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By:  Bettencourt S.B. No. 2428

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the Employees Retirement System of Texas and the Teacher Retirement System of Texas to establish defined contribution plans or hybrid retirement plans to provide retirement benefits to certain employees.

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

SECTION 1.  Section 802.002, Government Code, is amended by adding Subsection (e) to read as follows:

(e)  Notwithstanding any other law, including Subsection (a), an alternative retirement plan established under Chapter 806 is exempt from Sections 802.101, 802.1012, 802.1014, 802.103, 802.104, and 802.202(d). This subsection may not be construed to exempt any plan from Section 802.105 or 802.106(h).

SECTION 2.  Subtitle A, Title 8, Government Code, is amended by adding Chapter 806 to read as follows:

CHAPTER 806. AUTHORITY TO ESTABLISH ALTERNATIVE RETIREMENT PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 806.001.  DEFINITIONS. In this chapter:

(1)  "Alternative retirement plan" means a defined contribution plan or a hybrid retirement plan.

(2)  "Board of trustees" means the board of trustees of a retirement system.

(3)  "Defined benefit plan" means, as appropriate, the plan that provides benefits to:

(A)  members of the employee class of the Employees Retirement System of Texas under Subtitle B; or

(B)  members of the Teacher Retirement System of Texas under Subtitle C.

(4)  "Defined contribution plan" has the meaning assigned by Section 802.001.

(5)  "Employee" means:

(A)  for purposes of the Employees Retirement System of Texas, a person who, but for creation of an alternative retirement system under this chapter, would be eligible for membership in the employee class of that system under Subchapter A, Chapter 812; or

(B)  for purposes of the Teacher Retirement System of Texas, a person who, but for creation of an alternative retirement system under this chapter, would be eligible for membership in that system under Subchapter A, Chapter 822.

(6)  "Hybrid retirement plan" means a retirement plan that combines elements of a defined benefit plan, a defined contribution plan, or an individual retirement savings account.

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

(8)  "Retirement system" means the Employees Retirement System of Texas or the Teacher Retirement System of Texas, as appropriate.

Sec. 806.002.  APPLICABILITY. This chapter applies only to:

(1)  the Employees Retirement System of Texas; and

(2)  the Teacher Retirement System of Texas.

Sec. 806.003.  CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted by a retirement system under authority of this chapter, and any other law, this chapter prevails.

SUBCHAPTER B. AUTHORITY TO CREATE ALTERNATIVE PLANS

Sec. 806.051.  CREATION OF ALTERNATIVE PLAN. Notwithstanding any other law, including Subtitles B and C, and subject to the requirements of Subchapter C, the board of trustees of a retirement system may by rule establish and administer an alternative retirement plan to provide benefits to newly hired employees under that plan instead of under a defined benefit plan.

Sec. 806.052.  CERTAIN REFERENCES IN LAW TO RETIREMENT SYSTEM MEMBERS. If a retirement system establishes an alternative retirement plan under this chapter, a reference in law to a member of or membership in the retirement system includes a participant of or participation in, as appropriate, the alternative retirement plan unless the reference is expressly defined otherwise.

SUBCHAPTER C. ALTERNATIVE PLAN MINIMUM REQUIREMENTS

Sec. 806.101.  MINIMUM REQUIREMENTS. In establishing an alternative retirement plan under this chapter, a retirement system shall ensure the plan meets the requirements of this subchapter.

Sec. 806.102.  QUALIFIED PLAN. An alternative retirement plan created under this section must be a qualified plan.

Sec. 806.103.  PARTICIPATION IN ALTERNATIVE PLAN; RESUMPTION OF SERVICE. (a) In adopting rules to establish an alternative retirement plan under this chapter, the board of trustees shall designate the date by which all newly hired employees shall begin participation in the plan.

