

By: Miles

S.B. No. 1196

A BILL TO BE ENTITLED

AN ACT

1
2 relating to automatic employee participation in and administration
3 of a deferred compensation plan provided by certain hospital
4 districts.

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

6 SECTION 1. Section 609.007(c), Government Code, is amended
7 to read as follows:

8 (c) Except as provided by Section 609.202 or 609.5025, to
9 participate in a deferred compensation plan, an employee must
10 consent in the contract to automatic payroll deductions in an
11 amount equal to the deferred amount.

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

14 SUBCHAPTER B-1. PARTICIPATION IN DEFERRED COMPENSATION PLAN BY
15 CERTAIN HOSPITAL DISTRICT EMPLOYEES

16 Sec. 609.201. APPLICABILITY OF SUBCHAPTER. (a) This
17 subchapter applies only to a hospital district created under
18 general or special law if the district offers a deferred
19 compensation plan to the district's employees under Subchapter B.

20 (b) A hospital district subject to this subchapter may, at
21 the district's option, elect to require automatic employee
22 participation in a deferred compensation plan under Section
23 609.202.

24 Sec. 609.202. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT

1 PRODUCT. (a) This section applies only to an employee of a
2 hospital district that elects under Section 609.201(b) to require
3 automatic employee participation in a deferred compensation plan
4 under this section.

5 (b) An employee automatically participates in a deferred
6 compensation plan provided by the hospital district unless the
7 employee affirmatively elects not to participate in the plan.
8 Notwithstanding Sections 609.007(a) and (c), an employee is not
9 required to affirmatively contract for and consent to participation
10 in a plan under this section.

11 (c) An employee participating in a deferred compensation
12 plan under this section makes a contribution of three percent of the
13 compensation earned by the employee to a default investment product
14 selected by the plan administrator based on the criteria
15 established under Section 609.113 and the rules adopted under
16 Subsection (f). The contribution is made by automatic payroll
17 deduction.

18 (d) At any time, an employee participating in a deferred
19 compensation plan under this section may, in accordance with rules
20 adopted by the board of the hospital district, elect to end
21 participation in the plan, to contribute to a different investment
22 product, to contribute a different amount to the plan, or to
23 designate all or a portion of the employee's contribution as a Roth
24 contribution subject to the availability of a Roth contribution
25 program.

26 (e) A hospital district to which this subchapter applies
27 shall ensure that, at the time of employment, each employee is

1 informed of:

2 (1) the elections the employee may make under this
3 section; and

4 (2) the responsibilities of the employee under Section
5 609.010.

6 (f) The board of the hospital district shall adopt rules to
7 implement the requirements of this section. The rules must ensure
8 that the operation of a deferred compensation plan under this
9 section conforms to the applicable requirements of any federal rule
10 that provides fiduciary relief for investments in qualified default
11 investment alternatives or otherwise governs default investment
12 alternatives under participant-directed individual account plans.

13 (g) The amount deducted under this section from an
14 employee's compensation is not deducted for payment of a debt and
15 the automatic payroll deduction is not garnishment or assignment of
16 wages.

17 (h) Using existing resources, the hospital district shall
18 inform new employees of their automatic enrollment in a deferred
19 compensation plan and their right to opt out of enrollment. Using
20 existing resources, this information must be included as part of
21 the new employee orientation process. The district shall maintain
22 a record of a new employee's acknowledgment of receipt of
23 information regarding the ability to opt out of enrollment in a
24 deferred compensation plan.

25 Sec. 609.203. DISCRETIONARY TRANSFER. (a) A hospital
26 district may transfer an employee's deferred amounts and investment
27 income from a qualified investment product to the trust fund of the

1 deferred compensation plan in which the employee participates if
2 the district determines that the transfer is in the best interest of
3 the plan and the employee.

4 (b) The hospital district is not required to give notice of
5 a transfer under Subsection (a) to the employee before the transfer
6 occurs.

7 (c) Promptly after a transfer under Subsection (a) occurs,
8 the hospital district shall give to the employee a notice that:

9 (1) states the reason for the transfer; and

10 (2) requests that the employee promptly designate
11 another qualified investment product to receive the transferred
12 amount.

13 Sec. 609.204. ALTERNATIVE TO FUND DEPOSIT. Instead of
14 depositing deferred amounts and investment income in the trust fund
15 of the deferred compensation plan, a hospital district may invest
16 deferred amounts and investment income in a qualified investment
17 product specifically designated by the district for that purpose.

18 Sec. 609.205. CONTRACTS FOR GOODS AND SERVICES. (a) A
19 hospital district may contract for necessary goods and consolidated
20 billing, accounting, and other services to be provided in
21 connection with a deferred compensation plan.

22 (b) In a contract under Subsection (a), the hospital
23 district may provide for periodic audits of the person with whom the
24 contract is made. An audit may cover:

25 (1) the proper handling and accounting of public or
26 trust funds; and

27 (2) other matters related to the proper performance of

1 the contract.

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

4 SECTION 3. Section 609.202, Government Code, as added by
5 this Act, applies only to an employee of a hospital district subject
6 to that section who initially begins employment on or after January
7 1, 2020.

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

15 (b) This section does not validate an act that, under the
16 law of this state at the time the act occurred, was a misdemeanor or
17 felony.

18 SECTION 5. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2019.