

By: Gates

H.B. No. 1028

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring the Employees Retirement System of Texas to  
3 establish a defined contribution plan to provide retirement  
4 benefits to certain employees.

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

6 SECTION 1. Section 802.002, Government Code, is amended by  
7 adding Subsection (e) to read as follows:

8 (e) Notwithstanding any other law, including Subsection  
9 (a), a defined contribution plan established under Chapter 820 is  
10 exempt from Sections 802.101, 802.1012, 802.1014, 802.103,  
11 802.104, and 802.202(d). This subsection may not be construed to  
12 exempt any plan from Section 802.105 or 802.106(h).

13 SECTION 2. Subtitle B, Title 8, Government Code, is amended  
14 by adding Chapter 820 to read as follows:

15 CHAPTER 820. DEFINED CONTRIBUTION PLAN

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 820.001. DEFINITIONS. In this chapter:

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

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

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

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

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

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

14           SUBCHAPTER B. CREATION OF DEFINED CONTRIBUTION PLAN

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

20           SUBCHAPTER C. PLAN MINIMUM REQUIREMENTS

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

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

27           Sec. 820.103. PARTICIPATION IN PLAN; RESUMPTION OF SERVICE.

1 (a) In adopting rules to establish a defined contribution plan, the  
2 board of trustees shall designate the date by which all newly hired  
3 employees shall begin participation in the plan, provided that date  
4 is not later than January 1, 2023.

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

11 (c) Notwithstanding any other law, including Section  
12 812.003, an employee who participates in a defined contribution  
13 plan established under this chapter is not eligible for membership  
14 in the retirement system and may not participate in the defined  
15 benefit plan administered by the retirement system.

16 Sec. 820.104. EFFECT OF EMPLOYMENT CHANGES. A person  
17 participating in a defined contribution plan continues to  
18 participate in the plan when the person changes employment to  
19 another position included in the coverage of the retirement system.

20 Sec. 820.105. VESTING OF BENEFITS; TERMINATION OF  
21 PARTICIPATION. (a) Benefits in a defined contribution plan vest in  
22 a participant not later than the fifth anniversary of the date the  
23 person begins to participate in the plan.

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

26 (1) death;

27 (2) retirement; or

1           (3) termination of employment in all positions  
2 included in the coverage of the retirement system.

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

6           (1) the member terminates participation as provided by  
7 Subsection (b); or

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

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

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

25           (b) A participant in a defined contribution plan and the  
26 participant's employer shall execute an agreement under which the  
27 salary of the participant is reduced by the amount of the

1 contribution required by this section. An agreement under this  
2 subsection is irrevocable until the participant terminates  
3 participation in the plan under Section 820.105.

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

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