

Abbreviated Sectional Analysis for CSHB 475 v.C

1. Clarifies the procedure for an appeal to the Office of Administrative Hearings (OAH)

Sec. 31, Sec. 32, Sec. 41, Sec. 71, Sec. 72

Change: Adds the Supplemental-benefit-annuity Plan (SBS), Health Reimbursement Arrangement (HRA) Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS Defined Benefit (DB) plans to the jurisdiction of the OAH. Gives members the authority to appeal the administrator's decision to the OAH.

Reason: These changes are necessary to give all applicable appellants the authority to appeal to the OAH.

2. Requires employers to contribute at least the normal cost rate starting in 2008

Sec. 3, Sec. 38, Sec. 76, Sec. 78, Sec. 79, Sec. 81

Change: Retroactively repeals the provision in SB 141 that establishes a floor on employer contributions and reinserts it with a delayed effective date (2008).

Reason: A handful of communities have assets that exceed their liabilities. By delaying the effective date they have a few years to contribute below the normal cost rate so their assets can match their liabilities before the minimum normal cost contribution rate will be required.

3. Changes the requirements to receive a conditional service benefit and a public service benefit.

Sec. 4, sec. 39, Sec. 40, Sec. 77, Sec. 80

Change: Removes the provision that allows PERS and TRS employees to repay refunded contributions for the purpose of obtaining a conditional/ public service benefit with a delayed effective date (2010).

Reason: Right now a member who refunded out of one plan (TRS or PERS) could qualify for retirement benefits in the other plan. By paying back a minimum of 2 years of indebtedness in the first plan a person could be eligible for a pension and medical benefit in *both* plans. Also, currently any member that has refunded out of the system can re-enter employment, pay back their indebtedness, and become a member of the Tier they belonged to at the time of employment. This represents a significant unknown liability to the system. The above change gives former PERS/TRS members four years to re-enter employment and payback their service.

4. Clarifies provisions regarding PERS/TRS death and disability benefits, including how those benefits will be funded.

4a. Funding death and disability benefits

Sec. 8, sec. 46, Sec. 73

Change: Establishes that the amount an employer needs to contribute for death and disability benefits will be actuarially calculated each year and placed into a separate trust account, except for the first year when contributions for police/fire will be .73%, PERS other .37% and TRS .26%.

Reason: If occupational death and disability benefits are not funded it creates an unfunded liability to the system. All employers need to pay into a system wide trust so the benefit is not a liability to each employer individually.

4b. The structure of death and disability benefits

Sec. 12, Sec. 13, Sec. 14, sec. 15, Sec. 17, Sec. 18, Sec. 50, Sec. 51, Sec. 52, Sec. 53, Sec. 54, Sec. 56, Sec. 57

Change: A disabled member is immediately vested in 100% of the employer and employee contributions upon disability. A period spent receiving disability benefits counts as membership service towards vesting. A member is not allowed to take money out of their DC account while receiving disability benefits. Disability benefits terminate when the member first qualifies for normal retirement. However, a member who becomes eligible for normal retirement while receiving disability benefits will be treated as if they were Medicare eligible age for the purpose of qualifying for retiree medical benefits. Death and disability benefits for PERS and TRS members mirror current Tier III benefits. Upon reaching normal retirement age, a disabled police/fire member may choose either their DC account or a pension benefit as if they were in Tier III. If they elect to have their retirement in a monthly pension, the pension will first be paid out of the members individual DC trust account. Provides a definition of occupational disability.

Reason: Details of death and disability benefits were not provided in SB 141. These changes clarify the intent of the legislature last year to provide death and disability benefits for all members.

4c. Survivor benefits

Sec. 16, Sec. 19, Sec. 20, Sec. 21, Sec. 22, Sec. 58, Sec. 59, Sec. 60, Sec. 61

Change: Clarifies that a survivor's benefit terminates when the beneficiary is no longer eligible or the deceased member would have reached normal retirement. A period spent receiving death benefits counts as membership service for vesting purposes. A survivor is not allowed to take money out of the deceased member's DC account while receiving survivor benefits. Establishes

that funds paid towards a survivor's retirement benefit will be paid into a separate trust account in order to meet IRS tax qualifications.

5. Clarifies the eligibility requirements for medical benefits.

Sec. 11, Sec. 34, Sec. 35, Sec. 49, Sec. 55

Change: Requires someone who originally declined to participate in the retiree major medical and later so wishes must provide a letter that proves they have had continuous coverage or demonstrate proof of insurability. Clarifies that a member has access to their Health Reimbursement Arrangement (HRA) without retiring directly from the system. Fixes a drafting error that requires a member to meet eligibility requirements for both PERS and TRS to qualify for the HRA.

