

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0198.02 Caroline Martin x5902

HOUSE BILL 26-1026

HOUSE SPONSORSHIP

Marshall and Hamrick,

SENATE SPONSORSHIP

Kolker,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AN EXPANSION OF PLAN OPTIONS FOR THE PUBLIC
102 EMPLOYEES' RETIREMENT ASSOCIATION.

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>.)

Under current law, a member of the public employees' retirement association (PERA) earns service credit for each year worked during which the member makes contributions to PERA. A member may purchase additional years of service credit for any previous period of public or private employment during which the member was not making contributions to PERA, subject to certain conditions. **Sections 1 and 3** of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

the bill allow a member of PERA to also purchase service credit for previous periods of unemployment during which the member was 21 years old or older, subject to certain conditions. **Sections 2, 3, 4, and 7** make conforming amendments.

Sections 5 and 6 require PERA's voluntary investment program to include options for an employee to make tax-deferred voluntary contributions and Roth voluntary contributions to the program and make other conforming changes.

Sections 8 and 9 require PERA employers to affiliate with PERA's deferred compensation plan and offer the plan to employees. The sections require the deferred compensation plan to include options for an employee to make pre-tax voluntary contributions and Roth voluntary contributions to the plan and make other conforming changes.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-51-101, **add**
3 (33.3), (33.5), and (37.5) as follows:

4 **24-51-101. Definitions.**

5 As used in this article 51, unless the context otherwise requires and
6 except as otherwise defined in part 17 of this article 51:

7 (33.3) "NONCOVERED TIME" MEANS TIME DURING WHICH A
8 MEMBER WAS NOT EARNING SERVICE CREDIT FROM THE ASSOCIATION.

9 (33.5) "NONQUALIFIED SERVICE" MEANS NONCOVERED TIME THAT
10 IS NONQUALIFIED SERVICE CREDIT PURSUANT TO SECTION 415 (n)(3)(C) OF
11 THE FEDERAL "INTERNAL REVENUE CODE OF 1986".

12 (37.5) "QUALIFIED SERVICE" MEANS NONCOVERED TIME THAT IS
13 NOT NONQUALIFIED SERVICE CREDIT PURSUANT TO SECTION 415 (n)(3)(C)
14 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986".

15 **SECTION 2.** In Colorado Revised Statutes, 24-51-208, **amend**
16 (1) introductory portion, (1)(f), and (1)(f.5) as follows:

17 **24-51-208. Allocation of money.**

18 (1) The money of the association ~~shall~~ **MUST** be divided into

1 several trust funds, including, but not limited to:

2 (f) The health care trust fund, created pursuant to the provisions
3 of section 24-51-1201 (1), which consists of a portion of the employer
4 contributions equal to one and two one-hundredths percent of member
5 salaries; a portion of the amount paid by members to purchase service
6 credit relating to noncovered ~~employment~~ TIME as determined pursuant
7 to section 24-51-505 (7); thirty percent of the amount of any reduction in
8 the employer contribution rates as determined in section 24-51-408.5 (5)
9 to amortize any overfunding in each division's trust fund; deductions of
10 premium amounts from monthly benefits of participating benefit
11 recipients; premiums paid directly to the trust fund by participating
12 benefit recipients, members, and dependents; monthly payments made by
13 employers on behalf of participating benefit recipients, members, and
14 dependents; and interest; in addition to a proportional share of investment
15 income earned thereon;

16 (f.5) The Denver public schools division health care trust fund,
17 created pursuant to the provisions of section 24-51-1201 (2), which
18 consists of a portion of the employer contributions equal to two-tenths of
19 one percent of member salaries; a portion of the amount paid by members
20 to purchase service credit relating to noncovered ~~employment~~ TIME as
21 determined pursuant to section 24-51-505 (7); deductions of premium
22 amounts from monthly benefits of participating benefit recipients;
23 premiums paid directly to the trust fund by participating benefit
24 recipients, members, and dependents; monthly payments made by
25 employers on behalf of participating benefit recipients, members, and
26 dependents; and interest; in addition to a proportional share of investment
27 income earned thereon;

1 **SECTION 3.** In Colorado Revised Statutes, 24-51-501, **amend**
2 (6) as follows:

3 **24-51-501. Earned service credit.**

4 (6) Service credit of DPS members prior to or on December 31,
5 2009, ~~shall be~~ IS governed by section 24-51-1710. Beginning January 1,
6 2010, DPS members ~~shall~~ earn service credit pursuant to this section and
7 ~~shall~~ MAY purchase service credit relating to a refunded member
8 contribution account and noncovered ~~employment~~ TIME pursuant to this
9 part 5; except that purchases by DPS members that are ongoing as of
10 January 1, 2010, ~~shall be~~ ARE governed by section 24-51-1705.

