

HOUSE BILL ANALYSIS

HB 1025

Brief Description: Establishing membership in the public employees' retirement system.

Brief Summary of Bill

- Allows employees of political subdivisions to participate in the Public Employees' Retirement System even if the political subdivision offers deferred compensation plans under Section 401 of the Internal Revenue Code to its employees.

Background: Current statute prohibits membership in the Public Employees' Retirement System (PERS) if an employee is a member of a retirement system operated wholly or in part by an agency of the state or a political subdivision....- This statute has the effect of excluding from PERS those employees who are covered by another state-administered retirement system such as the Teachers' Retirement System or the Law Enforcement Officers' and Fire Fighters' Retirement System. It also excludes employees covered by the Seattle, Tacoma or Spokane city employee retirement systems; employees covered by the higher education retirement programs; and employees covered by other retirement plans operated by a political subdivision.

Whether an employee is excluded from PERS membership depends on whether the Department of Retirement Systems (DRS) determines that the employees' second retirement plan is operated wholly or in part- by the employer. The Attorney General's Office has developed guidelines for DRS to use in evaluating whether an employer's involvement with a particular plan is significant enough to constitute the operation, in whole or in part, of the retirement plan.

Several local government employers have been reporting employees as members of PERS even though those employees are also enrolled in qualified defined contribution plans under Section 401 of the Internal Revenue Code (IRC) that are, or appear to be, operated by these employers. The Attorney General's Office has determined that there is no clear statutory authorization for local government employees to participate in Section 401 defined contribution plans and PERS for the same period of employment.

A number of Washington cities, public utility districts and transit authorities provide defined contribution plans for their employees in addition to being PERS employers.

Summary: Participation in an employer-operated defined contribution plan administered under Section 401 of the IRC will not cause an employee to be excluded from PERS membership. Employers that have excluded employees from PERS membership due to

participation in Section 401 defined contribution plans may continue to exclude such employees or may begin, prospectively, to include such employees in PERS membership.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Fiscal Note: Available