

By: Garcia

S.B. No. 640

A BILL TO BE ENTITLED

AN ACT

relating to automatic employee participation in and administration
of a deferred compensation plan provided by hospital districts.

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

SECTION 1. Section 609.007(c), Government Code, is amended
to read as follows:

(c) Except as provided by Section 609.202 or 609.5025, to
participate in a deferred compensation plan, an employee must
consent in the contract to automatic payroll deductions in an
amount equal to the deferred amount.

SECTION 2. Chapter 609, Government Code, is amended by
adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. PARTICIPATION IN DEFERRED COMPENSATION PLAN BY
CERTAIN HOSPITAL DISTRICT EMPLOYEES

Sec. 609.201. APPLICABILITY OF SUBCHAPTER. This subchapter
applies only to a hospital district created under general or
special law if the district offers a deferred compensation plan to
the district's employees under Subchapter B.

Sec. 609.202. AUTOMATIC PARTICIPATION; DEFAULT INVESTMENT
PRODUCT. (a) This section applies only to an employee of a
hospital district to which this subchapter applies.

(b) An employee automatically participates in a deferred
compensation plan provided by the hospital district unless the
employee affirmatively elects not to participate in the plan.

1 Notwithstanding Sections 609.007(a) and (c), an employee is not
2 required to affirmatively contract for and consent to participation
3 in a plan under this section.

4 (c) An employee participating in a deferred compensation
5 plan under this section makes a contribution of one percent of the
6 compensation earned by the employee to a default investment product
7 selected by the plan administrator based on the criteria
8 established under Section 609.113 and the rules adopted under
9 Subsection (f). The contribution is made by automatic payroll
10 deduction.

11 (d) At any time, an employee participating in a deferred
12 compensation plan under this section may, in accordance with rules
13 adopted by the board of the hospital district, elect to end
14 participation in the plan, to contribute to a different investment
15 product, to contribute a different amount to the plan, or to
16 designate all or a portion of the employee's contribution as a Roth
17 contribution subject to the availability of a Roth contribution
18 program.

19 (e) A hospital district to which this subchapter applies
20 shall ensure that, at the time of employment, each employee is
21 informed of:

22 (1) the elections the employee may make under this
23 section; and

24 (2) the responsibilities of the employee under Section
25 609.010.

26 (f) The board of the hospital district shall adopt rules to
27 implement the requirements of this section. The rules must ensure

1 that the operation of a deferred compensation plan under this
2 section conforms to the applicable requirements of any federal rule
3 that provides fiduciary relief for investments in qualified default
4 investment alternatives or otherwise governs default investment
5 alternatives under participant-directed individual account plans.

6 (g) The amount deducted under this section from an
7 employee's compensation is not deducted for payment of a debt and
8 the automatic payroll deduction is not garnishment or assignment of
9 wages.

10 (h) Using existing resources, the hospital district shall
11 inform new employees of their automatic enrollment in a deferred
12 compensation plan and their right to opt out of enrollment. Using
13 existing resources, this information must be included as part of
14 the new employee orientation process. The district shall maintain
15 a record of a new employee's acknowledgement of receipt of
16 information regarding the ability to opt out of enrollment in a
17 deferred compensation plan.

18 Sec. 609.203. DISCRETIONARY TRANSFER. (a) A hospital
19 district may transfer an employee's deferred amounts and investment
20 income from a qualified investment product to the trust fund of the
21 deferred compensation plan in which the employee participates if
22 the district determines that the transfer is in the best interest of
23 the plan and the employee.

24 (b) The hospital district is not required to give notice of
25 a transfer under Subsection (a) to the employee before the transfer
26 occurs.

27 (c) Promptly after a transfer under Subsection (a) occurs,

1 the hospital district shall give to the employee a notice that:

2 (1) states the reason for the transfer; and

3 (2) requests that the employee promptly designate
4 another qualified investment product to receive the transferred
5 amount.

6 Sec. 609.204. ALTERNATIVE TO FUND DEPOSIT. Instead of
7 depositing deferred amounts and investment income in the trust fund
8 of the deferred compensation plan, a hospital district may invest
9 deferred amounts and investment income in a qualified investment
10 product specifically designated by the district for that purpose.

11 Sec. 609.205. CONTRACTS FOR GOODS AND SERVICES. (a) A
12 hospital district may contract for necessary goods and consolidated
13 billing, accounting, and other services to be provided in
14 connection with a deferred compensation plan.

15 (b) In a contract under Subsection (a), the hospital
16 district may provide for periodic audits of the person with whom the
17 contract is made. An audit may cover:

18 (1) the proper handling and accounting of public or
19 trust funds; and

20 (2) other matters related to the proper performance of
21 the contract.

22 (c) The hospital district may contract with a private entity
23 to conduct an audit under Subsection (b).

24 SECTION 3. Section 609.202, Government Code, as added by
25 this Act, applies only to an employee of a hospital district subject
26 to that section who initially begins employment on or after January
27 1, 2016.

1 SECTION 4. (a) Except as provided by Subsection (b) of this
2 section, the acts of a hospital district created under general or
3 special law that relate to discretionary transfers of funds and
4 consolidation of billing and accounting for deferred compensation
5 plans provided by the district to the district's employees and that
6 occurred before the effective date of this Act are validated as if
7 the acts had occurred as authorized by law.

8 (b) This section does not validate an act that, under the
9 law of this state at the time the act occurred, was a misdemeanor or
10 felony.

11 SECTION 5. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2015.