

SENATE AMENDMENTS

2nd Printing

By: Truitt

H.B. No. 2283

A BILL TO BE ENTITLED

AN ACT

relating to increasing state employee participation in the
TexaSaver program.

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

SECTION 1. Section 609.006(a), Government Code, is amended
to read as follows:

(a) A deferred compensation plan must conform to federal law
to provide that deferred amounts and investment income are not
includable, for federal income tax purposes, in the gross income of
a participating employee until distributed to the employee, subject
to the employee's option to designate all or a portion of deferred
amounts as Roth contributions under Section 609.5021, the federal
income tax treatment of which is governed by Section 402A, Internal
Revenue Code of 1986.

SECTION 2. Subchapter C, Chapter 609, Government Code, is
amended by adding Section 609.5021 to read as follows:

Sec. 609.5021. ROTH CONTRIBUTION PROGRAMS. The board of
trustees may:

(1) establish a qualified Roth contribution program in
accordance with Section 402A, Internal Revenue Code of 1986, under
which an employee may designate all or a portion of the employee's
contribution under a 401(k) plan as a Roth contribution at the time
the contribution is made; and

(2) if authorized by federal law, establish a program

1 in accordance with the applicable federal law under which an
2 employee may designate all or a portion of the employee's
3 contribution under a 457 plan as a Roth contribution at the time the
4 contribution is made.

5 SECTION 3. Section 609.5025(d), Government Code, is amended
6 to read as follows:

7 (d) At any time, an employee participating in a 401(k) plan
8 under this section may, in accordance with rules adopted by the
9 board of trustees, elect to end participation in the 401(k) plan, to
10 contribute to a different investment product, [~~or~~] to contribute a
11 different amount to the plan, or to designate all or a portion of
12 the employee's contribution as a Roth contribution subject to the
13 availability of a Roth contribution program under Section 609.5021.

14 SECTION 4. Subchapter C, Chapter 609, Government Code, is
15 amended by adding Section 609.5026 to read as follows:

16 Sec. 609.5026. STATE MATCHING CONTRIBUTIONS. (a) Except
17 as provided by Subsection (b) and subject to a separate legislative
18 appropriation for that purpose, the Employees Retirement System of
19 Texas may make matching contributions to a 401(k) plan on behalf of
20 employees participating in the plan solely from, and in an amount
21 specified by, the appropriation.

22 (b) The Employees Retirement System of Texas may only make a
23 contribution under this section if the trust fund:

24 (1) receives amounts sufficient to cover normal cost;
25 and

26 (2) maintains a funded ratio equal to or greater than
27 90 percent.

1 SECTION 5. This Act takes effect September 1, 2009.

ADOPTED

MAY 19 2009

Atty. Gen.
Secretary of the Senate

By: Duwell

H.B. No. 2283

Substitute the following for __.B. No. ____:

By: Duwell

C.S. __.B. No. ____

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10 a participating employee until distributed to the employee, subject
11 to the employee's option to designate all or a portion of deferred
12 amounts as Roth contributions under Section 609.5021, the federal
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20 accordance with Section 402A, Internal Revenue Code of 1986, under
21 which an employee may designate all or a portion of the employee's
22 contribution under a 401(k) plan as a Roth contribution at the time
23 the contribution is made; and

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10 contribute to a different investment product, [~~or~~] to contribute a
11 different amount to the plan, or to designate all or a portion of
12 the employee's contribution as a Roth contribution subject to the
13 availability of a Roth contribution program under Section 609.5021.

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15 amended by adding Section 609.5026 to read as follows:

16 Sec. 609.5026. STATE MATCHING CONTRIBUTIONS. Subject to a
17 separate legislative appropriation for that purpose, the Employees
18 Retirement System of Texas may make matching contributions to a
19 401(k) plan on behalf of employees participating in the plan solely
20 from, and in an amount specified by, the appropriation.

21 SECTION 5. This Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

Revision 1

May 20, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB2283 by Truitt (Relating to increasing state employee participation in the TexaSaver program.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would implement recommendations from the Legislative Budget Board's *2009 Government Effectiveness and Efficiency Report* entitled "Increase the Employee Participation in the TexaSaver Program." The bill would make changes to the TexaSaver Program, the 401(k) and 457 plans offered to state employees for voluntary retirement savings. Changes made by this bill include permitting the Employees Retirement System (ERS) to add a Roth 401(k), permitting ERS to add a Roth 457 when permissible under federal law, and permitting an employer match within the 401(k) plan subject to a separate legislative appropriation.

The Employees Retirement System estimates that there would be an administrative cost to the agency to make the program changes related to adding a Roth plan option. The TexaSaver Program is funded by monthly participant fees. To add a Roth plan option would require fees by the participants selecting this option.

