

1-1 By: Garcia S.B. No. 640  
 1-2 (In the Senate - Filed February 19, 2015; February 24, 2015,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 April 28, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 1; April 28, 2015,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 640 By: Nelson

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to automatic employee participation in and administration  
 1-22 of a deferred compensation plan provided by certain hospital  
 1-23 districts.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 609.007(c), Government Code, is amended  
 1-26 to read as follows:

1-27 (c) Except as provided by Section 609.202 or 609.5025, to  
 1-28 participate in a deferred compensation plan, an employee must  
 1-29 consent in the contract to automatic payroll deductions in an  
 1-30 amount equal to the deferred amount.

1-31 SECTION 2. Chapter 609, Government Code, is amended by  
 1-32 adding Subchapter B-1 to read as follows:

1-33 SUBCHAPTER B-1. PARTICIPATION IN DEFERRED COMPENSATION PLAN BY  
 1-34 CERTAIN HOSPITAL DISTRICT EMPLOYEES

1-35 Sec. 609.201. APPLICABILITY OF SUBCHAPTER. (a) This  
 1-36 subchapter applies only to a hospital district created under  
 1-37 general or special law if the district offers a deferred  
 1-38 compensation plan to the district's employees under Subchapter B.

1-39 (b) A hospital district subject to this subchapter may, at  
 1-40 the district's option, elect to require automatic employee  
 1-41 participation in a deferred compensation plan under Section  
 1-42 609.202.

1-43 Sec. 609.202. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT  
 1-44 PRODUCT. (a) This section applies only to an employee of a  
 1-45 hospital district that elects under Section 609.201(b) to require  
 1-46 automatic employee participation in a deferred compensation plan  
 1-47 under this section.

1-48 (b) An employee automatically participates in a deferred  
 1-49 compensation plan provided by the hospital district unless the  
 1-50 employee affirmatively elects not to participate in the plan.  
 1-51 Notwithstanding Sections 609.007(a) and (c), an employee is not  
 1-52 required to affirmatively contract for and consent to participation  
 1-53 in a plan under this section.

1-54 (c) An employee participating in a deferred compensation  
 1-55 plan under this section makes a contribution of one percent of the  
 1-56 compensation earned by the employee to a default investment product  
 1-57 selected by the plan administrator based on the criteria  
 1-58 established under Section 609.113 and the rules adopted under  
 1-59 Subsection (f). The contribution is made by automatic payroll  
 1-60 deduction.

2-1 (d) At any time, an employee participating in a deferred  
 2-2 compensation plan under this section may, in accordance with rules  
 2-3 adopted by the board of the hospital district, elect to end  
 2-4 participation in the plan, to contribute to a different investment  
 2-5 product, to contribute a different amount to the plan, or to  
 2-6 designate all or a portion of the employee's contribution as a Roth  
 2-7 contribution subject to the availability of a Roth contribution  
 2-8 program.

2-9 (e) A hospital district to which this subchapter applies  
 2-10 shall ensure that, at the time of employment, each employee is  
 2-11 informed of:

2-12 (1) the elections the employee may make under this  
 2-13 section; and

2-14 (2) the responsibilities of the employee under Section  
 2-15 609.010.

2-16 (f) The board of the hospital district shall adopt rules to  
 2-17 implement the requirements of this section. The rules must ensure  
 2-18 that the operation of a deferred compensation plan under this  
 2-19 section conforms to the applicable requirements of any federal rule  
 2-20 that provides fiduciary relief for investments in qualified default  
 2-21 investment alternatives or otherwise governs default investment  
 2-22 alternatives under participant-directed individual account plans.

2-23 (g) The amount deducted under this section from an  
 2-24 employee's compensation is not deducted for payment of a debt and  
 2-25 the automatic payroll deduction is not garnishment or assignment of  
 2-26 wages.

2-27 (h) Using existing resources, the hospital district shall  
 2-28 inform new employees of their automatic enrollment in a deferred  
 2-29 compensation plan and their right to opt out of enrollment. Using  
 2-30 existing resources, this information must be included as part of  
 2-31 the new employee orientation process. The district shall maintain  
 2-32 a record of a new employee's acknowledgment of receipt of  
 2-33 information regarding the ability to opt out of enrollment in a  
 2-34 deferred compensation plan.

2-35 Sec. 609.203. DISCRETIONARY TRANSFER. (a) A hospital  
 2-36 district may transfer an employee's deferred amounts and investment  
 2-37 income from a qualified investment product to the trust fund of the  
 2-38 deferred compensation plan in which the employee participates if  
 2-39 the district determines that the transfer is in the best interest of  
 2-40 the plan and the employee.

2-41 (b) The hospital district is not required to give notice of  
 2-42 a transfer under Subsection (a) to the employee before the transfer  
 2-43 occurs.

2-44 (c) Promptly after a transfer under Subsection (a) occurs,  
 2-45 the hospital district shall give to the employee a notice that:

2-46 (1) states the reason for the transfer; and

2-47 (2) requests that the employee promptly designate  
 2-48 another qualified investment product to receive the transferred  
 2-49 amount.

2-50 Sec. 609.204. ALTERNATIVE TO FUND DEPOSIT. Instead of  
 2-51 depositing deferred amounts and investment income in the trust fund  
 2-52 of the deferred compensation plan, a hospital district may invest  
 2-53 deferred amounts and investment income in a qualified investment  
 2-54 product specifically designated by the district for that purpose.

2-55 Sec. 609.205. CONTRACTS FOR GOODS AND SERVICES. (a) A  
 2-56 hospital district may contract for necessary goods and consolidated  
 2-57 billing, accounting, and other services to be provided in  
 2-58 connection with a deferred compensation plan.

2-59 (b) In a contract under Subsection (a), the hospital  
 2-60 district may provide for periodic audits of the person with whom the  
 2-61 contract is made. An audit may cover:

2-62 (1) the proper handling and accounting of public or  
 2-63 trust funds; and

2-64 (2) other matters related to the proper performance of  
 2-65 the contract.

2-66 (c) The hospital district may contract with a private entity  
 2-67 to conduct an audit under Subsection (b).

2-68 SECTION 3. Section 609.202, Government Code, as added by  
 2-69 this Act, applies only to an employee of a hospital district subject

3-1 to that section who initially begins employment on or after January  
3-2 1, 2016.

3-3 SECTION 4. (a) Except as provided by Subsection (b) of  
3-4 this section, the acts of a hospital district created under general  
3-5 or special law that relate to discretionary transfers of funds and  
3-6 consolidation of billing and accounting for deferred compensation  
3-7 plans provided by the district to the district's employees and that  
3-8 occurred before the effective date of this Act are validated as if  
3-9 the acts had occurred as authorized by law.

3-10 (b) This section does not validate an act that, under the  
3-11 law of this state at the time the act occurred, was a misdemeanor or  
3-12 felony.

3-13 SECTION 5. This Act takes effect immediately if it receives  
3-14 a vote of two-thirds of all the members elected to each house, as  
3-15 provided by Section 39, Article III, Texas Constitution. If this  
3-16 Act does not receive the vote necessary for immediate effect, this  
3-17 Act takes effect September 1, 2015.

3-18

\* \* \* \* \*