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Contractual Obligations of Employer? ORP vs TRS

James P. Braselton
Georgia Southern University

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Question:

Contractual Obligations of Employer? In the memo from Vicki Hodges dated June 27, 2006, we see that ORP participants are given an increase in the USG's contribution to the ORO. Faculty are on a contract. I do not understand why the benefit is lowered after I have signed the contract. The employer matching rate for 2006-2007 must remain the same as indicated.

Rationale:

See memo from Vicki M. Hodges, June 27, 2006, regarding employee matching rates. Changing the contribution the rate after the contracts have been signed raises a huge number of legal issues. TRS should be reprimanded for this. Do the faculty for which this is important need to pursue this outside of the classroom and/or in a legal forum? Sincerely, Jim Braselton

Response:

This RFI was hidden while researching this and related questions. - Pat Humphrey

In our contracts, no mention is made of a retirement benefit. What is said is that “This agreement is made expressly subject to the applicable state and federal laws and to the statutes and regulations of this institution and to the Bylaws and Policies of the Board of Regents, which are available for your inspection upon request.” State law (§47-3-20 and §47-21-1) establish TRS and ORP as retirement plans. (Georgia §47-3-8) prescribes that an annual actuarial study be made to determine contribution rates. In 1997, §47-21-4 (as amended in 1997) specifies that the contribution to ORP be equal to the normal cost contribution (to TRS) determined by the board of trustees. This/next year's
“normal contribution” was apparently set at the Trustees meeting on May 17. No minutes of this meeting are posted, although minutes of the meeting have been requested. Since this was done in accordance with state law, no contractual obligation has been violated by whatever action the TRS board took.

This issue is not restricted to our campus alone. From information forwarded to me via AAUP, UGA faculty members of the Faculty Benefits Committee are composing a resolution to take before their University council as a response. Concerns have also arisen at Tech. An interesting link from their benefits page is http://www.ohr.gatech.edu/content.asp?breadcrumb=Benefits&pagetitle=Retirement%20Plans. From there, click on TRS Actuarial Study on the right. You will see this year’s actuarial study (background on assumptions, etc that build into the Unfunded Liability and normal contribution rate, but not the actual model used).

For anyone who has not seen it as yet, the chancellor sent a memo about the issue which stated that he intends “to ask state policy makers to review the ORP statute in general and the setting of the employer contribution rate in particular to eliminate similar situations from going forward.” The memo can be found at http://www.busfin.uga.edu/benefits/08-31-06_MEMO_to_PRESIDENTS_ORP_vs_TRS_1.pdf.

There are still interesting questions that remain. TRS notified the BOR of the change in the contribution May 26. This was received in the BOR offices May 31. The campuses were notified by William Wallace (Associate Vice Chancellor for Human Resources) in a July 28 memo. Why did it take two months to notify the campuses? TRS operates on a fiscal year (July – June) basis. ORP operates on a calendar year basis. With the conflict in “plan years,” why is the ORP employer contribution scheduled to decrease in January (most likely because it is the start of their year) but the TRS contribution will not change until July? This seems to me to be in conflict with state law (§47-21-4). I am still trying to contact the BOR offices to find an answer.

From Jim Braselton, an RFI concerning the proposed reduction in the Optional Retirement Plan (ORP) contributions from 9.66% to 8.13%. Where’s the excess money going to go? That money does actually come to the campus, as an appropriation, as a line item in the budget, and, according to Joe Franklin (Vice President for Business and Finance), they write checks on that every month with the payroll. They have not been informed what to do with any excess monies at this point. There are still lots of questions about that one going on.