By: Bettencourt  S.B. No. 1751

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the Employees Retirement System of Texas
and the Teacher Retirement System of Texas to establish defined
contribution plans or hybrid retirement plans 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), an alternative retirement plan established under Chapter 809
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 A, Title 8, Government Code, is amended
by adding Chapter 809 to read as follows:

CHAPTER 809. AUTHORITY TO ESTABLISH ALTERNATIVE RETIREMENT PLANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 809.001. DEFINITIONS. In this chapter:

(1) "Alternative retirement plan" means a defined
contribution plan or a hybrid retirement plan.

(2) "Board of trustees" means the board of trustees of
a retirement system.

(3) "Defined benefit plan" means, as appropriate, the
plan that provides benefits to:
S.B. No. 1751

(A) members of the employee class of the Employees Retirement System of Texas under Subtitle B, Title 8; or

(B) members of the Teacher Retirement System of Texas under Subtitle C, Title 8.

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

(5) "Hybrid retirement plan" means a retirement plan that combines elements of a defined benefit plan, a defined contribution plan, or an individual retirement savings account.

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

(7) "Retirement system" means the Employees Retirement System of Texas or the Teacher Retirement System of Texas, as appropriate.

Sec. 809.002. APPLICABILITY. This chapter applies only to:

(1) the Employees Retirement System of Texas; and

(2) the Teacher Retirement System of Texas.

Sec. 809.003. CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted by a retirement system under authority of this chapter, and any other law, this chapter prevails.

SUBCHAPTER B. AUTHORITY TO CREATE ALTERNATIVE PLANS

Sec. 809.051. CREATION OF ALTERNATIVE PLAN. Notwithstanding any other law, including Subtitles B and C, Title 8, and subject to the requirements of Subchapter C, the board of trustees may by rule establish and administer an alternative
retirement plan to provide benefits to newly hired employees under that plan instead of under a defined benefit plan.

Sec. 809.052. CERTAIN REFERENCES IN LAW TO RETIREMENT SYSTEM MEMBERS. If a retirement system establishes an alternative retirement plan under this chapter, a reference in law to a member of the retirement system includes a participant in the alternative retirement plan unless the reference is expressly defined otherwise.

SUBCHAPTER C. ALTERNATIVE PLAN MINIMUM REQUIREMENTS

Sec. 809.101. MINIMUM REQUIREMENTS. In establishing an alternative retirement plan under this chapter, a retirement system shall ensure the plan meets the requirements of this subchapter.

Sec. 809.102. QUALIFIED PLAN. An alternative retirement plan created under this section must be a qualified plan.

Sec. 809.103. PARTICIPATION IN ALTERNATIVE PLAN; RESUMPTION OF SERVICE. (a) In adopting rules to establish an alternative retirement plan under this chapter, the board of trustees shall designate the date by which all newly hired employees shall begin participation in the plan.

(b) A person who resumes employment with an employer 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 new employee for purposes of required participation in an alternative retirement plan established under this chapter.

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

Sec. 809.104. EFFECT OF EMPLOYMENT CHANGES. A person
participating in an alternative retirement plan continues to
participate in the plan when the person changes employment to
another position included in the coverage of the retirement system.

Sec. 809.105. VESTING OF BENEFITS; TERMINATION OF
PARTICIPATION. (a) Benefits in an alternative retirement 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 an alternative
retirement 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 an alternative
retirement 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 member's age and years of service in a position
       covered by the plan equal 80.

Sec. 809.106. 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 an alternative retirement plan.
Sec. 809.107. CONTRIBUTIONS. (a) A participant in an alternative retirement 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 alternative retirement 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 an alternative retirement 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 809.105.

(c) Participant contributions shall be made in the manner provided by Subchapter F, Chapter 815, or Subchapter E, Chapter 825, as applicable.

Sec. 809.108. HEALTH BENEFITS AND OTHER COVERAGES. A person who participates or who is eligible to participate in an alternative retirement plan established under this chapter is eligible for health benefits and other coverages under Subtitle H, Title 8, Insurance Code, and Subchapter D, Chapter 22, Education Code, if applicable, to the same extent as a person who is a member or who is eligible to be a member of the retirement system.
SECTION 3. Section 830.002(b), Government Code, is amended to read as follows:

(b) Participation in the optional retirement program is an alternative to active membership in the retirement system or participation in an alternative retirement plan under Chapter 809, as appropriate.

SECTION 4. Sections 830.102(a) and (d), Government Code, are amended to read as follows:

(a) A person included in the coverage of the retirement system who is eligible to participate in the optional retirement program may elect to continue as a member of the retirement system or to participate in the optional retirement program.

(d) An eligible person who does not elect to participate in the optional retirement program is considered to have chosen to continue membership in the retirement system or to participate in an alternative retirement plan established under Chapter 809, as applicable.

SECTION 5. Section 830.106, Government Code, is amended to read as follows:

Sec. 830.106. ELIGIBILITY FOR RESUMPTION OF MEMBERSHIP. A participant in the optional retirement program is not eligible for membership in the retirement system unless the person:

(1) terminates employment covered by the optional retirement program; and

(2) becomes employed in the public school system or
with a state agency in a position that is not eligible for participation in the optional retirement program.

SECTION 6. This Act takes effect September 1, 2017.