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SENATE BILL 12-149

BY SENATOR(S) Steadman, Aguilar;
also REPRESENTATIVE(S) Priola, Brown, Fields, Kerr J., Labuda,
Summers.

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

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

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

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

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

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

*Capital letters indicate new material added to existing statutes; dashes through words indicate
deletions from existing statutes and such material not part of act.*

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

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

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

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

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

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

(3) ANY MODIFICATION PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL NOT ADVERSELY AFFECT VESTED BENEFITS ALREADY ACCRUED BY MEMBERS OF SUCH DEFINED BENEFIT PLAN OR SYSTEM, INCLUDING, BUT NOT LIMITED TO, THE PENSION BENEFITS OF RETIRED MEMBERS OR MEMBERS ELIGIBLE TO RETIRE AS OF THE EFFECTIVE DATE OF THE MODIFICATION, UNLESS OTHERWISE PERMITTED UNDER OR REQUIRED BY

COLORADO OR FEDERAL LAW. THIS SUBSECTION (3) IS NOT INTENDED TO LIMIT THE ABILITY OF THE BOARD OF ANY DEFINED BENEFIT PLAN OR SYSTEM TO MODIFY FUTURE BENEFIT ACCRUALS.

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

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

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

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO