Brown County Retirement Plans

Understanding or comprehending private or public sector retirement plans is a specific discipline that requires hours of training on both Internal Revenue Code tax law and the regulatory framework established by the U.S. Department of Labor under The Employee Benefits Security Administration or commonly referred to as ERISA. This document is for educational purposes only and is not intended to provide legal, tax, or investment advice.

There are two basic types of retirement plans.
https://www.dol.gov/general/topic/retirement/typesofplans

1. Defined Benefit Plans "DB Plan" (PERF Hybrid)
2. Defined Contribution Plans "DC Plan" (Hoosier Start – Nationwide)

A defined benefit plan promises a specified monthly benefit at retirement. The plan may state this promised benefit as an exact dollar amount, such as $100 per month at retirement. Or, more commonly, it may calculate a benefit through a plan formula that considers such factors as salary and service - for example, 1 percent of average salary for the last five years of employment for every year of service with an employer.

A defined contribution plan, on the other hand, does not promise a specific amount of benefits at retirement. In these plans, the employee or the employer (or both) contribute to the employee's individual account under the plan, sometimes at a set rate, such as 5 percent of earnings annually. These contributions generally are invested on the employee's behalf. The employee will ultimately receive the balance in their account, which is based on contributions plus or minus investment gains or losses.

The Indiana Public Employee Retirement Plan (PERF) is a defined benefit plan that requires the political subdivision "employer" to make on behalf of the employee annual contributions to the plan as a percentage of the employees gross salary. Currently this percentage as established by the Indiana Public Retirement System Board of Trustees is set at 11.2%. Furthermore, the hybrid plan requires a mandatory employee post tax contribution of 3% into a **defined contribution plan** that is fully vested and able to be withdrawn or rolled over. The PERF Hybrid Plan is both a defined benefit plan and a defined contribution plan.

In order to qualify for a monthly pension benefit from PERF, an employee has to meet one of the three definitions listed below.

1. Age 65 with 10 years of creditable and/or eligibility service
2. Age 60 with 15 years of creditable and/or eligibility service
3. At least age 55 and the sum of the member's age at retirement and their total years of creditable and eligibility service under PERF equal 85 or more (Rule of 85)

Once an employee meets the definition of vested status, they can review the pension benefits calculation worksheet listed below to understand how their monthly benefit is calculated.

Description	Example
Final Average Salary	$50,000.00
Benefit multiplier	X 0.011
Retirement benefit base amount	$550.00
Years of service	X 30
Annual pension benefit	$16,500.00
Monthly benefit	/12
Calculated as an A-1 option (Five year certain and Life)	$1,375.00
page 29 of the Public Employees' Retirement Fund Hybrid Plan Handbook	

If a public employee terminates their employment with the political subdivision without ever being fully vested and goes to work for the private sector, both the employee and the employer will never realize any benefit from the defined benefit plan.

The defined contribution plan (Hoosier Start – Nationwide)

On the other side of the fence is the **Defined Contribution Plan** or referred to as **Hoosier Start – Nationwide.** This plan consists of two parts IRC-457(b) and IRC-401(a). If you are thinking of the Internal Revenue Code, then you are correct. These plans fall under the U.S. Treasury, Internal Revenue Service. The IRC 457(b) deferred compensation plan allows employees of sponsoring organization to defer income taxation on retirement savings into future years.

The IRC-401(a) in the simplest terms is an employer-sponsored money purchase plan that allows contributions from the employer, the employee, or both.

Think of these two terms as two separate and distinct accounts. The 457(b) is for employee elected pre-tax deferrals that grow tax-deferred until retirement. At retirement, the employee processes a IRA Rollover and begins taking monthly distributions to subsidize their social security in retirement.

The 401(a) is designed for the employer matching contributions of the employees elective deferrals into the 457 (b). Typically, the employer creates a vesting schedule for the portion of the employer contribution, usually over five years. Once this requirement is met, the employee is fully vested.

Example:

Employees Salary	Employee Deferral at 6%	Employer Match at 3%	Total Annual Deferral 9%
$50,000.00	$3,000.00	$1,500.00	$4,500.00

Over a 40-year career deferring 9% of annual income with a 3% cost of living adjustment and a annual return of 6%, the account balance at the end of 40 years would be $1,123,743.33. It's all about time value of money and compound interest. If the employee terminates their employment, they get to take their retirement assets with them.

If you go to the Hoosier Start website https://www.hoosierstartnationwide.com/rsc-web-preauth/about, this is what they have to say.

Hoosier START offers both a 457(b) and a 401(a) Plan. The available plans include:

- **457(b) Traditional Deferred Compensation Plan** — tax-deferred (pre-tax), available to eligible State of Indiana employees and eligible public employees of local subdivisions or local units of government which have adopted the Plan.

