

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

1 hours a year; or

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

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

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

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

10 (2) a home-rule municipality that is the sponsoring
11 authority of a public retirement system described by Subdivision
12 (1).

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

18 SUBCHAPTER B. AUTHORITY TO CREATE DEFINED CONTRIBUTION PLAN

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

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

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

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

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

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

1 category of newly hired municipal employees, as applicable, under
2 the plan instead of under a defined benefit plan.

3 SUBCHAPTER C. MINIMUM REQUIREMENTS FOR DEFINED CONTRIBUTION PLAN

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

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

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

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

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

27 Sec. 807.104. EFFECT OF EMPLOYMENT CHANGES. A person

1 participating in a defined contribution plan continues to
2 participate in the plan when the person changes employment to
3 another position included in the coverage of the public retirement
4 system.

5 Sec. 807.105. VESTING OF BENEFITS; TERMINATION OF
6 PARTICIPATION. (a) Benefits in a defined contribution plan vest in
7 a participant not later than the fifth anniversary of the date the
8 person begins to participate in the plan.

9 (b) A person terminates participation in a defined
10 contribution plan, without losing any vested benefits, by:

11 (1) death;

12 (2) retirement; or

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

15 (c) The benefits of a product purchased under a defined
16 contribution plan become available under the terms of the annuity
17 but not before the earlier of the date:

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

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

22 Sec. 807.106. CREDITABLE SERVICE. A person may not
23 establish in the defined benefit plan administered by a public
24 retirement system credit for service related to employment for
25 which the person received a municipal contribution under a defined
26 contribution plan also administered by the public retirement
27 system.

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

13 (b) A participant in a defined contribution plan and the
14 municipality shall execute an agreement under which the salary of
15 the participant is reduced by the amount of the contribution
16 required by this section. An agreement under this subsection is
17 irrevocable until the participant terminates participation in the
18 plan under Section 807.105.

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

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