

By: Orr

H.B. No. 957

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to participation by certain state employees in a default  
3 investment product under a deferred compensation plan.

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

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

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

10 (b) An employee participates in a 401(k) plan unless the  
11 employee affirmatively elects not to participate in the plan.  
12 Notwithstanding Sections 609.007(b) and (c), an employee is not  
13 required to affirmatively contract for and consent to participation  
14 in a plan under this section.

15 (c) An employee participating in a 401(k) plan under this  
16 section makes a contribution of one percent of the compensation  
17 earned by the employee to a default investment product selected by  
18 the board of trustees based on the criteria established under  
19 Section 609.505(d) and the rules adopted under Subsection (f). The  
20 contribution is made by automatic payroll deduction.

21 (d) At any time, an employee participating in a 401(k) plan  
22 under this section may, in accordance with rules adopted by the  
23 board of trustees, elect to end participation in the 401(k) plan, to  
24 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 SECTION 2. Section 609.007(c), Government Code, is amended  
20 to read as follows:

21 (c) Except as provided by Section 609.5025, to [T~~e~~]  
22 participate in a deferred compensation plan, an employee must  
23 consent in the contract to automatic payroll deductions in an  
24 amount equal to the deferred amount.

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

27 (a) An employee of a state agency may authorize in writing a

1 deduction each pay period from the employee's salary or wage  
2 payment for coverage of the employee under an eligible supplemental  
3 optional benefits program. A deduction may be made each pay period  
4 from the employee's salary or wage payment without authorization in  
5 writing from the employee for participation in a 401(k) plan as  
6 provided by Section 609.5025.

7 SECTION 4. Section 609.5025, Government Code, as added by  
8 this Act, applies only to an officer or employee of a state agency  
9 who initially takes office or begins employment on or after January  
10 1, 2008.

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