



Bill Number: H.B. 2608

Yarbrough Floor Amendment

Reference to: FIN committee amendment

Amendment drafted by: Legislative Council

FLOOR AMENDMENT EXPLANATION

Yarbrough Floor Amendment

- Requires the PSPRS board to establish a DC system to provide for the retirement of elected officials and submit a request for a determination letter that the DC system is a plan qualified under section 401(a) of the IRC.
- Allows the use of the current third-party administrator to administer the DC plan, but requires a competitive bid process at least once every five years. Requires any contract to include competitive fees, quarterly meetings with the board, annual status updates and quarterly statements. Requires an annual report to the Governor and Legislature.
- Allows an active or inactive member of ASRS who becomes an elected official on or after January 1, 2014 to elect to resume or continue their participation in ASRS instead of the new DC plan. Also allows an elected official to participate in ASRS rather than the DC program if the employer is a participating ASRS employer, and if that official was elected or appointed before 2014 and is currently as ASRS member because that member had previously elected not to participate in EORP. The election to participate in ASRS must be made in writing and is irrevocable for the remainder of the member's term.
- Raises the annual appropriation to PSPRS from the \$3.5 million contained in the House engrossed bill to \$5 million through FY 2043, to supplement the normal cost plus unfunded accrued liability.
- Requires each employer of a member to make contribution of six percent, rather than the five percent contained in the House engrossed bill, of each member's gross compensation. The elected official's contribution remains at eight percent.

Amendment explanation prepared by Carolyn Speroni

5/2/2013

- **Requires each employer of a member of EORP, the new DC plan, or an ASRS member exempt from the DC plan, to pay 23.5% (including the above stated 6%) to meet normal costs plus an amount to amortize the unfunded accrued liability. That employer shall also pay half of the long-term disability amount, which is determined by the PSPRS board.**
- **Stipulates that employee contributions are pre-tax.**
- **Strikes all language pertaining to ASRS referencing the supplemental DC plan previously contained in the bill, as administration of the plan has been moved to PSPRS, and strikes the appropriation to ASRS.**

YARBROUGH FLOOR AMENDMENT
SENATE AMENDMENTS TO H.B. 2608
(Reference to FIN amendment)

1 Page 1, between lines 6 and 7, insert:

2 *Between lines 39 and 40, insert:*

3 *"B. THE FOLLOWING ELECTED OFFICIALS ARE SUBJECT TO THIS*
4 *ARTICLE IF THE MEMBER'S EMPLOYER IS AN EMPLOYER UNDER ARTICLE 3*
5 *OF THIS CHAPTER AND THE MEMBER ELECTS TO PARTICIPATE IN ASRS*
6 *PURSUANT TO SUBSECTION C OF THIS SECTION:*

7 1. A STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS,
8 WHO IS ELECTED OR APPOINTED ON OR BEFORE DECEMBER 31, 2013 AND
9 WHO IS AN ACTIVE OR INACTIVE MEMBER OF ASRS BECAUSE THE STATE
10 ELECTED OFFICIAL HAD PREVIOUSLY ELECTED NOT TO PARTICIPATE IN THE
11 ELECTED OFFICIALS' RETIREMENT PLAN AS PROVIDED IN SECTION 38-804,
12 SUBSECTION A.

13 2. NOTWITHSTANDING ANY EXCLUSION FROM AN AGREEMENT PROVIDING
14 FOR COVERAGE UNDER THE FEDERAL OLD AGE AND SURVIVORS INSURANCE
15 SYSTEM, AN ELECTED OFFICIAL, AS DEFINED IN SECTION 38-831, WHO IS
16 AN ACTIVE OR INACTIVE MEMBER OF ASRS, IF THE ELECTED OFFICIAL'S
17 EMPLOYER IS A PARTICIPATING EMPLOYER UNDER THIS ARTICLE.

