

1-1 By: Orr (Senate Sponsor - Ellis) H.B. No. 957
1-2 (In the Senate - Received from the House April 26, 2007;
1-3 May 1, 2007, read first time and referred to Committee on
1-4 Government Organization; May 17, 2007, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 7,
1-6 Nays 0; May 17, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 957 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to participation by certain state employees in a default
1-11 investment product under a deferred compensation plan.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter C, Chapter 609, Government Code, is
1-14 amended by adding Section 609.5025 to read as follows:

1-15 Sec. 609.5025. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT
1-16 PRODUCT. (a) This section applies only to an employee of a state
1-17 agency participating in a 401(k) plan.

1-18 (b) An employee participates in a 401(k) plan unless the
1-19 employee affirmatively elects not to participate in the plan.
1-20 Notwithstanding Sections 609.007(b) and (c), an employee is not
1-21 required to affirmatively contract for and consent to participation
1-22 in a plan under this section.

1-23 (c) An employee participating in a 401(k) plan under this
1-24 section makes a contribution of one percent of the compensation
1-25 earned by the employee to a default investment product selected by
1-26 the board of trustees based on the criteria established under
1-27 Section 609.505(d) and the rules adopted under Subsection (f). The
1-28 contribution is made by automatic payroll deduction.

1-29 (d) At any time, an employee participating in a 401(k) plan
1-30 under this section may, in accordance with rules adopted by the
1-31 board of trustees, elect to end participation in the 401(k) plan, to
1-32 contribute to a different investment product, or to contribute a
1-33 different amount to the plan.

1-34 (e) The board of trustees shall ensure that, at the time of
1-35 employment, each employee is informed of:

1-36 (1) the elections the employee may make under this
1-37 section; and

1-38 (2) the responsibilities of the employee under Section
1-39 609.010.

1-40 (f) The board of trustees shall adopt rules to implement the
1-41 requirements of this section. The rules must ensure that the
1-42 operation of the 401(k) plan under this section conforms to the
1-43 applicable requirements of any federal rule that provides fiduciary
1-44 relief for investments in qualified default investment
1-45 alternatives or otherwise governs default investment alternatives
1-46 under participant-directed individual account plans.

1-47 (g) The amount deducted under this section from an
1-48 employee's compensation is not deducted for payment of a debt and
1-49 the automatic payroll deduction is not garnishment or assignment of
1-50 wages.

1-51 (h) Within existing resources, a state agency participating
1-52 in a 401(k) plan shall inform new hires of their automatic
1-53 enrollment in a 401(k) account and their right to opt-out of
1-54 enrollment. Within existing resources, this information shall be
1-55 included as part of the new employee orientation process. State
1-56 agencies participating in a 401(k) plan shall maintain a record of a
1-57 new hire's acknowledgement of receipt of information regarding the
1-58 ability to opt-out of enrollment in a 401(k) plan.

1-59 SECTION 2. Section 609.007(c), Government Code, is amended
1-60 to read as follows:

1-61 (c) Except as provided by Section 609.5025, to [To]
1-62 participate in a deferred compensation plan, an employee must
1-63 consent in the contract to automatic payroll deductions in an

2-1 amount equal to the deferred amount.

2-2 SECTION 3. Section 659.102(a), Government Code, is amended
2-3 to read as follows:

2-4 (a) An employee of a state agency may authorize in writing a
2-5 deduction each pay period from the employee's salary or wage
2-6 payment for coverage of the employee under an eligible supplemental
2-7 optional benefits program. A deduction may be made each pay period
2-8 from the employee's salary or wage payment without authorization in
2-9 writing from the employee for participation in a 401(k) plan as
2-10 provided by Section 609.5025.

2-11 SECTION 4. Section 609.5025, Government Code, as added by
2-12 this Act, applies only to an officer or employee of a state agency
2-13 who initially takes office or begins employment on or after January
2-14 1, 2008.

2-15 SECTION 5. This Act takes effect immediately if it receives
2-16 a vote of two-thirds of all the members elected to each house, as
2-17 provided by Section 39, Article III, Texas Constitution. If this
2-18 Act does not receive the vote necessary for immediate effect, this
2-19 Act takes effect September 1, 2007.

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