

## **BILL ANALYSIS**

Senate Research Center  
80R20620 E

C.S.H.B. 957  
By: Orr (Ellis)  
Government Organization  
5/15/2007  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently the state has a deferred compensation option, or 401(k), available for state employees. The nation as a whole suffers from low levels of personal savings.

C.S.H.B. 957 makes participation in the state's 401(k) plan automatic for any employee hired after January 1, 2008, unless the employee elects not to participate. The payroll deduction is made automatically and written consent is not required.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 1 (Section 609.5025, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 609, Government Code, by adding Section 609.5025, as follows:

Sec. 609.5025. **AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT PRODUCT.** (a) Provides that this section applies only to an employee of a state agency participating in a 401(k) plan.

(b) Provides that an employee participates in a 401(k) plan unless the employee affirmatively elects not to participate in the plan. Provides that, notwithstanding Sections 609.007(b) and (c), an employee is not required to affirmatively contract for and consent to participation in a plan under this section.

(c) Provides that an employee participating in a 401(k) plan under this section makes a contribution of one percent of the compensation earned by the employee to a default investment product selected by the board of trustees of the Employees Retirement System of Texas (board) based on the criteria established under Section 609.505(d) and the rules adopted under Subsection (f). Provides that the contribution is made by automatic payroll deduction.

(d) Authorizes an employee participating in a 401(k) plan under this section, at any time, in accordance with rules adopted by the board, to elect to end participation in the 401(k) plan, to contribute to a different investment product, or to contribute a different amount to the plan.

(e) Requires the board to ensure that, at the time of employment, each employee is informed of the elections the employee may make under this section and the responsibilities of the employee under Section 609.010.

(f) Requires the board to adopt rules to implement the requirements of this section. Requires the rules to ensure that the operation of the 401(k) plan under this section conforms to the applicable requirements of any federal rule that provides fiduciary relief for investments in qualified default investment alternatives or otherwise governs default investment alternatives under participant-directed individual account plans.

(g) Provides that the amount deducted under this section from an employee's compensation is not deducted for payment of a debt and the automatic payroll deduction is not garnishment or assignment of wages.

(h) Requires within existing resources a state agency participating in a 401(k) plan to inform new hires of their automatic enrollment in a 401(k) account and their right to opt-out of enrollment. Requires this information, within existing resources, to be included as part of the new employee orientation process. Requires state agencies participating in a 401(k) plan to maintain a record of a new hire's acknowledgment of receipt of information regarding the ability to opt-out of enrollment in a 401(k) plan.

SECTION 2. Amends Section 609.007(c), Government Code, to create an exception as provided by Section 609.5025, to the requirement that an employee consent in the contract to automatic payroll deductions in an amount equal to the deferred amount to participate in a deferred compensation plan.

SECTION 3. Amends Section 659.102(a), Government Code, to authorize a deduction to be made each pay period from the employee's salary or wage payment without authorization in writing from the employee for participation in a 401(k) plan as provided by Section 609.5025.

SECTION 4. Makes application of this Act prospective to January 1, 2008.

SECTION 5. Effective date: upon passage or September 1, 2007.