18 C. IF AN ELECTED OFFICIAL AS DESCRIBED IN SUBSECTION B OF
19 THIS SECTION ELECTS TO CONTINUE OR RESUME THE MEMBER'S
20 PARTICIPATION IN ASRS, THE ELECTION SHALL BE MADE IN WRITING AND
21 FILED WITH ASRS WITHIN THIRTY DAYS AFTER THE ELECTED OFFICIAL'S
22 TERM BEGINS. THE ELECTION IS IRREVOCABLE FOR THE REMAINDER OF
23 THE ELECTED OFFICIAL'S TERM FOR WHICH THE ELECTION WAS MADE. IF
24 THE ELECTED OFFICIAL DOES NOT MAKE AN ELECTION UNDER THIS
25 SUBSECTION, THE ELECTED OFFICIAL SHALL BE ENROLLED IN THE ELECTED
26 OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM PURSUANT TO
27 ARTICLE 3.1 OF THIS CHAPTER. "

1 Page 1, strike line 18, insert:

2 Line 21, strike "OR" insert comma; after "CHAPTER" insert "OR
3 ARTICLE 2 OF THIS CHAPTER PURSUANT TO SECTION 38-727, SUBSECTION
4 B"

5 Line 24, after "AND" insert "THE EMPLOYER'S CONTRIBUTION UNDER
6 ARTICLE 2 OF THIS CHAPTER FOR MEMBERS ELIGIBLE PURSUANT TO
7 SECTION 38-727, SUBSECTION B. THE EMPLOYER ALSO"

8 Line 25, after "MEMBERS" insert "UNDER ARTICLE 2 OF THIS CHAPTER WHO
9 ARE ELIGIBLE PURSUANT TO SECTION 38-727, SUBSECTION B AND THE
10 AMOUNT REQUIRED BY ARTICLE 3.2 OF THIS CHAPTER FOR MEMBERS"

11 Line 28, after "EMPLOYER" insert "LEVEL PER CENT COMPENSATION"

12 Line 30, after "38-833" insert "AND SECTION 38-737 FOR MEMBERS
13 ELIGIBLE PURSUANT TO SECTION 38-727, SUBSECTION B"

14 Between lines 19 and 20, insert:

15 Page 24, line 33, strike "\$3,500,000" insert "\$5,000,000"

16 Page 2, between lines 13 and 14, insert:

17 Between lines 33 and 34, insert:

18 "A. THE BOARD SHALL ESTABLISH, DESIGN AND ADMINISTER A
19 DEFINED CONTRIBUTION SYSTEM TO PROVIDE FOR THE RETIREMENT OF
20 ELECTED OFFICIALS."

21 Reletter to conform

22 Line 37, after the period insert "THE LEGISLATURE INTENDS THAT"

23 Line 38, strike "SHALL"; after "BE" insert "DESIGNED TO BE"

24 Lines 15 and 16, strike "THE PROPER PAPERWORK FOR NOTIFICATION" insert "A
25 REQUEST FOR A DETERMINATION LETTER THAT THE DEFINED CONTRIBUTION SYSTEM IS A
26 PLAN QUALIFIED UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE AND A
27 PRIVATE LETTER RULING"

28 Strike lines 19 through 25, insert:

29 "D. THE BOARD MAY:

30 1. EMPLOY THE SERVICES OF THE THIRD-PARTY ADMINISTRATOR THAT IS
31 CONTRACTED ON THE EFFECTIVE DATE OF THIS SECTION TO ADMINISTER THE

1 SUPPLEMENTAL DEFINED CONTRIBUTION PLAN PURSUANT TO ARTICLE 8 OF THIS CHAPTER
2 TO ALSO ADMINISTER THE DEFINED CONTRIBUTION SYSTEM.

3 2. EMPLOY OTHER SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES,
4 FOR THE OPERATION AND ADMINISTRATION OF THE DEFINED CONTRIBUTION SYSTEM.

5 3. PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT
6 DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE SYSTEM.

