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A BILL FOR AN ACT

101   **CONCERNING ENTRY INTO THE FIRE AND POLICE PENSION ASSOCIATION**
102   **FOR SOCIAL SECURITY EMPLOYERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Currently, an employer who covers employees under the federal "Social Security Act" whose duties are directly involved with the provision of law enforcement or fire protection (employer) may elect coverage under the social security supplemental plan established by the fire and police pension association (association). Under the social security supplemental plan, employees have reduced benefits and employees and

employers have reduced contribution rates.

The bill authorizes the board of the association to allow an employer that is eligible to participate in the social security supplemental plan to alternatively elect to participate in one or more of the defined benefit plans administered by the association, with full benefits and unreduced contribution rates.

An employer that elects to affiliate with the association to participate in a defined benefit plan is required to make the election through the governing board of the local government or county. An application for coverage by the association is required to be approved by at least 65% of all active members employed by the employer who vote in the election proposing coverage.

The board of the association is authorized to adopt rules to allow an employee of the affiliating employer to elect to remain in a predecessor plan and not have coverage by the association. All active employees at the time of affiliation with the association, with the exception of employees who elect to remain in a predecessor plan, and all employees who are hired after affiliation will become participants in the association and such participation cannot be revoked.

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

2   **SECTION 1.** In Colorado Revised Statutes, 31-31-704.5, **amend**

3   (1), (2), (3), (5), and (6); and **amend as amended by Senate Bill 19-106**

4   (4) as follows:

5   **31-31-704.5.   Entry   for   social   security   employers.**

6   (1) (a) (I) Notwithstanding the exemption provided in section 31-31-401

7   (1)(a), any employer that covers members under the federal "Social

8   Security Act", as amended, or any county that covers salaried employees

9   under the federal "Social Security Act", as amended, whose duties are

10   directly involved with the provision of law enforcement or fire protection

11   as certified by the county may elect coverage under the social security

12   supplemental plan established pursuant to section 31-31-704.6 by filing

13   a resolution of affiliation with the board pursuant to subsection (2) of this

14   section. Election of coverage under the plan shall be irrevocable.

1   (II) THE BOARD MAY ALLOW AN EMPLOYER ELIGIBLE FOR

2   PARTICIPATION IN THE SOCIAL SECURITY SUPPLEMENTAL PLAN PURSUANT

3   TO SUBSECTION (1)(a)(I) OF THIS SECTION TO ALTERNATIVELY ELECT TO

4   PARTICIPATE IN ONE OR MORE OF THE PLANS WITHIN THE DEFINED BENEFIT

5   SYSTEM WITH FULL BENEFITS AND UNREDUCED CONTRIBUTION RATES.

6   SUCH PARTICIPATION SHALL BE AS PROVIDED BY RULES ADOPTED BY THE

7   BOARD. THE BOARD MAY DETERMINE A CONTINUING RATE OF

8   CONTRIBUTION FOR ALL MEMBERS WHO ARE ACTIVE ON THE EFFECTIVE

9   DATE OF COVERAGE TO FUND BENEFITS AS MAY BE NECESSARY TO ENSURE

10   THAT THE AFFILIATING EMPLOYERS' COVERAGE SHALL NOT HAVE AN

11   ADVERSE FINANCIAL IMPACT ON THE ACTUARIAL SOUNDNESS OF THE PLAN.

12   (b)   A county electing to affiliate with the ~~social security~~

13   ~~supplemental plan~~ ASSOCIATION shall make such election through the

14   county's governing board. For purposes of administering to counties

15   affiliated pursuant to this section, any county electing to affiliate shall be

16   included in the definition of "employer", as defined in section 31-31-102

17   (3), and any covered employee of such county shall be included in the

18   definition of "member", as defined in section 31-31-102 (4).

19   (2) The employer's resolution applying for coverage ~~under the~~

20   ~~social security supplemental plan~~ BY THE ASSOCIATION shall first be

21   adopted by the governing body of the employer and shall state the

22   employer's intent to cover its members under the plan.

23   (3) Any application for coverage ~~under the social security~~

24   ~~supplemental plan~~ BY THE ASSOCIATION shall be approved by at least

25   sixty-five percent of all active members employed by the employer at the

26   time of the application who vote in the election proposing the coverage;

27   EXCEPT THAT NO SUCH ELECTION SHALL BE REQUIRED IF:

1   (a) THE EMPLOYER ALLOWS MEMBERS TO ELECT TO REMAIN IN A

2 PREDECESSOR PLAN PURSUANT TO ASSOCIATION RULES OR IF THE

3 MEMBERS HAVE APPROVED LEAVING A PREDECESSOR PLAN PURSUANT TO

4 SECTION 24-54-106 (3); AND

5   (b) THE EMPLOYER DESIGNATES THAT ALL FUTURE ELIGIBLE

6 EMPLOYEES WILL PARTICIPATE IN A PLAN OF THE ASSOCIATION.

7   (4) The board shall promulgate rules relating to standards for

8 disclosure of all ramifications and procedures for obtaining member

9 approval pursuant to subsection (3) of this section. The board shall also

10 promulgate rules relating to standards for granting an employer's

11 application for participation in the ~~social security supplemental~~ plan and

12 for the submission of information to the board by the employer. The rules

13 shall contain a provision specifying that an employer that opts ~~to~~

14 ~~participate in the plan~~ FOR COVERAGE BY THE ASSOCIATION shall not be

15 permitted to opt out of the ~~plan~~ COVERAGE at any later date. The board

16 may adopt ~~a rule~~ RULES allowing an eligible individual active employee

17 of an affiliating department to elect to remain in a predecessor plan and

18 not ~~be covered under the social security supplemental plan~~ HAVE

19 COVERAGE BY THE ASSOCIATION.

20   (5) An application for coverage ~~under the social security~~

21 ~~supplemental plan~~ BY THE ASSOCIATION filed by an employer shall

22 include the employer's certification to the board:

23   (a) That all ~~active~~ fire and law enforcement employees WHO ARE

24 ACTIVE AT THE TIME OF AFFILIATION, EXCEPT THOSE THAT HAVE ELECTED

25 TO REMAIN IN A PREDECESSOR PLAN AS MAY BE ALLOWED BY RULE, AND

26 ALL FIRE AND LAW ENFORCEMENT EMPLOYEES WHO ARE HIRED AFTER

27 AFFILIATION as certified by the employer, will become participants in the

1 social security supplemental plan and the election to participate in the

2 plan is irrevocable; and

3   (b) That the employer agrees to participate in the social security

4 supplemental plan and to be bound by the terms of the plan and the

5 decisions and actions of the board with respect to the plan.

6   (6) An employer that participates in the social security

7 supplemental plan established AFFILIATES WITH THE ASSOCIATION

8 pursuant to section 31-31-704.6 THIS SECTION shall not be prohibited from

9 participating in other governmental pension or benefit plans to the extent

10 allowed under the federal "Internal Revenue Code of 1986", as amended.

11   **SECTION 2. Act subject to petition - effective date.** This act

12 takes effect at 12:01 a.m. on the day following the expiration of the

13 ninety-day period after final adjournment of the general assembly (August

14 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a

15 referendum petition is filed pursuant to section 1 (3) of article V of the

16 state constitution against this act or an item, section, or part of this act

17 within such period, then the act, item, section, or part will not take effect

18 unless approved by the people at the general election to be held in

19 November 2020 and, in such case, will take effect on the date of the

20 official declaration of the vote thereon by the governor.