

By: Isett

H.B. No. 3365

A BILL TO BE ENTITLED

1 AN ACT

2 relating to transferring deferred compensation plans for state
3 employees from the Employees Retirement System to the Comptroller
4 of Public Accounts.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 609.001(1), Government Code, is amended
7 to read as follows:

8 (1) "Comptroller" [~~"Board of trustees"~~] means the
9 Comptroller of Public Accounts [~~board of trustees of the Employees
10 Retirement System of Texas~~].

11 SECTION 2. Section 609.006(d), Government Code, is amended
12 to read as follows:

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

18 SECTION 3. Section 609.007(b), Government Code, is amended
19 to read as follows:

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

24 SECTION 4. Section 609.010(a), Government Code, is amended

1 to read as follows:

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

9 SECTION 5. Section 609.502(a)-(d), Government Code, are
10 amended to read as follows:

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

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

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

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

23 SECTION 6. Section 609.503, 609.504, 609.505, 609.506,
24 609.508, 609.509, and 609.511, Government Code, are amended to read
25 as follows:

26 Sec. 609.503. CHANGING AMOUNT DEFERRED. An employee may
27 change the amount to be deferred by notifying the comptroller

1 ~~[board of trustees]~~ in accordance with the requirements of the
2 comptroller ~~[board of trustees]~~.

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

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

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

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

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

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

24 (d) The comptroller ~~[board of trustees]~~ shall select
25 vendors or investment products based on the quality of investment
26 performance, proven ability to manage institutional assets,
27 minimum net worth requirements, fee structure, compliance with

1 applicable federal and state laws, and other criteria established
2 by the comptroller [~~board~~]. The comptroller [~~board of trustees~~]
3 shall determine the minimum and maximum number of vendors and
4 investment products that may be offered by a plan at any particular
5 time.

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

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

16 (1) the selection and regulation of vendors for a
17 deferred compensation plan;

18 (2) the regulation of the practices of agents employed
19 by vendors;

20 (3) the disclosure of information concerning
21 investment products;

22 (4) the regulation of advertising materials to be used
23 by vendors;

24 (5) the submission of financial information by a
25 vendor; and

26 (6) the development of a system to facilitate
27 electronic authorization, distribution, transfer, and investment

1 of deferrals.

2 Sec. 609.509. CONTRACTS FOR GOODS AND SERVICES. (a) The
3 comptroller [~~board of trustees~~] may contract for necessary goods
4 and consolidated billing, accounting, and other services to be
5 provided in connection with a deferred compensation plan.

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

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

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

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

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

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

23 SECTION 7. Section 609.512(c), (g), (h), and (i),
24 Government Code, are amended to read as follows:

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

27 (g) The comptroller [~~board of trustees~~] may establish

1 accounts in a trust fund that it considers necessary, including an
2 account for the administration of the deferred compensation plan
3 for which the trust fund was established.

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

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

9 (2) pay administrative expenses.

10 (i) The comptroller [~~board of trustees~~] may invest and
11 reinvest money in a trust fund subject only to the duty of care
12 provided by Section 815.307 that would apply if the investments
13 were being made for the Employees Retirement System of Texas.

14 SECTION 8. Section 609.513, 609.514, and 609.515,
15 Government Code, are amended to read as follows:

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

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

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

1 (1) states the reason for the transfer; and

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

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

11 Sec. 609.515. FIDUCIARY INSURANCE. In the administration
12 of a deferred compensation plan, the comptroller [~~board of~~
13 ~~trustees~~] may purchase liability insurance for the coverage of the
14 trustees, employees, and agents of the comptroller [~~board~~] in the
15 amounts that the comptroller [~~board~~], in her [~~its~~] sole discretion,
16 considers reasonable and necessary.

17 SECTION 9. This Act takes effect September 1, 2003.