

By: Bettencourt

S.B. No. 1752

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain municipalities to establish defined contribution plans to provide retirement benefits to certain employees.

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

SECTION 1. Subtitle A, Title 8, Government Code, is amended by adding Chapter 808 to read as follows:

CHAPTER 808. AUTHORITY OF CERTAIN MUNICIPALITIES TO ESTABLISH
DEFINED CONTRIBUTION PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 808.001. DEFINITIONS. In this chapter:

(1) "Defined benefit plan" means a plan provided by a public retirement system that provides participants specified benefit payments calculated in accordance with a formula that is based on factors such as a participant's earnings history, age, and years of service.

(2) "Defined contribution plan" and "public retirement system" have the meanings assigned by Section 802.001.

(3) "Qualified plan" means an employee benefit plan qualified under Section 401(a), Internal Revenue Code of 1986 (26 U.S.C. Section 401).

Sec. 808.002. APPLICABILITY. This chapter applies only to:

(1) a public retirement system that provides benefits to municipal employees under a defined benefit plan; and

1 (2) a home-rule municipality that is the sponsoring
2 authority of a public retirement system described by Subdivision
3 (1).

4 Sec. 808.003. CONFLICT OF LAW. To the extent of a conflict
5 between this chapter, including an ordinance adopted by a
6 municipality or a rule adopted by a public retirement system under
7 authority of this chapter, and any other law, this chapter
8 prevails.

9 SUBCHAPTER B. AUTHORITY TO CREATE DEFINED CONTRIBUTION PLAN

10 Sec. 808.051. ELECTION TO ESTABLISH DEFINED CONTRIBUTION
11 PLAN. (a) On receipt of a petition requesting the election signed
12 by a number of registered voters of the municipality equal to at
13 least 10 percent of the number of voters who voted in the most
14 recent election of the municipality, the governing body of a
15 municipality shall order an election to authorize the creation of a
16 defined contribution plan for newly hired municipal employees or a
17 category of newly hired municipal employees in accordance with this
18 section.

19 (b) An election ordered under this section must be held as
20 part of the next regularly scheduled general election for municipal
21 officials that is held after the date the governing body of the
22 municipality orders the election and that allows sufficient time to
23 prepare the ballot in compliance with other requirements of law.

24 (c) The ballot for an election ordered under this section
25 shall be printed to permit voting for or against the proposition:
26 "Authorizing (name of municipality) to establish by
27 ordinance a defined contribution plan for (insert "employees" or

1 the category of employees to receive benefits under the plan)
2 initially hired by the municipality on or after (insert date) as
3 provided by state law."

4 (d) An election ordered under this section must be held and
5 the returns prepared and canvassed in conformity with the Election
6 Code.

7 (e) If an election authorized under this section is held,
8 the municipality may implement the other provisions of this chapter
9 only if a majority of the votes cast at the election favor the
10 proposition.

11 Sec. 808.052. CREATION OF DEFINED CONTRIBUTION PLAN.
12 Notwithstanding any other law, including Title 109, Revised
13 Statutes, and subject to the requirements of Subchapter C, if
14 authorized by an election under Section 808.051, the governing body
15 of a municipality that is the sponsoring authority of a public
16 retirement system shall establish by ordinance a defined
17 contribution plan to be administered by the public retirement
18 system to provide benefits to newly hired municipal employees or a
19 category of newly hired municipal employees, as applicable, under
20 the plan instead of under a defined benefit plan.

21 SUBCHAPTER C. MINIMUM REQUIREMENTS FOR DEFINED CONTRIBUTION PLAN

22 Sec. 808.101. MINIMUM REQUIREMENTS. In establishing a
23 defined contribution plan under this chapter, the governing body of
24 a municipality shall ensure the plan meets the requirements of this
25 subchapter.

26 Sec. 808.102. QUALIFIED PLAN. A defined contribution plan
27 created under this section must be a qualified plan.

1 Sec. 808.103. PARTICIPATION IN DEFINED CONTRIBUTION PLAN;
2 RESUMPTION OF SERVICE. (a) In the ordinance establishing a defined
3 contribution plan under this chapter, the governing body of a
4 municipality shall designate the date by which all newly hired
5 municipal employees shall begin participation in the plan.

6 (b) A person who resumes employment with a municipality and
7 who is already eligible to participate in a defined benefit plan
8 administered by a public retirement system because of the person's
9 prior employment remains eligible to participate in the defined
10 benefit plan and is not considered a new employee for purposes of
11 required participation in a defined contribution plan established
12 under this chapter.

13 (c) Notwithstanding any other law, an employee who
14 participates in a defined contribution plan established under this
15 chapter is not eligible to, and may not participate in, the defined
16 benefit plan administered by a public retirement system.

17 Sec. 808.104. EFFECT OF EMPLOYMENT CHANGES. A person
18 participating in a defined contribution plan continues to
19 participate in the plan when the person changes employment to
20 another position included in the coverage of the public retirement
21 system.

22 Sec. 808.105. VESTING OF BENEFITS; TERMINATION OF
23 PARTICIPATION. (a) Benefits in a defined contribution plan vest in
24 a participant not later than the fifth anniversary of the date the
25 person begins to participate in the plan.

26 (b) A person terminates participation in a defined
27 contribution plan, without losing any vested benefits, by:

- 1 (1) death;
- 2 (2) retirement; or
- 3 (3) termination of employment in all positions
- 4 included in the coverage of the public retirement system.

5 (c) The benefits of a product purchased under a defined
6 contribution plan become available under the terms of the annuity
7 but not before the earlier of the date:

8 (1) the member terminates participation as provided by
9 Subsection (b); or

10 (2) the member's age and years of service in a position
11 covered by the plan equal 80.

12 Sec. 808.106. CREDITABLE SERVICE. A person may not
13 establish in the defined benefit plan administered by a public
14 retirement system credit for service performed during a period the
15 person was participating in a defined contribution plan.

16 Sec. 808.107. CONTRIBUTIONS. (a) A participant in a
17 defined contribution plan shall make contributions to the plan at
18 the same rate that a participant in a defined benefit plan
19 administered by the same public retirement system is required to
20 make for current service, and the municipality shall make
21 contributions to the defined contribution plan for each participant
22 in the defined contribution plan at the same rate as the
23 municipality is required to contribute for contributing
24 participants in the defined benefit plan administered by the same
25 public retirement system. Contributions required under this
26 subsection shall be credited to the benefit of the participant in
27 the defined contribution plan.

1 (b) A participant in a defined contribution plan and the
2 municipality shall execute an agreement under which the salary of
3 the participant is reduced by the amount of the contribution
4 required by this section. An agreement under this subsection is
5 irrevocable until the participant terminates participation in the
6 plan under Section 808.105.

7 Sec. 808.108. HEALTH BENEFITS AND OTHER COVERAGES.

8 Notwithstanding any other law, a person who participates or who is
9 eligible to participate in a defined contribution plan established
10 under this chapter is eligible for health benefits and other
11 coverages to the same extent as a person who participates in a
12 defined benefit plan administered by the same public retirement
13 system.

14 SECTION 2. This Act takes effect September 1, 2017.