

By: Madden

H.B. No. 3200

A BILL TO BE ENTITLED

AN ACT

relating to single employer benefit plans.

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

SECTION 1. Section 810.001, Chapter 810, Government Code, is amended to read as follows:

Sec. 810.001. ESTABLISHMENT OF PUBLIC RETIREMENT SYSTEM. (a) In this section:

(1) "Political entity" means a municipality or any agency thereof, a junior college district, river authority, water district, appraisal district, or other special purpose district or authority that is created pursuant to state law and that is not an agency of the state.

(2) "Public retirement system" means a continuing, organized program or plan (including a plan qualified under Section 401(a) of the Internal Revenue Code of 1986) of service retirement, disability retirement, or death benefits for officers or employees of a political entity, other than:

(A) a program providing only workers' compensation benefits;

(B) a program administered by the federal government;

(C) an individual retirement account or individual retirement annuity within the meaning of Section 408 or a retirement bond within the meaning of Section 409 of the Internal

1 Revenue Code of 1986 (26 U.S.C. Sections 408, 409);

2 (D) an individual account plan consisting of an
3 annuity contract described by Section 403(b) of the Internal
4 Revenue Code of 1986 (26 U.S.C. Section 403); or

5 (E) an eligible state deferred compensation plan
6 described by Section 457(b) of the Internal Revenue Code of 1986 (26
7 U.S.C. Section 457).

8 (b) Except as provided by Subsection (d), the governing body
9 of a political entity may establish and maintain a public
10 retirement system for its appointive officers and employees and
11 determine the benefits, funding source and amount, and
12 administration of the system. Each active member of a public
13 retirement system established under the authority provided by this
14 section shall contribute to the system an amount, if any,
15 determined by the political entity. The political entity shall
16 contribute for each active member in a defined contribution plan or
17 a defined benefit plan an amount determined by the political entity
18 to be required to meet the system's benefit plan.

19 (c) The governing body of the political entity may arrange
20 for administration of the system by a private provider of public
21 retirement benefits, whether or not the provider is also a source of
22 benefits provided for under the system.

23 (d) The authority granted by Subsections (b) and (c) does
24 not apply to a political entity to the extent that the entity, by
25 specific statute, is:

26 (1) required to establish or participate exclusively
27 in a particular public retirement system; or

1 (2) prohibited from establishing or participating in
2 any public retirement system or in a particular retirement system.

3 (e) The authority granted by Subsections (b) and (c) is in
4 addition to any other statutory authority to provide a public
5 retirement system or programs specifically excluded from the
6 definition of a public retirement system.

7 (f) Every political entity which establishes or maintains a
8 public retirement system covered under this Act shall file all
9 reports with the State Pension Review Board required by Chapter
10 802. If a political subdivision establishes a retirement program
11 that would be a "public retirement system" within the meaning
12 ascribed to that term by Section 801.001, but for the fact that the
13 program is administered by a life insurance company, the
14 subdivision shall notify the State Pension Review Board of the
15 establishment of the program and the name of the administering
16 company.

17 (g) "Civil union" means any relationship status that grants
18 to the parties of the relationship the same legal protections,
19 benefits, and responsibilities as are granted to the spouses of a
20 marriage.

21 (h) For purposes of this title, the state may not give
22 effect to a:

23 (1) public act, record, or judicial proceeding that
24 recognizes or validates a marriage or civil union between persons
25 of the same sex; or

26 (2) right or claim asserted as a result of the
27 purported marriage or civil union.

1 (i) Subsection (h) does not preclude the enforcement in this
2 state of an order issued in another state relating to child custody,
3 child support, or property division, including a qualified domestic
4 relations order.

5 (j) A person is not receiving benefits under more than one
6 public retirement system if, a single employer participates in a
7 state wide public retirement system and also provides;

8 (a) benefits established by the employer subsequent to
9 the employer's withdrawal from the social security program; or

10 (b) benefits provided under supplemental retirement
11 programs including those funded by the employer, employee, or a
12 combination thereof which are uniformly available to all qualified
13 employees.

14 The additional benefits under (a) and (b) above shall not be
15 credited to another public retirement system.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2005.