

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0116.01 Gregg Fraser x4325

SENATE BILL 12-149

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SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Priola,

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Senate Committees  
Finance

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE CIRCUMSTANCES IN WHICH THE BOARD OF A  
102 DEFINED BENEFIT PLAN OR SYSTEM CREATED BY A LOCAL  
103 GOVERNMENT MAY MODIFY RETIREMENT BENEFIT PROVISIONS  
104 OF THE PLAN OR SYSTEM.

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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://www.leg.state.co.us/billsummaries>.)*

The bill allows the board of a defined benefit plan or system created by a local government to modify the benefits and the age and

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.

service requirements for any such plan or system when the board determines the modification is required to ensure the sustainability of the plan or system. Any modifications to the benefits and age and service requirements shall not adversely affect vested benefits already accrued by members of such defined benefit plans or systems, including, but not limited to, members who are retired or eligible to retire as of the effective date of the modifications, unless otherwise permitted under or required by Colorado or federal law.

Boards of defined benefit plans or systems may provide written notice to each member, inactive member, and beneficiary that the possibility of a reduction of benefits to ensure the sustainability of the plan or system could occur in the future.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-54-101, **amend**  
3 (2.7) as follows:

4 **24-54-101. Authorization to establish and maintain retirement**  
5 **plan or system - definitions.** (2.7) For purposes of this article, unless the  
6 context otherwise requires:

7 (a) "County" means a county or a city and county, including any  
8 entity formed by such county or city and county.

9 (b) "DEFINED BENEFIT PLAN OR SYSTEM" MEANS ANY RETIREMENT  
10 PLAN OR SYSTEM THAT IS NOT A DEFINED CONTRIBUTION PLAN OR SYSTEM.

11 (c) "DEFINED CONTRIBUTION PLAN OR SYSTEM" MEANS A  
12 RETIREMENT PLAN OR SYSTEM THAT PROVIDES FOR AN INDIVIDUAL  
13 ACCOUNT FOR EACH PARTICIPANT AND THE BENEFITS OF WHICH ARE BASED  
14 SOLELY ON THE AMOUNT CONTRIBUTED TO THE PARTICIPANT'S ACCOUNT  
15 AND THAT INCLUDES ANY INCOME, EXPENSES, GAINS, LOSSES, OR  
16 FORFEITURES OF ACCOUNTS OF OTHER PARTICIPANTS THAT MAY BE  
17 ALLOCATED TO THE PARTICIPANT'S ACCOUNT.

18 ~~(b)~~ (d) "Municipality" means a city or a town and any entity  
19 formed by such city or town.

1           (e) "Political subdivision" means any district, special district,  
2           improvement district, authority, council of governments, governmental  
3           entity formed by an intergovernmental agreement, or any other kind of  
4           municipal, quasi-municipal, or public corporation organized pursuant to  
5           law.

6           **SECTION 2.** In Colorado Revised Statutes, **add** 24-54-116 and  
7           24-54-117 as follows:

8           **24-54-116. Modification of a defined benefit plan or system -**  
9           **legislative declaration.** (1) THE GENERAL ASSEMBLY DECLARES THAT  
10          ENSURING THE SUSTAINABILITY OF DEFINED BENEFIT PLANS OR SYSTEMS  
11          ADOPTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE SERVES A  
12          SIGNIFICANT AND LEGITIMATE PUBLIC PURPOSE JUSTIFYING A  
13          MODIFICATION OF THE BENEFITS AND THE AGE AND SERVICE  
14          REQUIREMENTS FOR ANY SUCH PLAN OR SYSTEM BY ITS BOARD.

15          (2) THE BOARD OF A DEFINED BENEFIT PLAN OR SYSTEM ADOPTED  
16          PURSUANT TO THE PROVISIONS OF THIS ARTICLE MAY MODIFY THE  
17          BENEFITS AND THE AGE AND SERVICE REQUIREMENTS FOR THE PLAN OR  
18          SYSTEM IF THE BOARD DETERMINES THAT THE MODIFICATION IS REQUIRED  
19          TO ENSURE THE SUSTAINABILITY OF THE PLAN OR SYSTEM.

20          (3) ANY MODIFICATION PURSUANT TO SUBSECTION (2) OF THIS  
21          SECTION SHALL NOT ADVERSELY AFFECT VESTED BENEFITS ALREADY  
22          ACCRUED BY MEMBERS OF SUCH DEFINED BENEFIT PLAN OR SYSTEM,  
23          INCLUDING, BUT NOT LIMITED TO, THE PENSION BENEFITS OF RETIRED  
24          MEMBERS OR MEMBERS ELIGIBLE TO RETIRE AS OF THE EFFECTIVE DATE OF  
25          THE MODIFICATION, UNLESS OTHERWISE PERMITTED UNDER OR REQUIRED  
26          BY COLORADO OR FEDERAL LAW. THIS SUBSECTION (3) IS NOT INTENDED  
27          TO LIMIT THE ABILITY OF THE BOARD OF ANY DEFINED BENEFIT PLAN OR

1 SYSTEM TO MODIFY FUTURE BENEFIT ACCRUALS.

2 (4) THIS SECTION IS NOT INTENDED TO LIMIT THE ABILITY OF THE  
3 BOARD OF ANY DEFINED BENEFIT PLAN OR SYSTEM TO MODIFY THE  
4 PROVISIONS OF SUCH PLAN OR SYSTEM AS PERMITTED UNDER OR REQUIRED  
5 BY COLORADO OR FEDERAL LAW.

6 **24-54-117. Notice of possible change in benefits - ensuring**  
7 **sustainability.** THE BOARD OF ANY DEFINED BENEFIT PLAN OR SYSTEM  
8 ADOPTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE MAY PROVIDE  
9 WRITTEN NOTICE TO EACH MEMBER, INACTIVE MEMBER, AND BENEFICIARY  
10 THAT THE POSSIBILITY OF A REDUCTION OF BENEFITS TO ENSURE THE  
11 SUSTAINABILITY OF THE DEFINED BENEFIT PLAN OR SYSTEM COULD OCCUR  
12 IN THE FUTURE.

13 **SECTION 3. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, and safety.