

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:

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

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

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

7 (5) "Employee" means:

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

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

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

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

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

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

27 (1) the Employees Retirement System of Texas; and

1 (2) the Teacher Retirement System of Texas.

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

6 SUBCHAPTER B. AUTHORITY TO CREATE ALTERNATIVE PLANS

7 Sec. 806.051. CREATION OF ALTERNATIVE PLAN.

8 Notwithstanding any other law, including Subtitles B and C, and
9 subject to the requirements of Subchapter C, the board of trustees
10 of a retirement system may by rule establish and administer an
11 alternative retirement plan to provide benefits to newly hired
12 employees under that plan instead of under a defined benefit plan.

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

19 SUBCHAPTER C. ALTERNATIVE PLAN MINIMUM REQUIREMENTS

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

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

25 Sec. 806.103. PARTICIPATION IN ALTERNATIVE PLAN;
26 RESUMPTION OF SERVICE. (a) In adopting rules to establish an
27 alternative retirement plan under this chapter, the board of

1 trustees shall designate the date by which all newly hired
2 employees shall begin participation in the plan.

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

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

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

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

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

24 (1) death;

25 (2) retirement; or

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

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

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

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

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

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

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

1 participation in the plan under Section 806.105.

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

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

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

14 (b) Membership in the retirement system is a condition of
15 employment for employees of the public school system unless an
16 employee is excluded from membership under Section 806.103(c) or
17 822.002.

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

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

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

26 (a) A person included in the coverage [~~member~~] of the
27 retirement system who is eligible [~~to participate in the optional~~

1 ~~retirement program]~~ may elect to [~~continue as a member of the~~
2 ~~retirement system or to]~~ participate in the optional retirement
3 program.

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

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

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

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

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

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