Additional costs to the state would be incurred if the Legislature appropriates funds for an employer match for the 401(k) plan. The employer matching amount, if offered, would be determined by a separate, specific appropriation level, and is not set to a certain amount by this bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: JOB, SD, KJG, JI, JJO, JRO

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

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TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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Additional costs to the state would be incurred if the Legislature appropriates funds for an employer match for the 401(k) plan. A match would only be permitted if the Employees Retirement System trust fund receives funding for normal costs for the retirement system and the system has a funded ratio equal to or greater than 90 percent. The employer matching amount, if offered, would be determined by a separate, specific appropriation level, and is not set to a certain amount by this bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: JOB, SD, KJG, JI, JJO, JRO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 12, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: **HB2283** by Truitt (Relating to increasing state employee participation in the TexaSaver program.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would implement recommendations from the Legislative Budget Board's *2009 Government Effectiveness and Efficiency Report* entitled "Increase the Employee Participation in the TexaSaver Program." The bill would make changes to the TexaSaver Program, the 401(k) and 457 plans offered to state employees for voluntary retirement savings. Changes made by this bill include permitting the Employees Retirement System (ERS) to add a Roth 401(k), permitting ERS to add a Roth 457 when permissible under federal law, and permitting an employer match within the 401(k) plan subject to a separate legislative appropriation.

The Employees Retirement System estimates that there would be an administrative cost to the agency to make the program changes related to adding a Roth plan option. The TexaSaver Program is funded by monthly participant fees. To add a Roth plan option would require fees by the participants selecting this option.

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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: JOB, KJG, JI, JJO, JRO

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: HB2283 by Truitt (Relating to increasing state employee participation in the TexaSaver program.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would implement recommendations from the Legislative Budget Board's *2009 Government Effectiveness and Efficiency Report* entitled "Increase the Employee Participation in the TexaSaver Program." The bill would make changes to the TexaSaver Program, the 401(k) and 457 plans offered to state employees for voluntary retirement savings. Changes made by this bill include permitting the Employees Retirement System (ERS) to add a Roth 401(k), permitting ERS to add a Roth 457 when permissible under federal law, and permitting an employer match within the 401(k) plan subject to a separate legislative appropriation.

The Employees Retirement System estimates that there would be an administrative cost to the agency to make the program changes related to adding a Roth plan option. The TexaSaver Program is funded by monthly participant fees. To add a Roth plan option would require fees by the participants selecting this option.

Additional costs to the state would be incurred if the Legislature appropriates funds for an employer match for the 401(k) plan. A match would only be permitted if the Employees Retirement System trust fund receives funding for normal costs for the retirement system and the system has a funded ratio equal to or greater than 90 percent. The employer matching amount, if offered, would be determined by a separate, specific appropriation level, and is not set to a certain amount by this bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: JOB, KJG, JI, JJO, JRO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 27, 2009

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

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

IN RE: **HB2283** by Truitt (Relating to increasing state employee participation in the TexaSaver program.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would implement recommendations from the Legislative Budget Board's *2009 Government Effectiveness and Efficiency Report* entitled "Increase the Employee Participation in the TexaSaver Program." The bill would make changes to the TexaSaver Program, the 401(k) and 457 plans offered to state employees for voluntary retirement savings. Changes made by this bill include permitting the Employees Retirement System (ERS) to add a Roth 401(k), permitting ERS to add a Roth 457 when permissible under federal law, expanding automatic enrollment to all state employees for the 401(k) plan, and permitting an employer match within the 401(k) plan.

The Employees Retirement System estimates that there would be an administrative cost to the agency to make the program changes related to adding a Roth plan option and the expansion of automatic enrollment. The TexaSaver Program is funded by monthly participant fees. To add a Roth plan option would require fees by the participants selecting this option.

Additional costs to the state would be incurred if the Legislature appropriates funds for an employer match for the 401(k) plan. A match would only be permitted if the Employees Retirement System receives funding for normal costs for the retirement system and the system has a funded ratio equal to or greater than 90 percent. The employer matching amount, if offered, would be determined by a separate and specific appropriation level and is not set to a certain amount by this bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: JOB, JRO, JI, JJO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 17, 2009

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

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

IN RE: **HB2283** by Truitt (Relating to increasing state employee participation in the TexaSaver program.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would implement recommendations from the Legislative Budget Board's *2009 Government Effectiveness and Efficiency Report* entitled "Increase the Employee Participation in the TexaSaver Program." The bill would make changes to the TexaSaver Program, the 401(k) and 457 plans offered to state employees for voluntary retirement savings. Changes made by this bill include adding a Roth 401(k), adding a Roth 457 when permissible under federal law, expanding automatic enrollment to all state employees for the 401(k) plan, adding an auto-escalation feature to increase participation contributions by one percent each year until contributions equal five percent of salary, and permitting an employer match within the 401(k) plan.

The Employees Retirement System estimates that there would be an administrative cost to the agency to make the program changes related to adding a Roth plan option and the expansion of automatic enrollment. The TexaSaver Program is funded by monthly participant fees. To add a Roth plan option would require fees by the participants selecting this option.

