

1-1 By: Miles S.B. No. 1196  
1-2 (In the Senate - Filed February 27, 2019; March 7, 2019,  
1-3 read first time and referred to Committee on Intergovernmental  
1-4 Relations; April 11, 2019, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 April 11, 2019, 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 COMMITTEE SUBSTITUTE FOR S.B. No. 1196 By: Menéndez

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to automatic employee participation in and administration  
1-20 of a deferred compensation plan provided by certain hospital  
1-21 districts.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 609.007(c), Government Code, is amended  
1-24 to read as follows:

1-25 (c) Except as provided by Section 609.202 or 609.5025, to  
1-26 participate in a deferred compensation plan, an employee must  
1-27 consent in the contract to automatic payroll deductions in an  
1-28 amount equal to the deferred amount.

1-29 SECTION 2. Chapter 609, Government Code, is amended by  
1-30 adding Subchapter B-1 to read as follows:

1-31 SUBCHAPTER B-1. PARTICIPATION IN DEFERRED COMPENSATION PLAN BY  
1-32 CERTAIN HOSPITAL DISTRICT EMPLOYEES

1-33 Sec. 609.201. APPLICABILITY OF SUBCHAPTER. (a) This  
1-34 subchapter applies only to a hospital district created under  
1-35 general or special law if the district offers a deferred  
1-36 compensation plan to the district's employees under Subchapter B.

1-37 (b) A hospital district subject to this subchapter may, at  
1-38 the district's option, elect to require automatic employee  
1-39 participation in a deferred compensation plan under Section  
1-40 609.202.

1-41 Sec. 609.202. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT  
1-42 PRODUCT. (a) This section applies only to an employee of a  
1-43 hospital district that elects under Section 609.201(b) to require  
1-44 automatic employee participation in a deferred compensation plan  
1-45 under this section.

1-46 (b) An employee automatically participates in a deferred  
1-47 compensation plan provided by the hospital district unless the  
1-48 employee affirmatively elects not to participate in the plan.  
1-49 Notwithstanding Sections 609.007(a) and (c), an employee is not  
1-50 required to affirmatively contract for and consent to participation  
1-51 in a plan under this section.

1-52 (c) An employee participating in a deferred compensation  
1-53 plan under this section makes a contribution of three percent of the  
1-54 compensation earned by the employee to a default investment product  
1-55 selected by the plan administrator based on the criteria  
1-56 established under Section 609.113 and the rules adopted under  
1-57 Subsection (f). The contribution is made by automatic payroll  
1-58 deduction.

1-59 (d) At any time, an employee participating in a deferred  
1-60 compensation plan under this section may, in accordance with rules

2-1 adopted by the board of the hospital district, or its designee,  
 2-2 elect to end participation in the plan, to contribute to a different  
 2-3 investment product, to contribute a different amount to the plan,  
 2-4 or to designate all or a portion of the employee's contribution as a  
 2-5 Roth contribution subject to the availability of a Roth  
 2-6 contribution program.

2-7 (e) A hospital district to which this subchapter applies  
 2-8 shall ensure that, at the time of employment, each employee is  
 2-9 informed of:

2-10 (1) the elections the employee may make under this  
 2-11 section; and

2-12 (2) the responsibilities of the employee under Section  
 2-13 609.010.

2-14 (f) The board of the hospital district, or its designee,  
 2-15 shall adopt rules to implement the requirements of this section.  
 2-16 The rules must ensure that the operation of a deferred compensation  
 2-17 plan under this section conforms to the applicable requirements of  
 2-18 any federal rule that provides fiduciary relief for investments in  
 2-19 qualified default investment alternatives or otherwise governs  
 2-20 default investment alternatives under participant-directed  
 2-21 individual account plans.

2-22 (g) The amount deducted under this section from an  
 2-23 employee's compensation is not deducted for payment of a debt and  
 2-24 the automatic payroll deduction is not garnishment or assignment of  
 2-25 wages.

2-26 (h) Using existing resources, the hospital district shall  
 2-27 inform new employees of their automatic enrollment in a deferred  
 2-28 compensation plan and their right to opt out of enrollment. Using  
 2-29 existing resources, this information must be included as part of  
 2-30 the new employee orientation process. The district shall maintain  
 2-31 a record of a new employee's acknowledgment of receipt of  
 2-32 information regarding the ability to opt out of enrollment in a  
 2-33 deferred compensation plan.

2-34 Sec. 609.203. DISCRETIONARY TRANSFER. (a) A hospital  
 2-35 district may transfer an employee's deferred amounts and investment  
 2-36 income from a qualified investment product to the trust fund of the  
 2-37 deferred compensation plan in which the employee participates if  
 2-38 the district determines that the transfer is in the best interest of  
 2-39 the plan and the employee.

2-40 (b) The hospital district is not required to give notice of  
 2-41 a transfer under Subsection (a) to the employee before the transfer  
 2-42 occurs.

2-43 (c) Promptly after a transfer under Subsection (a) occurs,  
 2-44 the hospital district shall give to the employee a notice that:

2-45 (1) states the reason for the transfer; and

2-46 (2) requests that the employee promptly designate  
 2-47 another qualified investment product to receive the transferred  
 2-48 amount.

2-49 Sec. 609.204. ALTERNATIVE TO FUND DEPOSIT. Instead of  
 2-50 depositing deferred amounts and investment income in the trust fund  
 2-51 of the deferred compensation plan, a hospital district may invest  
 2-52 deferred amounts and investment income in a qualified investment  
 2-53 product specifically designated by the district for that purpose.

2-54 Sec. 609.205. CONTRACTS FOR GOODS AND SERVICES. (a) A  
 2-55 hospital district may contract for necessary goods and consolidated  
 2-56 billing, accounting, and other services to be provided in  
 2-57 connection with a deferred compensation plan.

2-58 (b) In a contract under Subsection (a), the hospital  
 2-59 district may provide for periodic audits of the person with whom the  
 2-60 contract is made. An audit may cover:

2-61 (1) the proper handling and accounting of public or  
 2-62 trust funds; and

2-63 (2) other matters related to the proper performance of  
 2-64 the contract.

2-65 (c) The hospital district may contract with a private entity  
 2-66 to conduct an audit under Subsection (b).

2-67 SECTION 3. Section 609.202, Government Code, as added by  
 2-68 this Act, applies only to an employee of a hospital district subject  
 2-69 to that section who initially begins employment on or after January

3-1 1, 2020.

3-2 SECTION 4. (a) Except as provided by Subsection (b) of this  
3-3 section, the acts of a hospital district created under general or  
3-4 special law that relate to discretionary transfers of funds and  
3-5 consolidation of billing and accounting for deferred compensation  
3-6 plans provided by the district to the district's employees and that  
3-7 occurred before the effective date of this Act are validated as if  
3-8 the acts had occurred as authorized by law.

3-9 (b) This section does not validate an act that, under the  
3-10 law of this state at the time the act occurred, was a misdemeanor or  
3-11 felony.

3-12 SECTION 5. This Act takes effect immediately if it receives  
3-13 a vote of two-thirds of all the members elected to each house, as  
3-14 provided by Section 39, Article III, Texas Constitution. If this  
3-15 Act does not receive the vote necessary for immediate effect, this  
3-16 Act takes effect September 1, 2019.

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