86R2693 KFF-D

By:  Bettencourt S.B. No. 2429

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 807 to read as follows:

CHAPTER 807. AUTHORITY OF CERTAIN MUNICIPALITIES TO ESTABLISH DEFINED CONTRIBUTION PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 807.001.  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)  "Employee" means a person, including a person serving a period of probationary employment, who receives compensation from and is certified by a municipality as being regularly engaged in the performance of duties of:

(A)  an appointive office or position that normally requires services from the person for not less than 1,000 hours a year; or

(B)  an elective office that normally requires services from the person for not less than 1,000 hours a year.

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

Sec. 807.002.  APPLICABILITY. This chapter applies only to:

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

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

Sec. 807.003.  CONFLICT OF LAW. To the extent of a conflict between this chapter, including an ordinance adopted by a municipality or a rule adopted by a public retirement system under authority of this chapter, and any other law, this chapter prevails.

SUBCHAPTER B. AUTHORITY TO CREATE DEFINED CONTRIBUTION PLAN

Sec. 807.051.  ELECTION TO ESTABLISH DEFINED CONTRIBUTION PLAN. (a) On receipt of a petition requesting the election signed by a number of registered voters of the municipality equal to at least 10 percent of the number of voters who voted in the most recent election of the municipality, the governing body of a municipality shall order an election to authorize the creation of a defined contribution plan for newly hired municipal employees or a category of newly hired municipal employees in accordance with this section.

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

(c)  The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing (name of municipality) to establish by ordinance a defined contribution plan for (insert "employees" or the category of employees to receive benefits under the plan) initially hired by the municipality on or after (insert date) as provided by state law."

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

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

Sec. 807.052.  CREATION OF DEFINED CONTRIBUTION PLAN. Notwithstanding any other law, including Title 109, Revised Statutes, and subject to the requirements of Subchapter C, if authorized by an election under Section 807.051, the governing body of a municipality that is the sponsoring authority of a public retirement system shall establish by ordinance a defined contribution plan to be administered by the public retirement system to provide benefits to newly hired municipal employees or a category of newly hired municipal employees, as applicable, under the plan instead of under a defined benefit plan.

SUBCHAPTER C. MINIMUM REQUIREMENTS FOR DEFINED CONTRIBUTION PLAN

Sec. 807.101.  MINIMUM REQUIREMENTS. In establishing a defined contribution plan under this chapter, the governing body of a municipality shall ensure the plan meets the requirements of this subchapter.

Sec. 807.102.  QUALIFIED PLAN. A defined contribution plan created under this section must be a qualified plan.

Sec. 807.103.  PARTICIPATION IN DEFINED CONTRIBUTION PLAN; RESUMPTION OF SERVICE. (a) In the ordinance establishing a defined contribution plan under this chapter, the governing body of a municipality shall designate the date by which all newly hired municipal employees shall begin participation in the plan.

(b)  A person who resumes employment with a municipality on or after the date designated by the governing body of a municipality under Subsection (a) and who is already eligible to participate in a defined benefit plan administered by a public retirement system because of the person's prior employment remains eligible to participate in the defined benefit plan and is not considered a newly hired employee for purposes of required participation in a defined contribution plan established under this chapter.

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

Sec. 807.104.  EFFECT OF EMPLOYMENT CHANGES. A person participating in a defined contribution plan continues to participate in the plan when the person changes employment to another position included in the coverage of the public retirement system.

Sec. 807.105.  VESTING OF BENEFITS; TERMINATION OF PARTICIPATION. (a) Benefits in a defined contribution 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 a defined contribution 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 public retirement system.

(c)  The benefits of a product purchased under a defined contribution 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. 807.106.  CREDITABLE SERVICE. A person may not establish in the defined benefit plan administered by a public retirement system credit for service related to employment for which the person received a municipal contribution under a defined contribution plan also administered by the public retirement system.

Sec. 807.107.  CONTRIBUTIONS. (a) A participant in a defined contribution plan shall make contributions to the plan at the same rate that a participant in a defined benefit plan administered by the same public retirement system is required to make for current service, and the municipality shall make contributions to the defined contribution plan for each participant in the defined contribution plan at the same rate as the municipality is required to contribute for contributing participants in the defined benefit plan administered by the same public retirement system. Contributions required under this subsection shall be credited to the benefit of the participant in the defined contribution plan.

(b)  A participant in a defined contribution plan and the municipality 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 807.105.

Sec. 807.108.  HEALTH BENEFITS AND OTHER COVERAGES. Notwithstanding any other law, a person who participates or who is eligible to participate in a defined contribution plan established under this chapter is eligible for health benefits and other coverages to the same extent as a person who participates in a defined benefit plan administered by the same public retirement system.

SECTION 2.  This Act takes effect September 1, 2019.