- **457(b) Roth Deferred Compensation Plan** — after-tax, available to eligible State of Indiana employees and eligible public employees of local subdivisions or local units of government which have adopted the Plan.

- **401(a) Matching Plan** — tax-deferred (pre-tax), and available to eligible State of Indiana employees. Some participating local subdivisions also offer an employer match. Please check with your employer.

Now let's get down into the weeds by addressing a historical timeline of the undisputable facts.

Hoosier Start – Nationwide:

On August 17, 2016, the Brown County Commissioners passed and approved The State of Indiana Public Employee Deferred Compensation Plan Resolution and Adoption Agreement. This is known today as the Hoosier Start – Nationwide 457(b) deferred compensation plan.

- The plan allows for employee contributions only for both Pre-Tax Contributions or Roth Contributions.
- Allows for all employees except seasonal and part time.
- The adoption agreement Does Not Allow for Employer Contributions.

The 401(a) Matching Plan.

- Nationwide has never received or have on file a Resolution and Adoption Agreement submitted by the Brown County Commissioners office adopting the 401(a) Matching Plan.

The Indiana Public Employee Retirement Fund.

On November 15, 2021, The Brown County Council passed a resolution electing to join the Public Employee Retirement Fund as administered by the Indiana Public Retirement System.

- The documents states election into the PERF My Choice: Retirement Savings Plan.
- The documents states election into the PERF Hybrid only to certain classes and PERF My Choice Retirement Savings Plan to certain classes as set fourth in an attached document.
- Establishes 0% mandatory contributions into PERF My Choice Retirement Savings Plan.
- Section Five the council agrees to a contribution rate of 3.2% as a percentage of each member's compensation.

On February 21, 2022, The Brown County Council approved and modified the previous resolution that was approved on November 15, 2021.

- Approves a new contribution rate of 11.2% as a percentage of each member's compensation as set by The Board of Trustees of The Indiana Public Retirement System.
- This resolution also revokes the My Choice Option opting for the PERF Hybrid Plan Only.

Let's discuss Taxes.

As you are aware by now, employee and employer deferrals of earned income into a defined contribution plan are exempt from Federal, State and Local income taxes. However, the employee and employer contributions are reportable on the employees W-2 for Medicare Tax of 1.45% and Social Security Tax of 6.2%. Both the employee and employer are required to pay 7.65% each for a combined total of 15.3%.

We're getting close to the end of addressing the Who and So What?

It appears there were a couple of employees at the end of 2022 who realized they met the PERF definition of being vested in their pensions. They also realized that could begin receiving their monthly pension checks while they continued to work for the county. Lastly, they thought if I begin taking my pension and continue to work, the county will no longer be required to make the mandatory 11.2% employer contribution into PERF. So, what did they do? They insisted the county continue to pay the 11.2% into the Hoosier Start 457(b) plan.

On December 9, 2022, the Brown County Council held a special meeting. Gary Huett, Art Knight, Darren Byrd, Scott Rudd, and Judy Swift were present and David Redding was absent.

Line 44 thru Line 48 reads as follows *"Requesting the approval to change the 4.2% match in the Hoosier Start to the 11.2% match in the PERF that all other employees are receiving. Motion: to change Hoosier Start 4.2% match to the same as PERF, the amount of 11.2%. Action: Approve. Moved by Judy Swift-Powdrill, Second by Art Knight."*

For the years of 2023 and 2024, the county has been making employer contributions of 11.2% for five employees into the Hoosier Start 457(b). At the beginning of 2024, a sixth employee has requested the county make the same contribution of 11.2% on their income into their 457(b) account, beginning in November of 2023. Their request is still outstanding.

So, what's the problem?

1. The adoption agreement for the 457(b) doesn't allow for employer contributions.
2. There has never been an employer match for the Hoosier Start Plan due to the fact there has never been an adoption agreement filed with Nationwide for the 401(a).
3. Nationwide has the employer contributions into the 457(b) coded as employee contributions. This creates serious concern for reportable W-2 income and FICA tax liability.
4. The council minutes and the county's historical precedent may potentially open pandora's box where county employees begin to claim they should have been receiving the same 11.2% employer contribution into their 457(b) account.
5. If you feel compelled to offer an additional 11.2% employer contribution to all employees, then may I suggest the council vote and pass a resolution approving the adoption agreement for the 401(a). This way, the county can be in compliance with the I.R.S., Department of Labor, and any other regulatory authority that may have been overlooked.
6. Lastly, with PERF at 11.2% and the 401(a) at 11.2%, that's 22.4% of $6,500,000.00 estimated labor cost or only $1,456,000.00 per year.

To quote Forrest Gump "That's all I have to say about that" and only 1,724 words.

Regards,

Jim Kemp