SENATE BILL No. 1149

Introduced by Senator Glazer
(Coauthor: Senator Moorlach)
(Coauthor: Assembly Member Baker)

February 14, 2018

An act to add Chapter 8.8 (commencing with Section 19999.35) to Part 2.6 of Division 5 of Title 2 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1149, as introduced, Glazer. Public employees' retirement: defined contribution program.

The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. PERL vests management and control of PERS in the Board of Administration.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act. PEPRA authorizes a public employer to provide a contribution to a defined contribution plan for compensation in excess of certain federal compensation limits applicable to qualified pension trusts, if the plan and contribution meet the requirements set forth in federal law. PEPRA prohibits any of those employer contributions to an employee defined contribution plan from exceeding the employer's contribution rate, as a percentage of pay, required to fund the defined benefit plan.

Existing law establishes an alternate retirement program and provides that certain state employees, as defined, who become new members of PERS during their first 24 months of employment, do not make contributions to PERS or receive service credit for their service. Under existing law, these members are instead required to contribute either 5% or 6% of their monthly compensation, as specified, to the alternate retirement program.

This bill would create a new optional defined contribution plan for new state employees who are eligible to become members of PERS and who choose not to make contributions into the defined benefit program under PERL. The bill would require state employees who opt to participate in this alternate system to contribute the same percent of compensation as similarly situated employees who contribute to the defined pension program, subject to applicable limits of federal law. The bill would authorize an employee in the defined contribution program, after 5 years, to have the right to continue in the program or switch to the defined benefit plan, subject to certain terms and conditions. The bill would require the Department of Human Resources to administer the defined contribution retirement program established by the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 8.8 (commencing with Section 19999.35) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

Chapter 8.8. Optional Defined Contribution Plan for New Employees

19999.35. (a) The Legislature finds and declares that this chapter is intended to provide a defined contribution pension program for new state employees who are eligible to be members of the Public Employees' Retirement System pursuant to Section 20281.5 and who choose not to make contributions into the defined benefit retirement program.

(b) (1) The Legislature hereby authorizes the development of a defined contribution retirement program under a deferred compensation plan, a tax-deferred savings plan, or any other acceptable defined contribution plan.

(2) The plan is intended to constitute a governmental plan as defined by Section 414(d) of the Internal Revenue Code (26 U.S.C. Sec. 414(d)) and as such, the plan and all benefits payable thereunder are intended to satisfy all requirements of Section 401(a) of the Internal Revenue Code.

(c) The state employees described in subdivision (a) who are employed in positions that are subject to the federal system, as defined in Section 20033, and who opt to participate pursuant to this chapter shall contribute to the retirement program the same percent of compensation, as set forth in Part 3 (commencing with Section 20000 of Division 5 of Title 2), as similarly situated employees who contribute to the defined pension program.

(d) Subject to applicable limits established by federal law, a new state employee who makes an election to become subject to this section shall make the contributions required by this section in the same amount as contributions made by employees in the same employment classifications and state bargaining units who are members subject to Part 3 (commencing with Section 20000) of Division 5 of Title 2.

(e) (1) “State employee,” as used in this section, includes employees, as defined in Section 19815.

(2) This section shall not apply to employees of the California State University, the University of California, or the legislative or judicial branch.

(f) For each employee who opts to contribute to the defined contribution plan, the Department of Human Resources shall deposit into an account on behalf of that employee an “employer contribution” in the same amount as the state would have contributed for the normal costs of a defined benefit pension for that employee, with the same limit on pension-eligible compensation.

(g) An employee who opts to contribute to the defined contribution plan may contribute more than the amount required pursuant to subdivision (c), subject to applicable limits of federal law.

(h) The employer contributions made on each employee’s behalf and the investment income accrued to those contributions shall be vested to the employee in the amount of 20 percent after one year of employment, 40 percent after two years of employment, 60 percent after three years of employment and 80 percent after four years of employment. After five years of employment, the employee shall be fully vested in the contributions made on that employee's behalf and the investment income accrued to those contributions.

(i) An employee shall be fully vested at all times in the contributions made from that employee's compensation and the investment income accrued to those contributions.

(j) After five years of employment, an employee in the defined contribution plan shall have the right to continue in that plan or switch to the defined benefit plan within 90 days of the completion of five years of employment. This change shall come at no cost to the employee if the balance in the employee's defined contribution account equals or exceeds the amount that would have been accrued to that employee under the defined benefit plan. If the balance in the employee's account is less than the amount that would have been accrued to that employee under the defined benefit plan, the employee shall have the opportunity to join the defined benefit plan provided the employee deposits additional funds into the defined benefit plan in the amount needed to equalize the two amounts. The employee shall then enter the defined benefit plan with the same amount of service credit that would have been earned had they enrolled from the start of their service.

(k) An employee who has participated in the defined contribution plan and leaves state employment after five years or more may leave the balance in that employee's account in the defined contribution program or transfer all of those funds to another savings program or account qualified to accept deferred compensation funds under state and federal law.

19999.36. The Department of Human Resources shall administer the defined contribution retirement program established by this chapter. The department shall provide the method by which benefit payments shall be made to eligible recipients. The department shall establish the program, the transfer of contributions to the Public Employees' Retirement System upon qualification and election by the member, continued participation in the program, and other provisions necessary for the implementation of the retirement program. The department may charge each state agency a fee not to exceed the reasonable regulatory costs to the department for the administration of this program.

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