

Amend CSSB 1952, in PART 1 of the bill, by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES in PART 1 appropriately:

ARTICLE ____ . DEFERRED COMPENSATION PLANS

SECTION ____ .01. Section 609.006(d), Government Code, is amended to read as follows:

(d) The comptroller [~~board of trustees of the Employees Retirement System of Texas~~] may adopt rules necessary to make a deferred compensation plan established under Subchapter C a qualified plan under federal law, including federal rules and regulations.

SECTION ____ .02. Section 609.007(b), Government Code, is amended to read as follows:

(b) The comptroller [~~board of trustees of the Employees Retirement System of Texas~~] may contract with an employee of a state agency participating in a deferred compensation plan for the deferment of any part of the employee's compensation.

SECTION ____ .03. Section 609.010(a), Government Code, is amended to read as follows:

(a) The comptroller [~~board of trustees~~], a state agency, a political subdivision, a plan administrator, or an employee of any of those persons is not liable to a participating employee for the diminution in value or loss of all or part of the participating employee's deferred amounts or investment income because of market conditions or the failure, insolvency, or bankruptcy of a qualified vendor.

SECTION ____ .04. Sections 609.502(a)-(d), Government Code, are amended to read as follows:

(a) The comptroller [~~board of trustees of the Employees Retirement System of Texas~~] is the trustee and the plan administrator of a 401(k) plan known as TexaSaver established under this subchapter.

(b) The comptroller [~~board of trustees~~] is the trustee and the plan administrator of a 457 plan established under this subchapter.

(c) The comptroller [~~board of trustees~~] shall administer all aspects of each plan.

(d) The comptroller [~~board of trustees~~] may designate a person to assist in the execution of the comptroller's [~~board's~~] authority and responsibilities as plan administrator.

SECTION _____.05. Section 609.503, Government Code, is amended to read as follows:

Sec. 609.503. CHANGING AMOUNT DEFERRED. An employee may change the amount to be deferred by notifying the comptroller [~~board of trustees~~] in accordance with the requirements of the comptroller [~~board of trustees~~].

SECTION _____.06. Section 609.504, Government Code, is amended to read as follows:

Sec. 609.504. INVESTMENT AND TRANSFER OF DEFERRED AMOUNTS AND INCOME. After execution of a contract under Section 609.007, the comptroller [~~board of trustees~~] shall:

(1) invest the deferred amounts and investment income of the employee in the qualified investment products designated by the employee; and

(2) promptly transfer the deferred amounts and investment income of the employee from one qualified investment product to another in accordance with the requirements of the comptroller [~~board of trustees~~].

SECTION _____.07. Section 609.505, Government Code, is amended to read as follows:

Sec. 609.505. QUALIFIED VENDOR. (a) The comptroller [~~board of trustees~~], in accordance with rules adopted under this subchapter, may contract with a vendor qualified to participate in a deferred compensation plan.

(b) In a contract under Subsection (a), the comptroller [~~board of trustees~~] may require the vendor to be audited annually by an independent auditor paid by the vendor.

(c) A vendor or investment product having an ownership or other financial interest in the contractor selected by the comptroller [~~board of trustees~~] to administer a deferred compensation plan is not qualified to participate in that plan.

(d) The comptroller [~~board of trustees~~] shall select vendors or investment products based on the quality of investment performance, proven ability to manage institutional assets,

minimum net worth requirements, fee structure, compliance with applicable federal and state laws, and other criteria established by the comptroller [~~board~~]. The comptroller [~~board of trustees~~] shall determine the minimum and maximum number of vendors and investment products that may be offered by a plan at any particular time.

SECTION _____.08. Section 609.506, Government Code, is amended to read as follows:

Sec. 609.506. INSURANCE COMPANY AS QUALIFIED VENDOR. On written request, the Texas Department of Insurance shall certify in writing to the comptroller [~~board of trustees~~] whether an insurance company is eligible to be a qualified vendor under rules adopted by the comptroller [~~board~~]. The comptroller [~~board~~] is entitled to rely on the certification.

