

BILL ANALYSIS

H.B. 2065
By: Coleman
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that the Harris County Hospital District currently has a deferred compensation plan that is offered to district employees under which an employee must elect to opt in to the plan. Requiring an employee to opt in has led to a less than optimal participation rate, and the parties note that the greater the participation, the greater the potential returns. The parties assert that providing an opt-out deferred compensation plan, whereby an employee would automatically participate in the plan with the option to opt out, would be beneficial to the district and the district's employees. H.B. 2065 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2065 amends the Government Code to establish that an employee of the Harris County Hospital District automatically participates in a deferred compensation plan provided by the district unless the employee affirmatively elects to not participate in the plan and that the employee is not required to affirmatively contract for and consent to participation in the plan under the bill's provisions. The bill establishes that an employee participating in a deferred compensation plan under the bill's provisions makes a contribution, by automatic payroll deduction, of one percent of the compensation earned by the employee to a default investment product selected by the plan administrator based on certain criteria and rules of the Harris County Hospital District board of hospital managers. The bill authorizes an employee participating in a deferred compensation plan under the bill's provisions to elect at any time, in accordance with board of hospital managers rules, to end participation in the plan, to contribute to a different investment product, to contribute a different amount to the plan, or to designate all or a portion of the employee's contribution as a Roth contribution subject to the availability of a Roth contribution program. The bill requires the district to ensure that, at the time of employment, each employee is informed of the elections the employee may make and of the responsibilities of the employee to monitor certain conditions related to the health of the employee's investment plan.

H.B. 2065 requires the board of hospital managers to adopt rules to implement the bill's provisions relating to an employee's automatic participation in a deferred compensation plan and the default investment product and requires the rules to ensure that the operation of a deferred compensation plan conforms to the applicable requirements of any federal rule that provides

fiduciary relief for investments in qualified default investment alternatives or otherwise governs default investment alternatives under participant-directed individual account plans. The bill establishes that the amount deducted from an employee's compensation is not deducted for payment of a debt and the automatic payroll deduction is not garnishment or assignment of wages. The bill requires the district, using existing resources, to inform new employees as part of the new employee orientation process of the employee's automatic enrollment in a deferred compensation plan and the right to opt out of enrollment. The bill requires the district to maintain a record of a new employee's acknowledgement of receipt of information regarding the ability to opt out of enrollment in a deferred compensation plan.

H.B. 2065 authorizes the district to transfer an employee's deferred amounts and investment income from a qualified investment product to the trust fund of the deferred compensation plan in which the employee participates if the district determines that the transfer is in the best interest of the plan and the employee. The bill expressly does not require the district to give notice of the transfer to the employee before the transfer occurs. The bill requires the district, promptly after the transfer occurs, to give to the employee a notice that states the reason for the transfer and that requests that the employee promptly designate another qualified investment product to receive the transferred amount. The bill authorizes the district, instead of depositing deferred amounts and investment income in the trust fund of the deferred compensation plan, to invest deferred amounts and investment income in a qualified investment product specifically designated by the district for that purpose. The bill authorizes the district to contract for necessary goods and consolidated billing, accounting, and other services to be provided in connection with a deferred compensation plan and to contract with a private entity to provide for periodic audits of the person with whom the contract is made. The bill authorizes the audit to cover the proper handling and accounting of public or trust funds and other matters related to the proper performance of the contract.

H.B. 2065 applies to the district only if it offers a deferred compensation plan to its employees under statutory provisions relating to such plans for employees of political subdivisions. The bill applies only to an employee of the district who initially begins employment on or after January 1, 2016. The bill validates the acts of the district that relate to discretionary transfers of funds and consolidation of billing and accounting for deferred compensation plans provided by the district to the district's employees that occurred before the bill's effective date as if the acts had occurred as authorized by law unless the act was a misdemeanor or felony under state law at the time the act occurred.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.