HOUSE OF REPRESENTATIVES

HB 2090

defined contribution retirement plans; option

Sponsors: Representatives Lovas, Allen, Kwasman, et al.

F Committee on Insurance and Retirement

Caucus and COW

House Engrossed

OVERVIEW

HB 2090 establishes a Defined Contribution Retirement Plan (Plan) for those members who are eligible for ASRS, PSPRS or CORP.

HISTORY

The Arizona State Retirement System (ASRS) manages retirement, health and Long Term Disability benefits for state, county and municipal employees. ASRS benefits are funded by member and employer contributions and by earnings on investments. Currently, state law requires employers to pay an Alternate Contribution Rate (ACR) for members who return to work in any capacity. The returning member is not responsible for this payment; it is charged to the employer. Employers pay the ACR on behalf of any retiree that it employs regardless of 20/20 status, direct/leasing/contracting arrangement, or whether the retiree satisfied the 12-month break in service without working in a leased or contract arrangement. The ACR for ASRS employers, for FY 2013-2014, is set at 9.2%.

The Public Safety Personnel Retirement System (PSPRS) administers the statewide retirement program for public safety personnel who are regularly assigned hazardous duty in the employ of the state. The Corrections Officer Retirement Plan (CORP) is a defined benefit retirement plan administered by PSPRS that provides benefit coverage for full-time state and county detention officers as well as corrections officers employed by the Department of Corrections or Department of Juvenile Corrections. For each of the retirement plans, statute requires an employer to pay an ACR to PSPRS or CORP if a retired member returns to work in any capacity in a designated position ordinarily filled by an employee. For FY 2013-2014, the ACR for PSPRS employers is set at 17.07% and for CORP employers the ACR is 6.18%.

PROVISIONS

- Instructs the ASRS Board and the PSPRS Board of Trustees to each establish, administer and manage a Plan for those employees who are eligible for ASRS, PSPRS and CORP membership but elect to participate in the Plan.
- Allows the ASRS Board to delegate authority to its director to implement the Plan.
- Permits the PSPRS Board of Trustees to delegate authority to an administrator determined by the Board to implement the Plan.

Defined Contribution Plan Administration

- Allows the ASRS Board and PSPRS Board of Trustees to:
  - Employ services, including legal services, for the operation and administration of the Plan;

- Administer the Plan through contracts with multiple vendors;
- Perform all acts, whether or not expressly authorized, that it deems necessary for the operation and protection of the Plan; and
- Enter into intergovernmental agreements pursuant to law.

- Permits the ASRS Board and PSPRS Board of Trustees to employ the third party administrator currently administering the supplemental defined contribution plan to also administer the Plan until the end of the contract.
- Requires the ASRS Board and PSPRS Board of Trustees to participate in a competitive bid process, at least once every five years, to contract with a private person or qualified company to administer the Plan.
- Requires the Plan to be a qualified governmental plan under Section 401(a) of the Internal Revenue Code and as such is exempt from taxation. Allows the ASRS Board and PSPRS Board of Trustees to adopt provisions to fulfill this intent.
- Includes the following specifications relating to employee contributions:
  - All employee contributions made to a Plan must be picked up and paid by the employer in lieu of contributions to the employee;
  - The contributions picked up by an employer may be made through a reduction in the employee's compensation or an offset against future compensation increases, or a combination of both;
  - An employee participating in a Plan does not have the option of choosing to receive the contributed amounts directly instead of the employer amounts to the Plan; and
  - It is intended that all employee contributions picked up by the employer:
    - Be treated as employer contributions under Section 414(h) of the Internal Revenue Code;
    - Be excluded from employee's gross income for federal and state income tax purposes; and
    - Are includable in the gross income of the employees or their beneficiaries only in the taxable year in which they are distributed.

Contribution Rates and Employee Participation

- Allows an employee to elect to participate in the Plan if the election is made in writing and filed with the appropriate retirement system or plan and designated officer of the employer.
- Mandates that the election must be executed within 30 days of employment and is irrevocable for the remainder of the employee's employment.
- Requires each employee to contribute seven and one half percent of the employee's compensation, as defined under the system or plan in which the employee would have been enrolled, by salary deduction deposited in the employee's retirement savings account.
- Requires each employer to contribute the following:
  - For employers whose employee would have been a member of ASRS, the employer shall contribute to ASRS the ACR amount determined by statute. The employer is required to contribute an amount equal to the statutorily determined contribution rate minus the ACR amount, up to eight percent, which will be deposited in the employee's retirement savings account.
  - For employers whose employee would have been a member of PSPRS or CORP, the employer shall contribute to PSPRS the ACR amount determined by statute.

- The employer is required to contribute the percentage determined by ASRS, which will be deposited in the employee's retirement savings account.
- Specifies that employee and employer contributions as well as earnings on those contributions are immediately vested.
- Defines an *employee* as a person who:
  - Is hired on or after the effective date of this section;
  - Is not an active, inactive, retired or disabled member of the ASRS, PSPRS, or CORP retirement plan; or
  - Would otherwise be eligible for participation in ASRS, PSPRS or CORP but who has elected to participate in the Plan.

Miscellaneous

- Permits the ASRS Board to enter into agreements with retired members of the Plan to obtain group health and accident coverage but retirees are required to pay a premium and are not eligible for certain benefits.
- Allows retired members of the Plan who would have otherwise been enrolled in PSPRS or CORP to obtain group health and accident coverage but retirees are required to pay a premium and are not eligible for certain benefits.
- Makes technical and conforming changes.