

THOUGHT LEADERSHIP

LEGAL UPDATES

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Governmental Plans Update: May 2015

H.B. 326, which has been approved by the Missouri House and appears likely to pass the Senate, would clarify the continuing education requirements for board members of Missouri public retirement plans. The clarification is that the requirements of RSMo Section 105.666 would apply only to board members of public defined benefit plans. In other words, Board members of public defined contribution plans would not be covered by Section 105.666.

Does this mean that, assuming H.B. 326 becomes law, board members of Missouri public defined contribution plans will no longer have any continuing education requirements? Not exactly.

First, Section 105.666 arguably never applied to board members of public defined contribution plans. Section 105.666 was amended in 2014 to require covered board members to attend at least 6 hours of continuing education each year on prescribed topics. One of those required topics is actuarial principles and methods relating to plan administration. Because this is completely irrelevant to defined contribution plans, it is not clear that Section 105.666 ever was intended to apply to board members of defined contribution plans.

Second, Section 105.688 prescribes requirements for “investment fiduciaries,” which include any person who exercises any discretionary authority or control in the investment of a public plan’s assets. Board members of a defined contribution plan typically are investment fiduciaries. An investment fiduciary is required to “act with the same care, skill, prudence, and diligence under the circumstances then prevailing and a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.” To have the skill of a person who is “familiar with those matters,” an investment fiduciary must be educated about plans

and their investments. Trustees are subject to the Missouri Uniform Trust Code, which has a similar standard.

Whether or not H.B. 326 passes, board members of defined contribution plans may not have a specific requirement to attend 6 hours of continuing education in specified areas. However, they still need continuing education to meet their fiduciary duties under Missouri law.

Contact Us

If you are seeking assistance with your plan's legal needs, please contact Alan Kandel at 314.345.6463.