

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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 [Te]  
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.

**ADOPTED**

MAY 21 2007

*Letty Spaw*  
Secretary of the Senate

By: Orr / Ellis

H.B. No. 957

Substitute the following for H.B. No. 957:

By: Ellis

C.S. H.B. No. 957

A BILL TO BE ENTITLED

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 [~~Te~~]  
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.

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 16, 2007**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB957** by Orr (Relating to participation by certain state employees in a default investment product under a deferred compensation plan.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would make participation in the 401(k) plan automatic for any new employee hired after January 1, 2008 unless the employee elects not to participate. The employee would contribute a minimum of 1 percent to a default investment product selected by the board of trustees. The payroll deduction would be made automatically and would not require written consent of the employee.

The bill would require state agencies to use existing resources to inform new hirees, as part of the agency's new employee orientation process, of the automatic enrollment in a 401(k) account and option to opt-out of the enrollment. The bill would also require participating state agencies to maintain a record of a new hire's acknowledgement of information regarding 401(k) participation or opt-out option.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 327 Employees Retirement System

**LBB Staff:** JOB, MN, KJG, MS, JW

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 2, 2007**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB957** by Orr (Relating to participation by certain state employees in a default investment product under a deferred compensation plan.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would make participation in the 401(k) plan automatic for any new employee hired after January 1, 2008 unless the employee elects not to participate. The employee would contribute a minimum of 1 percent to a default investment product selected by the board of trustees. The payroll deduction would be made automatically and would not require written consent of the employee.

It is anticipated by the Employees Retirement System that any administrative costs associated with implementing the provisions of the bill could be absorbed within existing TexaSaver program resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 327 Employees Retirement System

**LBB Staff:** JOB, MN, KJG, MS, JW



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**February 28, 2007**

**TO:** Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB957** by Orr (Relating to participation by certain state employees in a default investment product under a deferred compensation plan.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would make participation in the 401(k) plan automatic for any new employee hired after January 1, 2008 unless the employee elects not to participate. The employee would contribute a minimum of 1 percent to a default investment product selected by the board of trustees. The payroll deduction would be made automatically and would not require written consent of the employee.

It is anticipated by the Employees Retirement System that any administrative costs associated with implementing the provisions of the bill could be absorbed within existing TexaSaver program resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 327 Employees Retirement System

**LBB Staff:** JOB, KJG, MS, JW

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**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**ACTUARIAL IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**February 28, 2007**

**TO:** Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB957** by Orr (Relating to participation by certain state employees in a default investment product under a deferred compensation plan.), **As Introduced**

HB 957 provides for the automatic enrollment of an employee of a state agency in a 401(k) plan unless the employee affirmatively elects not to participate in the plan. The bill further stipulates that an employee participating in a 401(k) plan 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 (ERS). The bill would provide for an employee, in accordance with rules adopted by the board of trustees, to end participation in the 401(k) plan, contribute to a different investment product, or contribute a different amount to the plan. The bill, if enacted, will have no actuarial effect because it does not propose to change the funding or obligations of any public retirement system.

**Source Agencies:** 338 Pension Review Board

**LBB Staff:** JOB, WM

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