11 **SECTION 4.** In Colorado Revised Statutes, 24-51-505, **amend**
12 (1), (2), (3), (6), and (7) as follows:

13 **24-51-505. Purchase of service credit relating to noncovered**
14 **time.**

15 (1) A MEMBER MAY PURCHASE service credit ~~may be purchased~~ for
16 ~~any period of previous employment with any public or private employer~~
17 ~~in the United States, its territories, or any foreign country~~ NONCOVERED
18 TIME subject to the following conditions:

19 (a) ~~If the service credit to be purchased is for noncovered~~
20 ~~employment with an employer affiliated with the association, the member~~
21 ~~must have~~ A MEMBER MAY PURCHASE SERVICE CREDIT FOR QUALIFIED
22 SERVICE IF THE MEMBER:

23 (I) HAS AT LEAST one year of earned service credit with the
24 association at the time of the purchase; ~~If the service credit to be~~
25 ~~purchased is for previous employment with a nonaffiliated employer, the~~
26 ~~member must have one year of earned service credit with the association~~
27 ~~at the time of the purchase; except that, if the previous employment for~~

1 ~~which the service credit is to be purchased is nonqualified service, as~~
2 ~~defined in section 415 (n)(3)(C) of the federal "Internal Revenue Code of~~
3 ~~1986", as amended, and the member first became a member of the~~
4 ~~association on or after January 1, 1999, the member must have five years~~
5 ~~of earned service credit with the association at the time of the purchase.~~

6 AND

7 (II) PROVIDES THE ASSOCIATION WITH DOCUMENTATION OF THE
8 DATES OF EMPLOYMENT AND A RECORD OF SALARY RECEIVED.

9 (a.3) A MEMBER WHO BECAME A MEMBER OF THE ASSOCIATION
10 BEFORE JANUARY 1, 1999, MAY PURCHASE SERVICE CREDIT FOR
11 NONQUALIFIED SERVICE IF THE MEMBER HAS AT LEAST ONE YEAR OF
12 EARNED SERVICE CREDIT WITH THE ASSOCIATION AT THE TIME OF THE
13 PURCHASE.

14 (a.5) A MEMBER WHO BECAME A MEMBER OF THE ASSOCIATION ON
15 OR AFTER JANUARY 1, 1999, MAY PURCHASE SERVICE CREDIT FOR
16 NONQUALIFIED SERVICE IF THE MEMBER HAS AT LEAST FIVE YEARS OF
17 EARNED SERVICE CREDIT WITH THE ASSOCIATION AT THE TIME OF THE
18 PURCHASE.

19 (a.7) A MEMBER MAY NOT PURCHASE SERVICE CREDIT FOR
20 NONCOVERED TIME DURING WHICH THE MEMBER WAS NOT EMPLOYED AND
21 WAS UNDER TWENTY-ONE YEARS OLD. A MEMBER MAY PURCHASE SERVICE
22 CREDIT FOR NONCOVERED TIME DURING WHICH THE MEMBER WAS
23 EMPLOYED AND WAS UNDER TWENTY-ONE YEARS OLD IF THE MEMBER
24 PROVIDES THE ASSOCIATION WITH DOCUMENTATION OF THE DATES OF
25 EMPLOYMENT AND A RECORD OF SALARY RECEIVED.

26 (b) ~~The member must provide documentation of the dates of~~
27 ~~employment and a record of salary received.~~

1 (c) ~~The~~ A member must provide certification from any retirement
2 program covering ~~such~~ THE MEMBER'S employment that the service credit
3 to be purchased ~~has not vested with that program~~, DOES NOT CAUSE A
4 MEMBER TO RECEIVE A RETIREMENT BENEFIT FOR THE SAME SERVICE
5 UNDER MORE THAN ONE PLAN, except to the extent otherwise required by
6 federal law.

7 (2) (a) Except as otherwise provided in ~~paragraph (b) of this~~
8 ~~subsection (2)~~ THIS SUBSECTION (2), one year of service credit may be
9 purchased for each year of noncovered ~~employment~~ TIME. ANY SERVICE
10 CREDIT PURCHASED FOR NONCOVERED TIME DURING WHICH A MEMBER
11 WAS EMPLOYED MUST BE determined pursuant to the provisions of section
12 24-51-501 (2) to (4) applicable to earned service credit.

13 (b) ~~Members~~ A MEMBER who ~~first~~ became ~~members~~ A MEMBER on
14 or after January 1, 1999, may purchase no more than five years of service
15 credit for noncovered TIME ~~employment~~ that is nonqualified service. ~~as~~
16 ~~defined in section 415 (n)(3)(C) of the federal "Internal Revenue Code of~~
17 ~~1986", as amended~~

18 (c) ~~Members~~ A MEMBER who ~~initiate~~ INITIATES a purchase on or
19 after November 1, 2003, may not purchase service credit that would cause
20 the total years of noncovered ~~service~~ TIME purchased during their
21 membership to exceed ten years. This limit shall not apply to ~~members~~ A
22 MEMBER who ~~provide~~ PROVIDED all required documentation of previous
23 service to the association by October 31, 2003, together with application
24 to purchase the service if the purchase is successfully completed pursuant
25 to the service credit purchase agreement resulting from ~~said~~ THE
26 application.

27 (d) ~~Members~~ A MEMBER employed by a public entity affiliated

1 with the association pursuant to section 24-51-309 may purchase service
2 credit for years employed by the entity without limit, if the purchase is
3 completed before the member terminates employment with the entity, and
4 any such purchase for years employed by the entity in excess of ten years
5 is completed or installment payments initiated within three years after the
6 date the employer affiliates with the association or November 1, 2006,
7 whichever is later, UNLESS OTHERWISE RESTRICTED UNDER FEDERAL LAW.

8 (3) The cost to purchase service credit for noncovered
9 ~~employment~~ TIME shall be determined by the board and shall be sufficient
10 to pay the actuarial liability associated with the purchase.

11 (6) Service credit purchased pursuant to the provisions of this
12 section for periods of ~~nonmembership shall~~ NONCOVERED TIME MUST not
13 be credited toward the earned service credit requirement for disability
14 retirement benefits OR SHORT-TERM DISABILITY PROGRAM PAYMENTS as
15 provided for in part 7 of this ~~article~~ ARTICLE 51 or TOWARD the earned
16 service credit requirement for survivor benefit coverage as provided for
17 in part 9 of this ~~article~~ ARTICLE 51.

18 (7) A portion of the amount paid by a member to purchase service
19 credit related to noncovered ~~employment shall~~ TIME MUST be ~~transferred~~
20 PAID to the health care trust fund. ~~on the effective date of the member's~~
21 ~~retirement or, in case of death prior to retirement, on the effective date of~~
22 ~~the survivor benefit~~ The amount ~~transferred shall be one and two~~
23 ~~one-hundredths percent of~~ PAID TO THE HEALTH CARE TRUST FUND MUST
24 BE THE SAME PERCENTAGE OF THE MEMBER'S SALARY PAID BY THE
25 EMPLOYER CONTRIBUTION SPECIFIED IN SECTION 24-51-208 (1)(f),
26 DETERMINED USING the member's highest average salary at the time of the
27 purchase. ~~with interest at the rate specified in section 24-51-101 (28)(a)~~

1 ANY REFUND PURSUANT TO SECTION 24-51-506 (3) OR (4) WILL BE PAID
2 FROM THE MEMBER'S APPLICABLE DIVISION TRUST FUND AND WILL NOT BE
3 PAID FROM THE HEALTH CARE TRUST FUND.

4 **SECTION 5.** In Colorado Revised Statutes, 24-51-1401, **amend**
5 (2) and (4); and **repeal** (3) as follows:

6 **24-51-1401. Voluntary investment program established and**
7 **fund created - definitions.**

8 (2) The voluntary investment program ~~shall~~ ESTABLISHED
9 PURSUANT TO THIS SECTION MUST:

10 (a) Be available to all ~~members DPS members, retirees, and DPS~~
11 ~~retirees; and shall~~ EMPLOYEES OF AN EMPLOYER;

12 (b) Be in addition to any other retirement or tax-deferred
13 compensation system established by the state or its political subdivisions;
14 AND

15 (c) INCLUDE OPTIONS FOR AN EMPLOYEE OF AN EMPLOYER TO
16 MAKE TAX-DEFERRED VOLUNTARY CONTRIBUTIONS AND ROTH
17 VOLUNTARY CONTRIBUTIONS TO THE VOLUNTARY INVESTMENT PROGRAM.

18 (3) ~~The board is hereby authorized to offer participation in the~~
19 ~~voluntary investment program to all employees of employers that are~~
20 ~~affiliated with the association, regardless of whether those employees are~~
21 ~~members or retirees.~~

22 (4) For purposes of this part 14, ~~members and retirees shall~~
23 ~~include DPS members and DPS retirees~~ THE TERM "MEMBER" INCLUDES
24 A DPS MEMBER AND THE TERM "RETIREE" INCLUDES A DPS RETIREE.

25 **SECTION 6.** In Colorado Revised Statutes, 24-51-1402, **amend**
26 (1), (3), and (4); and **repeal** (2) as follows:

27 **24-51-1402. Contributions to the voluntary investment**

1 **program.**

2 (1) An ~~eligible~~ employee ~~pursuant to section 24-51-1401~~ OF AN
3 EMPLOYER may participate in the voluntary investment program
4 authorized in section 24-51-1401 by authorizing ~~his or her~~ THEIR
5 employer ~~as defined in section 24-51-101 (20)~~, to contribute an amount
6 by payroll deduction in lieu of receiving such amount as salary or pay.
7 The amount of such contribution ~~by a participant shall be~~ IS subject to any
8 limitations established by federal law. ~~These voluntary contributions, in~~
9 ~~addition to investment earnings, shall be exempt from federal and state~~
10 ~~income taxes until the ultimate distribution of such contributions has been~~
11 ~~made to the participant, member, former member, or beneficiary.~~

12 (2) ~~The board may, at its discretion, allow participants in the~~
13 ~~voluntary investment program to elect to make after-tax voluntary~~
14 ~~contributions to the voluntary investment program by payroll deduction.~~
15 ~~Investment earnings on such contributions are exempt from federal and~~
16 ~~state income taxes until the ultimate distribution of such contributions has~~
17 ~~been made to the participant, member, former member, or beneficiary.~~

18 (3) All voluntary contributions by a participating member ~~shall~~ OR
19 RETIREE MUST be included in the salary of ~~such member~~ THE MEMBER OR
20 RETIREE for the purpose of calculating member, WORKING RETIREE, and
21 employer contributions pursuant to the provisions of section 24-51-401.
22 ~~The member contribution provisions of section 24-51-401 and the~~
23 ~~matching employer contribution provisions of section 24-51-408.5 shall~~
24 ~~not apply to any voluntary contribution made by a retiree.~~

25 (4) The employer shall deliver all voluntary contributions to the
26 VOLUNTARY INVESTMENT PROGRAM VIA THE ASSOCIATION, OR THE service
27 provider designated by the association, IF APPLICABLE, within five days

1 after the date that the participants are paid and consistent with the
2 provisions of section 24-51-401 (1.7)(c) and (1.7)(d).

3 **SECTION 7.** In Colorado Revised Statutes, 24-51-1506, **amend**
4 (2) as follows:

5 **24-51-1506. Additional choices within first five years.**

6 (2) A member who elects to join the defined benefit plan pursuant
7 to subsection (1) of this section may, upon meeting the requirements of
8 section 24-51-505, purchase service credit for the period of employment
9 covered by the defined contribution plan. The cost to purchase such
10 service ~~shall be~~ IS the same as the cost determined by the board for the
11 purchase of noncovered ~~employment~~ TIME. The member may elect to have
12 any portion of the member's account paid from the defined contribution
13 plan to the defined benefit plan to facilitate the purchase of service credit
14 through a direct rollover in accordance with section 401 (a)(31) of the
15 federal "Internal Revenue Code of 1986". ~~as amended~~ The member may
16 not be vested in the defined contribution plan upon purchasing service
17 credit for employment that was covered by the defined contribution plan.