SECTION _____.09. Section 609.508, Government Code, is amended to read as follows:

Sec. 609.508. RULES. The comptroller [~~board of trustees~~] may adopt rules, including plans and procedures, and orders necessary to carry out the purposes of this subchapter, including rules or orders relating to:

- (1) the selection and regulation of vendors for a deferred compensation plan;
- (2) the regulation of the practices of agents employed by vendors;
- (3) the disclosure of information concerning investment products;
- (4) the regulation of advertising materials to be used by vendors;
- (5) the submission of financial information by a vendor; and
- (6) the development of a system to facilitate electronic authorization, distribution, transfer, and investment of deferrals.

SECTION _____.10. Section 609.509, Government Code, is amended to read as follows:

Sec. 609.509. CONTRACTS FOR GOODS AND SERVICES. (a) The comptroller [~~board of trustees~~] may contract for necessary goods

and consolidated billing, accounting, and other services to be provided in connection with a deferred compensation plan.

(b) In a contract under Subsection (a), the comptroller [~~board of trustees~~] may provide for the comptroller [~~board~~] to audit periodically the person with whom the contract is made. The audit may cover:

(1) the proper handling and accounting of state or trust funds; and

(2) other matters related to the proper performance of the contract.

(c) The comptroller [~~board of trustees~~] may contract with a private entity to conduct the audit under Subsection (b).

SECTION ____ .11. Section 609.511, Government Code, is amended to read as follows:

Sec. 609.511. FEE. (a) The comptroller [~~board of trustees~~] may assess a fee against participating employees or qualified vendors, or both the employees and the qualified vendors, in the manner and to the extent it determines necessary to cover the costs of administering the plan.

(b) The comptroller [~~board of trustees~~] shall determine the method for computing and assessing a fee under this section.

SECTION ____ .12. Sections 609.512(c), (g), (h), and (i), Government Code, are amended to read as follows:

(c) The comptroller [~~board of trustees~~] shall administer each trust fund.

(g) The comptroller [~~board of trustees~~] may establish accounts in a trust fund that the comptroller [~~it~~] considers necessary, including an account for the administration of the deferred compensation plan for which the trust fund was established.

(h) The comptroller [~~board of trustees~~] may transfer assets from one account of a trust fund to another account of the fund for financial management purposes if adequate arrangements are made to:

(1) reimburse the account from which the transfer is made; and

(2) pay administrative expenses.

(i) The comptroller [~~board of trustees~~] may invest and

reinvest money in a trust fund subject only to the duty of care provided by Section 815.307 that would apply if the investments were being made for the Employees Retirement System of Texas.

SECTION _____.13. Section 609.513, Government Code, is amended to read as follows:

Sec. 609.513. DISCRETIONARY TRANSFER. (a) The comptroller [~~board of trustees~~] may transfer an employee's deferred amounts and investment income from a qualified investment product to the trust fund of the deferred compensation plan in which the employee participates if the comptroller [~~board of trustees~~] determines that the transfer is in the best interest of the plan and the employee.

(b) The comptroller [~~board of trustees~~] is not required to give notice of a transfer under Subsection (a) to the employee before the transfer occurs.

(c) Promptly after a transfer under Subsection (a) occurs, the comptroller [~~board of trustees~~] shall give to the employee a notice that:

(1) states the reason for the transfer; and

(2) requests that the employee promptly designate another qualified investment product to receive the transferred amount.

SECTION _____.14. Section 609.514, Government Code, is amended to read as follows:

Sec. 609.514. ALTERNATIVE TO FUND DEPOSIT. Instead of depositing deferred amounts and investment income in the trust fund of the deferred compensation plan, the comptroller [~~board of trustees~~] may invest them in a qualified investment product specifically designated by the comptroller [~~board~~] for that purpose.

SECTION _____.15. Section 609.515, Government Code, is amended to read as follows:

Sec. 609.515. FIDUCIARY INSURANCE. In the administration of a deferred compensation plan, the comptroller [~~board of trustees~~] may purchase liability insurance for the coverage of the comptroller and the [~~trustees~~] employees[~~7~~] and agents of the comptroller [~~board~~] in the amounts that the comptroller [~~board~~], in the comptroller's [~~its~~] sole discretion, considers reasonable and

necessary.

SECTION ____ .16. Section 609.001(1), Government Code, is repealed.

SECTION ____ .17. The changes in law made by this article do not affect rules adopted, contracts entered into, contractors, vendors, or products selected, fee amounts prescribed, or investments or transfers in effect immediately before the effective date of this Act, and those rules, contracts, selections, fees, investments, and transfers remain in effect until amended or changed by an action of the comptroller of public accounts.