

## PROPOSED AMENDMENTS TO BILL NO. 10059.0100

Page 1, line 2, remove “subsection 1 of”

Page 1, line 3, remove “subsection 1 of”

Page 5, line 19, remove “Subsection 1 of section”, and insert immediately thereafter “Section”

Page 5, remove lines 21 through 23

Page 5, after line 23, insert:

**39-03.1-11.2. Internal Revenue Code compliance.**

~~1.~~—The board shall administer the plan in compliance with ~~section 415,~~  
~~section 401(a)(9), section 401(a)(17), and section 401(a)(31)~~ the following  
sections of the Internal Revenue Code in effect on August 1, ~~2009~~ 2011,  
as it applies for governmental plans.

~~2.~~ 1. Section 415, including the defined benefit dollar limitation under section  
415(b)(1)(A) of the Internal Revenue Code.

a. The defined benefit dollar limitation under section 415(b)(1)(A) of  
the Internal Revenue Code, as approved by the legislative  
assembly, must be adjusted under section 415(d) of the Internal  
Revenue Code, effective January first of each year following a  
regular legislative session. The adjustment of the defined benefit  
dollar limitation under section 415(d) applies to participating  
members who have had a separation from employment, but that  
member's benefit payments may not reflect the adjusted limit prior

to January first of the calendar year in which the adjustment applies.

~~3.~~ b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.

~~4.~~ c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued thereunder to the extent applicable to governmental plans. Accordingly, benefits shall be distributed or begin to be distributed no later than a member's required beginning date, and such required minimum distribution rules shall override any inconsistent provisions of this Chapter. A member's required beginning date is April 1 of the calendar year following the later of the

calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution (as defined in section 402(c)(4) of the Internal Revenue Code) paid in a direct rollover to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Internal Revenue Code) specified by the distributee.
5. In the event the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance shall be nonforfeitable, to the extent then funded.

Page 12, line 19, remove “Subsection 1 of section”, and insert immediately thereafter “Section”

Page 12, remove lines 21 through 23

Page 12, after line 23, insert:

**54-52-28. Internal Revenue Code compliance.**

- 1.——The board shall administer the plan in compliance with ~~section 415,~~  
~~section 401(a)(9), section 401(a)(17), and section 401(a)(31)~~ the following

sections of the Internal Revenue Code in effect on August 1, ~~2009~~ 2011, as it applies for governmental plans.

~~2.~~ 1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.

a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.

~~3.~~b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.

~~4.~~ c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation,

the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued thereunder to the extent applicable to governmental plans. Accordingly, benefits shall be distributed or begin to be distributed no later than a member's required beginning date, and such required minimum distribution rules shall override any inconsistent provisions of this Chapter. A member's required beginning date is April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution (as defined in section 402(c)(4) of the Internal Revenue Code) paid in a direct rollover to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Internal Revenue Code) specified by the distributee.
5. In the event the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members

to accrued retirement benefits under this chapter as of the date of  
termination or discontinuance shall be nonforfeitable, to the extent then  
funded.

Renumber accordingly