Retirement Legislation in 2010
Change in the Air
by Kara Glaubitz, CPPA Graduate Assistant

When Utah State Senator Dan Liljenquist of Davis County began his service with the legislature in January of 2009, he probably didn't anticipate what a significant role he would play in his first years in tackling the state’s growing financial worries. As co-chair of the Retirement and Independent Entities Committee, Senator Liljenquist introduced six retirement bills this session, with four passing. Two in particular, SB63 and SB43, substantially alter the future of retirement for public employees.

In committee meetings prior to the 2010 legislative session, it was made clear that Utah’s unfunded pension liability of approximately $6.5 billion required immediate attention. This inflated unfunded liability stemmed from a 23% loss on investments in 2008, along with an unmet expected return of 7.75%. At the request of committee members, state actuaries modeled various assumptions of future return on investment, demonstrating the increased contribution rates necessary to compensate for unexpected losses sustained during the recession. Even in models with highly optimistic investment return assumptions, the requisite contribution rates increased dramatically, predicted to quickly reach unsustainable levels. The Retirement and Independent Entities Committee, led by Senator Liljenquist, considered a number of strategies to tackle this problem, resulting in an extensively altered system, with amendments going into effect as early as June 2010.

The most substantial changes were introduced in SB63, the New Public Employee’s Tier II Contributory Retirement Act, converting the state’s retirement systems from mostly defined benefit to defined contribution or hybrid plans. The Act applies only to employees hired on or after July 1, 2011, and will not affect current public employees or those hired before the designated date of enactment, who will continue to participate in the current retirement system, now designated “Tier I”. The modifications are meant to reduce some of the risk of investment borne by the system, shifting it from the state to employees in order to prevent future unfunded liabilities in the case of unforeseen economic turns. The Act introduces changes to several of the state retirement systems, including those of full-time public employees, public safety workers, firefighters, legislators and governors. Full-time public employees hired on or after July 1, 2011 will be required to enroll in either a defined contribution plan or a hybrid plan, consisting of a modified defined benefit in addition to a defined contribution. Both variations require an employer contribution of 10%. In the defined contribution option this 10% is put into individual investment accounts similar to 401(k)s, directed by the employee, but managed by the state to keep investments as protected as possible. In the hybrid option, the defined benefit will be calculated as 1.5% per year of service multiplied by the average of an employee’s highest paid five years. This is down from the current 2% per year of service based on the average of an employee’s highest paid three years.

Example of Defined Benefit Calculation

Current: Employee has 30 years of service with the highest paid three years listed below

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Avg. of 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>$40,240</td>
<td>$45,000</td>
<td>$48,803</td>
<td>/ 3 = $44,681</td>
</tr>
</tbody>
</table>

2% x 30 x $44,681 = $26,808 annual retirement benefit

Hired After July 1, 2011: Employee has 35 years of service with the highest paid five years listed below
Those public employees who opt into the hybrid plan will have their employer-provided 10% put first toward their defined benefit, with the remainder, based on actuary projections, added to an individual investment account. Future governors and legislators will be required to participate in the full defined contribution plan, with no hybrid option. The Act increases required years of service for full benefit eligibility from 30 to 35 for full-time public employees and from 20 to 25 for public safety workers and firefighters. Benefits differ slightly for firefighters and public safety workers from other public employees, with employers contributing 12% of the value of an employee’s salary to either a defined contribution or hybrid plan. The Act allows employees who are not yet vested to leave employment for up to ten years and return to complete the vestment period. This change is directed specifically toward parents who leave employment while their children are young, and return once children enter school.[iv] The bill also allows spouses of retirees who die within four months of retirement to continue to collect the retirement benefit. In order to ensure future discipline and avoid financially unsound changes to the retirement system, SB63 triggers a review of employee compensation and an audit once the current retirement system recovers and is 100% funded.[v] In floor debates on the bill, Senator Liljenquist emphasized the need for the state to meet previously made commitments to current employees, promising, “We, like we always do, will pay these obligations.” He went on to explain the motivation for immediate action on the issue rather than delaying a year as some have suggested. “…[To] every single employee we hire in that intervening year, we make 60 to 70 year commitments. It is unwise, in my opinion, to make…commitments when we are not confident that our system could absorb another year like 2008.”[vi] The bill was passed by the legislature mostly along party lines and now awaits Governor Herbert’s signature.

Addressing concerns about retirees returning to work and “double-dipping,” simultaneously collecting both a salary with increasing service credit and retirement benefits, Senator Liljenquist introduced SB43, Post-Retirement Employment Amendments. This bill makes changes for retirees returning to work, differentiating between those who reenter employment within one year or after one year of retirement. Retirees who return to work within one year of retirement are required to return to active member status in the Utah State Retirement System, continuing to accrue service credit, but foregoing the retirement benefit while employed. For those returning to work after one year of retirement, the employee may choose to either continue to receive their retirement benefit with no further retirement contributions made while employed, or surrender the benefit while employed, instead accumulating additional service credit toward the retirement benefit. In addition, the bill repeals the maximum allowance that members of the public safety, firefighters, and judges retirement systems may accrue. These changes take effect July 1, 2010, and will affect only those employees who return to work after that date[vii].

Options have increased for full-time employees of higher education institutions in the state with the passage of SB171. This bill allows newly hired employees of higher education who have accrued prior service credit in the public employees retirement system the option to continue in that system, rather than transitioning to one specifically for institutions of higher education. Additionally, the bill offers current employees a one-time window until June 30, 2010 to elect to participate in the public employees retirement system.[viii]

SB240, Retirement Participation Amendments, allows several state employees, including those in governor-appointed positions and in upper management of USTAR, to opt out of the current defined benefit plan, moving money contributed on their behalf by their employer instead to a defined contribution plan. This bill, however, is very limited in scope to specified public employees and will, therefore, have far less impact on the overall retirement system[ix].

Although the Utah Retirement System has been greatly affected by the unexpected economic
downturn, it should be noted that our system’s unfunded liability is relatively small, compared to
other states. Still, it is a problem that needs to be addressed, and the changes proposed by Senator
Liljenquist and passed by the legislature are expected to greatly reduce costs to the state’s
taxpayers, profoundly altering the Utah Retirement System to that end.

[i] The retirement bills introduced by Senator Liljenquist that passed are SB63, SB43, SB171, and
SB240. Those that failed to pass are SB42 and SB94.


[iii] For a detailed description of the current Utah Retirement System, see
http://www.imakenews.com/cppa/e_article001624595.cfm?x=b11,0,w

[iv] Vestment in the system requires four years of service. The former maximum period of leave
without losing vestment was five years.

[v] For complete text of SB63, see http://le.utah.gov/~2010/bills/sbillint/sb0063s03.pdf

[vi] For floor debate audio files, see http://le.utah.gov/jsp/jdisplay/billaudio.jsp?sess=2010GS&
bill=sb0063s03&Headers=true

[vii] For complete text of SB43, see http://le.utah.gov/~2010/htmdoc/sbillhtm/sb0043s03.htm

[viii] For complete text of SB171, see http://le.utah.gov/~2010/bills/sbillenr/sb0171.pdf