7 E. THE BOARD SHALL ADOPT POLICIES REGARDING THE DEFINED CONTRIBUTION
8 SYSTEM, INCLUDING THE ADMINISTRATION OF THE MEMBER AND EMPLOYER
9 CONTRIBUTIONS, INVESTMENT OPTIONS, TERMINATION IN THE DEFINED CONTRIBUTION
10 SYSTEM, THE ADMINISTRATION OF THE PAYOUT OPTIONS UNDER THE DEFINED
11 CONTRIBUTION SYSTEM AND THE ADMINISTRATION OF THE MEMBER DISTRIBUTIONS.

12 F. ON RECEIPT OF THE DETERMINATION LETTER AND PRIVATE LETTER RULING
13 FROM THE INTERNAL REVENUE SERVICE, THE BOARD SHALL PARTICIPATE IN A
14 COMPETITIVE BID PROCESS AT LEAST ONCE EVERY FIVE YEARS TO CONTRACT WITH A
15 PRIVATE PERSON OR ANY QUALIFIED COMPANY OR COMPANIES TO ADMINISTER THE
16 DEFINED CONTRIBUTION SYSTEM ESTABLISHED UNDER THIS SECTION.

17 G. ANY CONTRACT FOR A THIRD-PARTY ADMINISTRATOR OF THE DEFINED
18 CONTRIBUTION SYSTEM SHALL INCLUDE COMPETITIVE FEES, QUARTERLY MEETINGS WITH
19 THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, ANNUAL UPDATES TO THE BOARD ON
20 THE STATUS OF THE DEFINED CONTRIBUTION SYSTEM AND QUARTERLY STATEMENTS TO
21 EACH MEMBER. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE BOARD SHALL REPORT
22 THE STATUS OF THE DEFINED CONTRIBUTION SYSTEM TO THE GOVERNOR, THE PRESIDENT
23 OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE JOINT
24 LEGISLATIVE BUDGET COMMITTEE.""

25 Page 2, between lines 26 and 27, insert:

26 *Line 45, after the first "OFFICIALS" insert ", UNLESS THE ELECTED*
27 *OFFICIAL CONTINUES OR RESUMES PARTICIPATION IN ASRS PURSUANT TO*
28 *SECTION 38-727, SUBSECTION C"*

29 Between lines 27 and 28, insert:

30 *Line 2, strike "SECTION 38-952" insert "THIS ARTICLE"*

1 Page 2, between lines 30 and 31, insert:

2 *Between lines 7 and 8, insert:*

3 "C. ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, ALL
4 MEMBER CONTRIBUTIONS MADE TO THE DEFINED CONTRIBUTION SYSTEM
5 SHALL BE PICKED UP AND PAID BY THE EMPLOYER IN LIEU OF
6 CONTRIBUTIONS BY THE EMPLOYEE. THE CONTRIBUTIONS PICKED UP BY AN
7 EMPLOYER MAY BE MADE THROUGH A REDUCTION IN THE MEMBER'S
8 COMPENSATION. A MEMBER PARTICIPATING IN THE DEFINED CONTRIBUTION
9 SYSTEM DOES NOT HAVE THE OPTION OF CHOOSING TO RECEIVE THE
10 CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF THE EMPLOYER PAYING THE
11 AMOUNTS TO THE DEFINED CONTRIBUTION SYSTEM. ALL MEMBER
12 CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER AS PROVIDED IN
13 THIS SUBSECTION SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS UNDER
14 SECTION 414(h) OF THE INTERNAL REVENUE CODE, SHALL BE EXCLUDED
15 FROM MEMBERS' GROSS INCOME FOR FEDERAL AND STATE INCOME TAX
16 PURPOSES AND ARE INCLUDABLE IN THE GROSS INCOME OF THE MEMBERS OR
17 THE MEMBERS' BENEFICIARIES ONLY IN THE TAXABLE YEAR IN WHICH THEY
18 ARE DISTRIBUTED."

19 *Reletter to conform*

20 *Line 8, strike "FIVE" insert "SIX"*

21 Page 10, strike lines 14 through 33

22 Strike page 11

23 Page 12, strike lines 1 through 11, insert:

24 *Page 35, strike lines 8 through 41*

25 Amend title to conform

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05/01/2013
4:15 PM
C: mjh

5/2/2013
9:08 AM
S: CS/tf