Reason: Without requiring continuous coverage the plan is exposed to an unknown liability in built up medical treatment. It was the intent of the legislature last year to give the member ownership of the HRA, similar to a DC account, and not require that you retire directly from the system to gain access to it.

6. Clarifies requirements for non-vested Tier II or Tier III employees who wish to transfer to Tier IV

Sec. 24, Sec. 25, Sec. 26, Sec. 27, Sec. 28, Sec. 47, Sec. 63, Sec. 64, Sec. 65, Sec. 66, Sec. 67

Change: Gives employees 12 months from when they are notified that they can transfer from the DB plan to the DC plan to do so. Allows employers to open the transfer option up to employees for a second 12-month period. Clarifies that membership service under a DB plan counts towards vesting once you transfer to the DC plan. However, refunded service by a member will not count towards vesting unless the member has paid back the indebtedness. Clarifies that the employer can only match up to the IRS limit when matching employer contributions for purposes of the transfer. Establishes that the second transfer period is only available to eligible employees who did not have the option to transfer during the first transfer period.

Reason: A time limit needed to be placed on the transfer option otherwise employers would be opening themselves up to an unknown liability. Clarification on the allowable contribution amount ensures the plan meets IRS standards.

7. Clarifies the basis for calculating employer contribution rates

Sec. 1, Sec. 2, Sec. 36, Sec. 37

Change: Specifies that the past service cost will be applied to the employer's entire wage base. Adds a definition of employer normal cost and past service cost rate.

Reason: Even though DC members do not have a past service cost, all of the previous calculations and analysis use the entire wage base to calculate the past service cost payment as a

percentage rate. Though the dollar contributions would remain the same, without this provision the past service cost rate would escalate to over 100% for DB members. This change provides consistency.

8. Gives regulatory authority to the appropriate party

Sec. 29, Sec. 30

Change: Changes the authority for adopting SBS regulations from the ARM board to the Commissioner of Administration.

Reason: In the transfer of authorities under SB 141, this section was overlooked.

9. Changes the basis for calculating HRA contributions to meet IRS tax qualified status

Sec. 33

Change: Changes the basis for calculating the 3% employer contribution for the HRA from the wage base of each individual employer to the wage base of the plan.

Reason: Without this change the plan is discriminatory and it would not qualify for IRS tax-exempt status.

10. Definitions

Sec. 42, Sec. 69, Sec. 70, Sec. 74

Change: Repeals duplicative section regarding the definition of administrator. Provides a clear definition of peace officer and fire fighter under the DC plan. Establishes that ‘member’ and ‘employee’ have the same meaning throughout the statute. Clearly defines that a DOL or DEED member whose position requires a teaching certificate is in TRS and not PERS.

Reason: Clean-up language.

11. Disallows employment with National Education Association (NEA) as counting towards Tier IV retirement eligibility

Sec. 74

Change: Repeals participation of NEA employees in TRS.

Reason: NEA is no longer an eligible TRS employer, however, statutes were duplicated during the drafting of SB 141 and this section was inadvertently included.

12. Establishes provisions for employer termination

Sec. 68

Change: Establishes the procedure for employer termination in the DC plan, mirroring DB language. An employer can choose to terminate participation for subgroups of its employees. When the employer terminates the employee is considered fully vested in the employer and employee contributions and the HRA. A new employer may choose to participate only in the DC plan.

Reason: Currently employers can terminate participation in the Tier I, II and III plans, however no provisions were included in SB 141 to allow employer termination from the Tier IV plan.

13. Clarifies defined benefit and defined contribution components of the plan

Sec. 5, Sec. 6, Sec. 9, Sec. 10, Sec. 23, Sec. 42, Sec. 43, Sec. 48 Sec. 62

Change: Clarifies that the retirement plans established in SB 141 have both DB and DC components and points out the distinctions between the two and which IRS codes the respective portions fall under.

Reason: This change clarifies what IRS category the plan falls under and consequently the rules that have to be followed. Without the change the plan runs the risk of not qualifying for IRS tax-exempt status.

14. Establishes adherence to IRS limitations

Sec. 7, Sec. 45

Clarifies that employee voluntary contributions to their retirement account are subject to federal limits in order to qualify as tax exempt.

*A more detailed sectional analysis was distributed to your office by the Division of Retirement and Benefits. The sponsor has additional back-up information available upon request.