SENATE BILL 2171
By Kelsey

HOUSE BILL 2907

By Pody

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 25, Part 1; Title 8, Chapter 25, Part 3; Title 8, Chapter 34; Title 8, Chapter 36 and Title 8, Chapter 37, relative to to retirement plans for state employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 34, is amended by adding Sections 2 through 6 of this act as a new, appropriately designated part.

SECTION 2. The provisions of this part apply only to persons initially entering employment with a state agency on or after July 1, 2012.

SECTION 3. For purposes of this section, unless the context otherwise requires:

(1) "Accrued liability contribution rate" means the additional percent paid by an employer pursuant to Section 6 on behalf of a cash balance plan participant to the defined benefit plan to fund the participant's appropriate share of the defined benefit plan's unfunded actuarial accrued liability;

(2) "Cash balance plan," "defined contribution plan," or "the plan" means the retirement plan established in this part on and after July 1, 2012, that consists of benefit options that provide for an individual account in which employer contributions are made on behalf of each employee, and under which benefits are based solely on the savings that have accumulated in the account;

(3) "Defined benefit plan" means the retirement plan established in the retirement system pursuant to this chapter and chapters 36 and 37 prior to July 1, 2012, that provides a predetermined retirement benefit to state employees and their beneficiaries;

(4) "Employee" or "state employee" means any person who is employed in the service of, and whose compensation is payable by, a state agency, and included in the membership of the retirement system;

(5)

(A) "Employer" or "state agency" means any agency, department, commission, board, office, or authority within the executive branch of state government by which an employee is paid, with respect to employees in its employ.

(B) "Employer" or "state agency" does not include the office of the secretary of state; the office of the state treasurer; the office of the comptroller of the treasury; any county board of education, city board of education, or the state board of education; the board of trustees of the University of Tennessee; the colleges and other educational institutions governed by the board of regents; the Tennessee School for the Blind, Tennessee School for the Deaf, Alvin C. York Institute, and any other special school; the Tennessee higher education commission; or any other agency of and within the state by which a teacher is paid, with respect to teachers in its employ;

(6) "Individual account" means the total amount on deposit maintained by the cash balance plan in an investment account, established for each employee for the purposes of allocation of the employee's contributions, the employer's contributions on behalf of the employee, and earnings credited to each of those contributions, investment gains and losses, and expenses; as well as reporting of the employee's benefit under the plan;

(7) "Initially entering" means hired or appointed for the first time, as an employee with a state agency on a full-time basis;

(8) "Normal contribution rate" means the percent of an employee's earnable compensation paid on behalf of the employee to the employee's individual account in the cash balance plan; and

(9) "Unfunded actuarial accrued liability" or "the liability" means the excess, if any, of the accrued liability of the defined benefit plan over the actuarial value of its assets.

SECTION 4.

(a) On and after July 1, 2012, the treasurer shall establish a defined contribution plan for state employees that shall be known as the "cash balance plan."

(b) The treasurer shall enter into a contract with a third party financial institution to manage the plan. The treasurer shall use an annual competitive bidding process when contracting for the right to manage the plan. The contract shall be awarded to the bidder that guarantees the highest rate of return on the fund of the plan each year minus all administrative fees; provided, the bidder is qualified to perform the contract and is financially sound, as determined by the treasurer.

SECTION 5.

(a) The defined benefit plan shall continue to function for the benefit of state employees and their beneficiaries covered by the defined benefit plan prior to July 1, 2012; except, that no person initially entering employment on or after July 1, 2012, shall become a participant of the defined benefit plan.

(b) Each person initially entering employment prior to July 1, 2012, who is covered by the defined benefit plan prior to July 1, 2012, shall remain in the defined benefit plan. Each person initially entering employment on or after July 1, 2012, shall be enrolled as a participant of the cash balance plan. All such employees may also participate in, or continue to participate in, a supplemental deferred compensation plan qualified under Internal Revenue Code § 457, codified in 26 U.S.C. § 457, and a profit sharing or salary reduction plan as permitted under § 401(k) of the Internal Revenue Code, codified in 26 U.S.C. § 401(k); provided, that, contributions to the supplemental plan are characterized as solely employee contributions, and the state shall not support any supplemental plan by employer contributions.

SECTION 6.

(a) Subject to adjustment as provided in subsection (b), for each employee who enrolls in the cash balance plan, the contributions of the employer on behalf of the employee shall consist of:

(1) The normal contribution rate to the employee's individual account, which shall be no less than six percent (6%) and no more than fifteen percent (15%) of the employee's earnable compensation; and

(2) The accrued liability contribution rate to the defined benefit plan, which shall be equal to the percent of total earnable compensation paid to all employees who are members of the retirement system and is necessary to provide the annual amount required to fund the defined benefit plan's unfunded actuarial accrued liability.

(b)

(1) The accrued liability contribution rate shall be periodically reviewed and adjusted as needed to pay the defined benefit plan's unfunded actuarial accrued liability. If the amount is insufficient to fund the liability over any established period of time or is more than sufficient to fund the liability earlier than any established period, there shall be determined an amount of the increase or decrease in the rate.

(2) If, in any time period, any decrease in the accrued liability contribution rate results in the sum of the adjusted accrued liability contribution rate and normal contribution rate totaling less than fifteen percent (15%), the normal contribution rate shall be increased by the same amount of the decrease in the accrued liability contribution rate.

(3) If, in any time period, any increase in the accrued liability contribution rate results in the sum of the adjusted accrued liability contribution rate and normal contribution rate totaling more than fifteen percent (15%), the normal contribution rate shall be decreased by the same amount of the increase in the accrued liability contribution rate, subject to the limits imposed by subdivision (a)(1).

(4) The treasurer shall notify state employees and state agencies by November 1 of the year of a determination that the allocation of normal contributions under this part will be adjusted.

SECTION 7. The treasurer may establish policies and procedures and promulgate rules to implement the provisions of this part and to create and administer the cash benefit plan. All such rules shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 8. This act shall take effect July 1, 2012, the public welfare requiring it.