18 **SECTION 8.** In Colorado Revised Statutes, **amend** 24-51-1602
19 as follows:

20 **24-51-1602. Affiliation with the deferred compensation plan.**

21 ~~(1) An employee is not eligible to participate in the deferred~~
22 ~~compensation plan authorized in section 24-51-1601 unless his or her~~
23 ~~employer is affiliated with such plan.~~

24 (2) ~~An EACH employer as defined in section 24-51-101 (20), may~~
25 ~~SHALL affiliate with the deferred compensation plan. by making~~
26 ~~application to the association. All applications shall be subject to approval~~
27 ~~by the association.~~ Upon affiliation, employees of the employer are

1 eligible to begin deferring salary to the deferred compensation plan.

2 (2.5) THE DEFERRED COMPENSATION PLAN ESTABLISHED
3 PURSUANT TO SECTION 24-51-1601 MUST:

4 (a) BE IN ADDITION TO ANY OTHER RETIREMENT OR TAX-DEFERRED
5 COMPENSATION SYSTEM ESTABLISHED BY THE STATE OR ITS POLITICAL
6 SUBDIVISIONS; AND

7 (b) INCLUDE OPTIONS FOR AN EMPLOYEE TO MAKE PRE-TAX
8 VOLUNTARY CONTRIBUTIONS AND ROTH VOLUNTARY CONTRIBUTIONS TO
9 THE DEFERRED COMPENSATION PLAN.

10 (3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, all
11 employers that are affiliated with the deferred compensation plan prior to
12 July 1, 2009, including entities that are not affiliated employers of the
13 association, ~~as employer is defined in section 24-51-101 (20), shall~~
14 ~~remain affiliated and shall not have to apply to the association pursuant~~
15 ~~to subsection (2) of this section~~ WITH THE DEFERRED COMPENSATION
16 PLAN.

17 (4) Any employee who is employed by an entity that is affiliated
18 with the deferred compensation plan ~~shall be~~ IS entitled to participate in
19 the plan regardless of whether that ~~individual~~ EMPLOYEE is a member or
20 retiree of the association.

21 **SECTION 9.** In Colorado Revised Statutes, 24-51-1603, **amend**
22 (1), (2), and (3) as follows:

23 **24-51-1603. Contributions to the deferred compensation plan.**

24 (1) An employee of an employer affiliated with the deferred
25 compensation plan pursuant to section 24-51-1602 ~~(2) or (3)~~ may
26 participate in the deferred compensation plan authorized in section
27 24-51-1601 by electing with ~~his or her~~ THEIR employer to defer receipt of

1 salary by specifying an amount contributed by payroll deduction. The
2 amount of such deferral by the employee ~~shall be~~ IS subject to any
3 limitations established by federal law. ~~The amount deferred, including~~
4 ~~investment earnings, shall be exempt from federal and state income taxes~~
5 ~~until the ultimate distribution of such contributions has been made to the~~
6 ~~participant, former participant, or beneficiary.~~

7 (2) All voluntary deferrals by a participating member ~~shall~~ OR
8 RETIREE MUST be included in the salary of ~~such member~~ THE MEMBER OR
9 RETIREE in accordance with section 24-51-101 (42) for the purpose of
10 calculating member, WORKING RETIREE, and employer contributions
11 pursuant to the provisions of section 24-51-401. ~~The member contribution~~
12 ~~provisions of section 24-51-401 shall not apply to any deferral made by~~
13 ~~a retiree.~~

14 (3) Consistent with the provisions of section 24-51-401 (1.7)(c)
15 and (1.7)(d), ~~the~~ AN employer shall deliver all deferred compensation
16 contributions to the trust fund via THE ASSOCIATION OR the service
17 provider designated by the association, if applicable, within five days
18 after the date the employees are paid.

19 **SECTION 10. Act subject to petition - effective date.** This act
20 takes effect January 1, 2027; except that, if a referendum petition is filed
21 pursuant to section 1 (3) of article V of the state constitution against this
22 act or an item, section, or part of this act within the ninety-day period
23 after final adjournment of the general assembly, then the act, item,
24 section, or part will not take effect unless approved by the people at the
25 general election to be held in November 2026 and, in such case, will take
26 effect January 1, 2027, or on the date of the official declaration of the
27 vote thereon by the governor, whichever is later.