(b)  A person who resumes employment with an employer on or after the date designated by the board of trustees under Subsection (a) and who is already a member of the retirement system eligible to participate in a defined benefit plan remains eligible to participate in the defined benefit plan and is not considered a newly hired employee for purposes of this section.

(c)  Notwithstanding any other law, an employee who participates in an alternative retirement plan established under this chapter is not eligible for membership in the retirement system and may not participate in the defined benefit plan administered by the retirement system.

Sec. 806.104.  EFFECT OF EMPLOYMENT CHANGES. A person participating in an alternative retirement plan continues to participate in the plan when the person changes employment to another position included in the coverage of the retirement system.

Sec. 806.105.  VESTING OF BENEFITS; TERMINATION OF PARTICIPATION. (a) Benefits in an alternative retirement plan vest in a participant not later than the fifth anniversary of the date the person begins to participate in the plan.

(b)  A person terminates participation in an alternative retirement plan, without losing any vested benefits, by:

(1)  death;

(2)  retirement; or

(3)  termination of employment in all positions included in the coverage of the retirement system.

(c)  The benefits of a product purchased under an alternative retirement plan become available under the terms of the annuity but not before the earlier of the date:

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

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

Sec. 806.106.  CREDITABLE SERVICE. A person may not establish in the defined benefit plan administered by the retirement system credit for service performed during a period the person was participating in an alternative retirement plan.

Sec. 806.107.  CONTRIBUTIONS. (a) A participant in an alternative retirement plan shall make contributions to the plan at the same rate that a member of the retirement system participating in a defined benefit plan is required to make for current service, and the state and employers otherwise required to make contributions to a defined benefit plan shall make contributions to the alternative retirement plan for each participant at the same rate as the state and employers are required to contribute for contributing members of the defined benefit plan. Contributions required under this subsection shall be credited to the benefit of the participant.

(b)  A participant in an alternative retirement plan and the participant's employer shall execute an agreement under which the salary of the participant is reduced by the amount of the contribution required by this section. An agreement under this subsection is irrevocable until the participant terminates participation in the plan under Section 806.105.

(c)  Participant, state, and employer contributions, as applicable, shall be made in the manner provided by Subchapter E, Chapter 815, or Subchapter E, Chapter 825, as applicable.

Sec. 806.108.  HEALTH BENEFITS AND OTHER COVERAGES. A person who participates or who is eligible to participate in an alternative retirement plan established under this chapter is eligible for health benefits and other coverages under Subtitle H, Title 8, Insurance Code, and Subchapter D, Chapter 22, Education Code, if applicable, to the same extent as a person who is a member or who is eligible to be a member of the retirement system.

SECTION 3.  Section 822.001(b), Government Code, is amended to read as follows:

(b)  Membership in the retirement system is a condition of employment for employees of the public school system unless an employee is excluded from membership under Section 806.103(c) or 822.002.

SECTION 4.  Section 830.002(b), Government Code, is amended to read as follows:

(b)  Participation in the optional retirement program is an alternative to active membership in the retirement system or participation in an alternative retirement plan under Chapter 806, as appropriate.

SECTION 5.  Sections 830.102(a) and (d), Government Code, are amended to read as follows:

(a)  A person included in the coverage [~~member~~] of the retirement system who is eligible [~~to participate in the optional retirement program~~] may elect to [~~continue as a member of the retirement system or to~~] participate in the optional retirement program.

(d)  An eligible person who does not elect to participate in the optional retirement program is considered to have chosen to continue participation [~~membership~~] in the retirement system.

SECTION 6.  Section 830.106, Government Code, is amended to read as follows:

Sec. 830.106.  ELIGIBILITY FOR RESUMPTION OF MEMBERSHIP. A participant in the optional retirement program is not eligible for participation [~~membership~~] in the retirement system unless the person:

(1)  terminates employment covered by the optional retirement program; and

(2)  becomes employed in the public school system or with a state agency in a position that is not eligible for participation in the optional retirement program.

SECTION 7.  This Act takes effect September 1, 2019.