Additional costs to the state would be incurred if the Legislature appropriates funds for an employer match for the 401(k) plan. A match would only be permitted if the Employees Retirement System receives funding for normal costs for the retirement system and the system has a funded ratio equal to or greater than 90 percent. The employer matching amount would be determined by a specific appropriation level and is not set to a certain amount by this bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: JOB, JRO, JI, JJO

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LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 26, 2009

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

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

IN RE: **HB2283** by Truitt (Relating to increasing state employee participation in the TexaSaver program.), **Committee Report 1st House, Substituted**

CSHB 2283, to be effective September 1, 2009, would provide the following changes:

- Allow the Employees Retirement System (ERS) to establish a qualified Roth contribution program in accordance with Section 402A, Internal Revenue Code of 1986, under which a state employee may designate all or a portion of the employee's contribution under a 401(k) plan as a Roth contribution at the time the contribution is made.
- Establish a program in accordance with the applicable federal law under which an employee may designate all or a portion of the employee's contribution under a 457 plan as a Roth contribution at the time the contribution is made.
- Designate all or a portion of the employee 's contribution as a Roth contribution subject to the availability of a Roth contribution program under Section 609.5021.
- Allows ERS to make matching contributions to a 401(k) plan on behalf of employees participating in the plan in an amount specified in an appropriation. ERS can only make a matching contribution if the retirement system:
 1. Receives amounts sufficient to cover normal cost
 2. Maintains a funded ratio equal to or greater than 90 percent

Under Section 609.5026, which would be added by the bill, the matching contributions to the defined contribution plan would only be allowed if the contributions to the defined benefit plan were sufficient to cover the normal cost and maintain a funded ratio of equal to or greater than 90 percent. The matching contributions under section 609.5026 must come from a separate legislative appropriation. The current contributions to the system are not sufficient to cover the normal cost, so matching contributions to the defined contribution plan would not be allowed currently.

The bill, if enacted, will not have a significant 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

LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 17, 2009

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

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

IN RE: **HB2283** by Truitt (Relating to increasing state employee participation in the TexaSaver program.), **As Introduced**

HB 2283, to be effective immediately September 1, 2009, would provide the following changes:

- Establish a qualified Roth contribution program in accordance with Section 402A, Internal Revenue Code of 1986, under which an employee may designate all or a portion of the employee's contribution under a 401(k) plan as a Roth contribution at the time the contribution is made.
- Establish a program in accordance with the applicable federal law under which an employee may designate all or a portion of the employee's contribution under a 457 plan as a Roth contribution at the time the contribution is made.
- The employee contributes one percent of the employee's compensation in the employee's first year of participation, and that contribution amount increases by an additional one percent in each succeeding year of participation until the employee's total annual contribution equals five percent of the employee's compensation.
- Allows the Employees Retirement System (ERS) to make matching contributions to a 401(k) plan on behalf of employees participating in the plan. The ERS can only make a matching contribution if ERS receives a specific legislative appropriation and the retirement system:
 1. Receives amounts sufficient to cover normal cost
 2. Maintains a funded ratio equal to or greater than 90 percent

If appropriations to ERS are structured so retirement plan contributions could not be used for this defined contribution plan, there would be no impact on the retirement plan. Alternatively, if contributions to the ERS retirement plan were allowed to be used for this defined contribution plan, then it could have an actuarial impact.

HB 2283 would not currently have an actuarial impact on the system. Under Section 609.5026, which would be added by the bill, the matching contributions to the defined contribution plan that the system would be allowed to make would only be allowed if the contributions to the defined benefit plan were sufficient to cover the normal cost and maintain a funded ratio of equal to or greater than 90 percent. The current contributions to the system are not sufficient to cover the normal cost, so matching contributions to the defined contribution plan would not be allowed currently. The system is currently over 90 percent funded using a smoothed actuarial value of assets as of 8/31/2008, but would be under 90 percent funded using a market value of assets. In the future, if the system receives funds sufficient to cover the normal cost and the funded ratio is at least 90 percent, and a portion of the contributions intended for the defined benefit plan are subsequently used to fund state matching contributions in the defined contribution plan as permitted, then there would be an actuarial impact. It is possible that the system could receive an amount that is not sufficient to make the defined benefit plan actuarially sound, and still be permitted to make matching contributions to the defined contribution plan. For example, a contribution of the normal cost only without a payment towards amortization of the unfunded actuarial accrued liability would not be sufficient to make the plan actuarially sound. It is possible that the system could receive an amount that is sufficient to make the defined benefit plan actuarially sound, but if system contributions were used to make matching contributions to the defined contribution plan, the system could become actuarially unsound. If system contributions are increased beyond what would otherwise have been contributed to the defined benefit plan in order to fund a matching contribution, then there would be no actuarial impact on the system.

**According to ERS, the provisions and recommendations in the bill should not have an actuarial impact on ERS.



SOURCES:

Email correspondence from Martha Wall, of ERS, March 13, 2009.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM

