECT TO
4 A PENALTY PURSUANT TO THE FEDERAL "INTERNAL REVENUE CODE OF
5 1986", AS AMENDED, AND WHO RETURNS TO EMPLOYMENT SHALL NOT BE
6 SUBJECT TO THE PROVISIONS OF PART 11 OF THIS ARTICLE CONCERNING
7 EMPLOYMENT AFTER RETIREMENT.

8 **24-51-1610. Report to members.** ON A QUARTERLY BASIS, THE
9 BOARD SHALL REPORT TO MEMBERS WHO PARTICIPATE IN THE DEFINED
10 CONTRIBUTION PLAN. THE REPORT SHALL INCLUDE A STATEMENT OF
11 ACCOUNT BALANCES, A REVIEW OF ACCOUNT TRANSACTIONS, AND THE
12 AMOUNT OF ADMINISTRATIVE FEES CHARGED TO THE MEMBERS DURING
13 THE QUARTER.

14 **24-51-1611. Election to terminate membership in defined**
15 **benefit plan - participation in defined contribution plan.** (1) AN
16 ACTIVE MEMBER OF THE DEFINED BENEFIT PLAN IS ELIGIBLE TO
17 PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED
18 PURSUANT TO THIS PART 16 IF THAT MEMBER IS NOT ELIGIBLE FOR A
19 SERVICE RETIREMENT BENEFIT OR A REDUCED SERVICE RETIREMENT
20 BENEFIT UNDER THE DEFINED BENEFIT PLAN PURSUANT TO SECTIONS
21 24-51-602 AND 24-51-604, RESPECTIVELY. PARTICIPATION IN THE
22 DEFINED CONTRIBUTION PLAN SHALL BE IN LIEU OF PARTICIPATION IN THE
23 DEFINED BENEFIT PLAN.

24 (2) A MEMBER OF THE DEFINED BENEFIT PLAN WHO IS ELIGIBLE TO
25 RECEIVE A SERVICE RETIREMENT BENEFIT OR A REDUCED SERVICE
26 RETIREMENT BENEFIT UNDER THE DEFINED BENEFIT PLAN PURSUANT TO
27 SECTIONS 24-51-602 AND 24-51-604, RESPECTIVELY, IS NOT ELIGIBLE TO

1 TRANSFER INTO THE DEFINED CONTRIBUTION PLAN PURSUANT TO THIS
2 SECTION.

3 (3) (a) FOR EACH MEMBER OF THE DEFINED BENEFIT PLAN WHO
4 ELECTS TO PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN, THE
5 EMPLOYEE CONTRIBUTION ACCOUNT BALANCE HELD IN TRUST FOR THE
6 MEMBER UNDER THE DEFINED BENEFIT PLAN SHALL BE TRANSFERRED TO
7 AN INDIVIDUAL ACCOUNT ESTABLISHED FOR THE MEMBER IN THE DEFINED
8 CONTRIBUTION PLAN.

9 (b) EACH MEMBER OF THE DEFINED BENEFIT PLAN WHO ELECTS TO
10 PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN SHALL ALSO HAVE THE
11 AMOUNT OF THE MATCHING EMPLOYER CONTRIBUTION TO WHICH THE
12 MEMBER WOULD BE PAID PURSUANT TO SECTION 24-51-408 (2)
13 TRANSFERRED INTO THE INDIVIDUAL ACCOUNT ESTABLISHED FOR THE
14 MEMBER.

15 (4) UPON A TRANSFER PURSUANT TO THIS SECTION, ALL YEARS OF
16 SERVICE PREVIOUSLY EARNED UNDER THE DEFINED BENEFIT PLAN SHALL
17 BE NULLIFIED FOR PURPOSES OF ENTITLEMENT TO A FUTURE BENEFIT
18 UNDER THE DEFINED BENEFIT PLAN, BUT SHALL BE CREDITED FOR
19 PURPOSES OF ELIGIBILITY TO ELECT MEDICAL BENEFITS PURSUANT TO PART
20 12 OF THIS ARTICLE.

21 (5) FOR ANY MEMBER OF THE DEFINED BENEFIT PLAN WHO
22 BECOMES A MEMBER OF THE DEFINED CONTRIBUTION PLAN, THE BOARD
23 SHALL TRANSFER OR CAUSE TO BE TRANSFERRED THE APPROPRIATE
24 AMOUNTS TO THE DESIGNATED INDIVIDUAL ACCOUNT. THE BOARD SHALL
25 ESTABLISH TRANSFER PROCEDURES, BUT THE ACTUAL TRANSFER MAY NOT
26 BE LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE
27 MEMBER'S PARTICIPATION IN THE DEFINED CONTRIBUTION PLAN UNLESS

1 THE MAJOR FINANCIAL MARKETS FOR SECURITIES AVAILABLE FOR A
2 TRANSFER ARE SERIOUSLY DISRUPTED BY AN UNFORESEEN EVENT THAT
3 ALSO CAUSES THE SUSPENSION OF TRADING ON ANY NATIONAL SECURITIES
4 EXCHANGE IN THE COUNTRY WHERE THE SECURITIES WERE ISSUED. IN
5 THAT EVENT, THE THIRTY-DAY PERIOD OF TIME MAY BE EXTENDED BY A
6 RESOLUTION OF THE BOARD. TRANSFERS ARE NOT COMMISSIONABLE OR
7 SUBJECT TO OTHER FEES AND MAY BE IN THE FORM OF SECURITIES OR CASH
8 AS DETERMINED BY THE BOARD. SECURITIES SHALL BE VALUED AS OF THE
9 DATE OF RECEIPT IN THE ACCOUNT.

10 (6) THE ELECTION TO PARTICIPATE IN THE DEFINED CONTRIBUTION
11 PLAN SHALL BE MADE IN WRITING ON FORMS AND IN THE MANNER
12 PRESCRIBED BY THE BOARD.

13 (7) BEFORE ACCEPTING AN ELECTION TO PARTICIPATE IN THE
14 DEFINED CONTRIBUTION PLAN, THE BOARD OR THE DESIGNEE OF THE
15 BOARD SHALL PROVIDE THE EMPLOYEE ELECTING TO PARTICIPATE IN THE
16 DEFINED CONTRIBUTION PLAN WITH INFORMATION, INCLUDING
17 CALCULATIONS TO ILLUSTRATE THE EFFECT OF MOVING THE EMPLOYEE'S
18 RETIREMENT PLAN FROM THE DEFINED BENEFIT PLAN TO THE DEFINED
19 CONTRIBUTION PLAN AS WELL AS OTHER INFORMATION TO CLEARLY
20 INFORM THE EMPLOYEE OF THE POTENTIAL CONSEQUENCES OF THE
21 EMPLOYEE'S ELECTION.

22 (8) AN ELECTION MADE PURSUANT TO THIS SECTION TO
23 PARTICIPATE IN THE DEFINED CONTRIBUTION PLAN IS IRREVOCABLE.

24 (9) UPON MAKING THE ELECTION PURSUANT TO THIS SECTION, THE
25 EMPLOYEE SHALL BE ENROLLED AS A MEMBER OF THE DEFINED
26 CONTRIBUTION PLAN, AND THE EMPLOYEE'S PARTICIPATION IN THE
27 DEFINED BENEFIT PLAN SHALL TERMINATE. THE EMPLOYEE'S ENROLLMENT

1 IN THE DEFINED CONTRIBUTION PLAN SHALL BE EFFECTIVE THE FIRST DAY
2 OF THE MONTH AFTER THE BOARD RECEIVES THE COMPLETED ENROLLMENT
3 FORMS.

4 (10) IF THE BOARD RECEIVES NOTIFICATION FROM THE UNITED
5 STATES DEPARTMENT OF THE TREASURY OR THE FEDERAL INTERNAL
6 REVENUE SERVICE, THAT THIS SECTION OR A PORTION OF THIS SECTION
7 WILL CAUSE ALL OR A PORTION OF THE DEFINED CONTRIBUTION PLAN
8 ESTABLISHED PURSUANT TO THIS PART 16 TO BE DISQUALIFIED FOR TAX
9 PURPOSES UNDER THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
10 AMENDED, THE PORTION THAT WILL CAUSE THE DISQUALIFICATION SHALL
11 NOT APPLY, AND THE BOARD SHALL NOTIFY THE GENERAL ASSEMBLY.

12 **SECTION 14.** 24-51-318, Colorado Revised Statutes, is amended
13 to read:

14 **24-51-318. Purchase of forfeited service credit.** ~~The provisions~~
15 ~~of section 24-51-503 which relate to the purchase of service credit~~
16 ~~forfeited by the refund of member contributions shall not apply to the~~
17 ~~Members who are employees of an employer which THAT has terminated~~
18 ~~its affiliation with the association Such MAY PURCHASE service credit~~
19 ~~forfeited by such THE termination of affiliation may be purchased~~
20 ~~pursuant to the provisions of section 24-51-505.~~

21 **SECTION 15.** 24-51-402 (3) (a), Colorado Revised Statutes, is
22 amended to read:

23 **24-51-402. Unpaid contributions for any member - legislative**
24 **declaration.** (3) If an employer fails to provide membership in the
25 association to an individual so entitled pursuant to the provisions of this
26 article or fails to provide the required level of employer contributions for
27 an individual pursuant to the provisions of this article, the following

1 payment shall be made to the association:

2 (a) If the individual is not a member or inactive member at the
3 time the association first notifies the employer of its claim for unpaid
4 contributions, the employer shall pay the unpaid employer contributions
5 on behalf of the individual for the period contributions should have been
6 made at the contribution rate applicable during such period, plus interest
7 on such employer contributions at the applicable actuarial investment
8 assumption rate, as such interest rate is from time to time adjusted, until
9 such contributions are paid. ~~If an employer pays contributions pursuant
10 to this paragraph (a) on behalf of an individual who was not a member or
11 inactive member when the association first notifies the employer and such
12 individual subsequently becomes a member, the member may purchase
13 service credit for the appropriate time period pursuant to the requirements
14 of section 24-51-503.~~

15 **SECTION 16. Repeal.** 38-13-117 (3) (b), Colorado Revised
16 Statutes, is repealed as follows:

17 **38-13-117. Filing of claim with administrator.** (3) (b) ~~The
18 administrator shall pay or deliver to the public employees' retirement
19 association the amount necessary to purchase service credit pursuant to
20 section 24-51-503, C.R.S., if the owner of an account left inactive or an
21 unclaimed member refund described in section 38-13-108.5 (1) requests
22 restoration of service credit which was forfeited when funds were
23 transferred to the abandoned property fund.~~

24 **SECTION 17. Effective date.** (1) (a) Sections 2, 5, 6, and 13 of
25 this act shall take effect January 1, 2008.

26 (b) However, if a referendum petition is filed against this act or
27 an item, section, or part of this act during the 90-day period after final

1 adjournment of the general assembly that is allowed for submitting a
2 referendum petition pursuant to article V, section 1 (3) of the state
3 constitution, then the act, item, section, or part, shall not take effect unless
4 approved by the people at a biennial regular general election and shall
5 take effect on the date specified in subsection (1) or on the date of the
6 official declaration of the vote thereon by proclamation of the governor,
7 whichever is later.

8 (2) The remainder of this act shall take effect at 12:01 a.m. on the
9 day following the expiration of the ninety-day period after final
10 adjournment of the general assembly that is allowed for submitting a
11 referendum petition pursuant to article V, section 1 (3) of the state
12 constitution (August 9, 2006, if adjournment sine die is on May 10,
13 2006); except that, if a referendum petition is filed against this act or an
14 item, section, or part of this act within such period, then the act, item,
15 section, or part, if approved by the people, shall take effect on the date of
16 the official declaration of the vote thereon by proclamation of the
17 governor.