

By: Gates

H.B. No. 1437

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring the Employees Retirement System of Texas to
3 establish a hybrid retirement plan to provide retirement benefits
4 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 hybrid retirement 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. HYBRID RETIREMENT 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) "Hybrid retirement plan" means a retirement plan
2 that combines elements of a defined benefit plan, a defined
3 contribution plan, or an individual retirement savings account
4 established under this chapter.

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

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

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

18 SUBCHAPTER B. CREATION OF HYBRID RETIREMENT PLAN

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

24 SUBCHAPTER C. PLAN MINIMUM REQUIREMENTS

25 Sec. 820.101. MINIMUM REQUIREMENTS. In establishing a
26 hybrid retirement plan, the board of trustees of the retirement
27 system shall ensure the plan meets the requirements of this

1 subchapter.

2 Sec. 820.102. QUALIFIED PLAN. A hybrid retirement plan
3 created under this chapter must be a qualified plan.

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

5 (a) In adopting rules to establish a hybrid retirement plan, the
6 board of trustees shall designate the date by which all newly hired
7 employees shall begin participation in the plan, provided that date
8 is not later than January 1, 2023.

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

15 (c) Notwithstanding any other law, including Section
16 812.003, an employee who participates in a hybrid retirement plan
17 established under this chapter is not eligible for membership in
18 the retirement system and may not participate in the defined
19 benefit plan administered by the retirement system.

20 Sec. 820.104. EFFECT OF EMPLOYMENT CHANGES. A person
21 participating in a hybrid retirement plan continues to participate
22 in the plan when the person changes employment to another position
23 included in the coverage of the retirement system.

24 Sec. 820.105. VESTING OF BENEFITS; TERMINATION OF
25 PARTICIPATION. (a) Benefits in a hybrid retirement plan vest in a
26 participant not later than the fifth anniversary of the date the
27 person begins to participate in the plan.

1 (b) A person terminates participation in a hybrid
2 retirement plan, without losing any vested benefits, by:

3 (1) death;

4 (2) retirement; or

5 (3) termination of employment in all positions
6 included in the coverage of the retirement system.

7 (c) The benefits of a product purchased under a hybrid
8 retirement plan become available under the terms of the annuity but
9 not before the earlier of the date:

10 (1) the member terminates participation as provided by
11 Subsection (b); or

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

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

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

1 (b) A participant in a hybrid retirement plan and the
2 participant's employer shall execute an agreement under which the
3 salary of the participant is reduced by the amount of the
4 contribution required by this section. An agreement under this
5 subsection is irrevocable until the participant terminates
6 participation in the plan under Section 820.105.

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

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