

AN ACT

relating to participation by certain state employees in a default investment product under a deferred compensation plan.

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

SECTION 1. Subchapter C, Chapter 609, Government Code, is amended by adding Section 609.5025 to read as follows:

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

(b) An employee participates in a 401(k) plan unless the employee affirmatively elects not to participate in the plan. 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) 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 based on the criteria established under Section 609.505(d) and the rules adopted under Subsection (f). The contribution is made by automatic payroll deduction.

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

1 different amount to the plan.

2 (e) The board of trustees shall ensure that, at the time of
3 employment, each employee is informed of:

4 (1) the elections the employee may make under this
5 section; and

6 (2) the responsibilities of the employee under Section
7 609.010.

8 (f) The board of trustees shall adopt rules to implement the
9 requirements of this section. The rules must ensure that the
10 operation of the 401(k) plan under this section conforms to the
11 applicable requirements of any federal rule that provides fiduciary
12 relief for investments in qualified default investment
13 alternatives or otherwise governs default investment alternatives
14 under participant-directed individual account plans.

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

19 (h) Within existing resources, a state agency participating
20 in a 401(k) plan shall inform new hires of their automatic
21 enrollment in a 401(k) account and their right to opt-out of
22 enrollment. Within existing resources, this information shall be
23 included as part of the new employee orientation process. State
24 agencies participating in a 401(k) plan shall maintain a record of a
25 new hire's acknowledgement of receipt of information regarding the
26 ability to opt-out of enrollment in a 401(k) plan.

27 SECTION 2. Section 609.007(c), Government Code, is amended

1 to read as follows:

2 (c) Except as provided by Section 609.5025, to [to]
3 participate in a deferred compensation plan, an employee must
4 consent in the contract to automatic payroll deductions in an
5 amount equal to the deferred amount.

6 SECTION 3. Section 659.102(a), Government Code, is amended
7 to read as follows:

8 (a) An employee of a state agency may authorize in writing a
9 deduction each pay period from the employee's salary or wage
10 payment for coverage of the employee under an eligible supplemental
11 optional benefits program. A deduction may be made each pay period
12 from the employee's salary or wage payment without authorization in
13 writing from the employee for participation in a 401(k) plan as
14 provided by Section 609.5025.

15 SECTION 4. Section 609.5025, Government Code, as added by
16 this Act, applies only to an officer or employee of a state agency
17 who initially takes office or begins employment on or after January
18 1, 2008.

19 SECTION 5. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 957 was passed by the House on April 25, 2007, by the following vote: Yeas 135, Nays 5, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 957 on May 23, 2007, by the following vote: Yeas 145, Nays 2, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 957 was passed by the Senate, with amendments, on May 21, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor