87R2748 KFF-F

By:  Gates H.B. No. 1028

A BILL TO BE ENTITLED

AN ACT

relating to requiring the Employees Retirement System of Texas to establish a defined contribution plan 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), a defined contribution plan established under Chapter 820 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 B, Title 8, Government Code, is amended by adding Chapter 820 to read as follows:

CHAPTER 820. DEFINED CONTRIBUTION PLAN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 820.001.  DEFINITIONS. In this chapter:

(1)  "Defined benefit plan" means, as appropriate, the plan that provides benefits to members of the employee class of the retirement system under Chapters 811 through 815.

(2)  "Defined contribution plan" has the meaning assigned by Section 802.001.

(3)  "Employee" means an employee or appointed officer described by Section 812.003(a).

(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. 820.002.  CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted by the retirement system under authority of this chapter, and any other law, this chapter prevails.

Sec. 820.003.  CERTAIN REFERENCES IN LAW TO RETIREMENT SYSTEM MEMBERS. A reference in law outside this subtitle to a member of or membership in the retirement system includes a participant of or participation in, as appropriate, a defined contribution plan unless the reference is expressly defined otherwise.

SUBCHAPTER B. CREATION OF DEFINED CONTRIBUTION PLAN

Sec. 820.051.  DUTY TO CREATE PLAN. Notwithstanding any other law and subject to the requirements of Subchapter C, the board of trustees shall by rule establish and administer a defined contribution plan to provide benefits to newly hired employees under that plan instead of under a defined benefit plan.

SUBCHAPTER C. PLAN MINIMUM REQUIREMENTS

Sec. 820.101.  MINIMUM REQUIREMENTS. In establishing a defined contribution plan, the board of trustees of the retirement system shall ensure the plan meets the requirements of this subchapter.

Sec. 820.102.  QUALIFIED PLAN. A defined contribution plan created under this chapter must be a qualified plan.

Sec. 820.103.  PARTICIPATION IN PLAN; RESUMPTION OF SERVICE. (a) In adopting rules to establish a defined contribution plan, the board of trustees shall designate the date by which all newly hired employees shall begin participation in the plan, provided that date is not later than January 1, 2023.

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

(c)  Notwithstanding any other law, including Section 812.003, an employee who participates in a defined contribution plan established under this chapter is not eligible for membership in the retirement system and may not participate in the defined benefit plan administered by the retirement system.

Sec. 820.104.  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 retirement system.

Sec. 820.105.  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 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. 820.106.  CREDITABLE SERVICE. A person may not establish in the defined benefit plan administered by the retirement system credit for service performed during a period the person was participating in a defined contribution plan.

Sec. 820.107.  CONTRIBUTIONS. (a) A participant in a defined contribution plan shall make contributions to the plan at the same rate that a member of the retirement system participating in a defined benefit plan is required to make for current service, and the state and employers otherwise required to make contributions to a defined benefit plan shall make contributions to the defined contribution plan for each participant at the same rate as the state and employers are required to contribute for contributing members of the defined benefit plan. Contributions required under this subsection shall be credited to the benefit of the participant.

(b)  A participant in a defined contribution plan and the participant's employer 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 820.105.

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

SECTION 3.  This Act takes effect September 1, 2021.