

By: Truitt

H.B. No. 3480

A BILL TO BE ENTITLED

AN ACT

relating to annuities and investments for certain public employees.

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

SECTION 1. Section 6 of Article 6228a-5, Vernon's Texas Civil Statutes, is amended to read as follows:

Sec. 6. (a) A company is eligible to certify to the retirement system under Section 5 of this Act if the company satisfies the following financial strength criteria:

(1) the company's actuarial opinions required under Articles 1.11 and 3.28, Insurance Code, have not been adverse or qualified in the five years preceding the date the application is filed;

(2) the company is subject to the annual audit requirements of Article 1.15A, Insurance Code, and its most recent audit of financial strength conducted by an independent certified public accountant is timely filed and does not indicate the existence of any material adverse financial conditions in the company for the five years preceding the filing deadline for the audit;

(3) the company has not been the subject of an administrative or regulatory action by the Texas Department of Insurance under Article 1.32 or 21.28-A or Section 83.051, Insurance Code, in the five years preceding the date the application is filed;

1 (4) the company has maintained during the five years
2 preceding the date the application is filed an average of at least
3 400 percent of the authorized control level, as calculated in
4 accordance with the risk-based capital and surplus requirements
5 established in rules adopted by the Texas Department of Insurance;

6 (5) the company has not fallen below 300 percent of the
7 authorized control level, as calculated in accordance with the
8 risk-based capital and surplus established in rules adopted by the
9 Texas Department of Insurance, at any time in the five years
10 preceding the date the application is filed; and

11 (6) the company has at least five years' experience in
12 qualified investment products and has a specialized department
13 dedicated to the service of qualified investment products.

14 (b) For purposes of Subsection (a)(4) of this section, the
15 company must calculate the five-year average on the same date each
16 year.

17 (c) After consultation with the Texas Department of
18 Insurance and the State Securities Board, the retirement system may
19 adopt rules only to administer this section and Sections 5, 7, 8,
20 8A, 11, 12, and 13 of this Act.

21 (d) The retirement system shall refer all complaints about
22 qualified investment products or a certified company under Section
23 9A to the appropriate division of the Texas Department of Insurance
24 or the State Securities Board.

25 (e) Violations of this Act are subject to enforcement under
26 Title 2, Subtitle B, Insurance Code, and Title 19, Texas Civil
27 Statutes.

1 (f) The Texas Department of Insurance and the State
2 Securities Board shall cooperate with the retirement system in the
3 administration of this Act and shall provide a report to [~~notify~~]
4 the retirement system at the beginning of each quarter of the fiscal
5 year setting forth the status of any action or determination
6 regarding a product or a company that is alleged to have violated
7 [~~violates~~] Sections 5, [~~or~~] 8A, or 9A of this Act. The Texas
8 Department of Insurance and the State Securities Board shall
9 promptly notify the retirement system of any final order finding a
10 violation of this Act.

11 (g) [~~(f)~~] The retirement system shall revoke the
12 certification of a company if the retirement system receives notice
13 under Subsection (f) [~~(e)~~] of this section of a final order finding
14 a violation of this Act. The retirement system shall revoke the
15 certification of a company for a period of one year if the
16 retirement system receives notice of a final order that the company
17 has been found to have violated Section 9A of this Act. The
18 retirement system shall revoke the certification of a company if
19 the retirement system receives notice under [~~or~~] Section 5(c) of
20 this Act of a violation regarding the company or the company's
21 product. The company may recertify to the board of trustees after
22 the applicable period of revocation.

23 (h) [~~(g)~~] The retirement system shall prescribe the uniform
24 notice required by Section 11 of this Act.

25 (i) [~~(h)~~] A certification or recertification remains in
26 effect for five years unless denied, suspended, or revoked.

27 (j) [~~(i)~~] A company offering eligible qualified investments

1 that are subject to salary reduction agreements must provide
2 toll-free telephone transferring privileges each business day from
3 8 a.m. to 6 p.m. central standard time.

4 SECTION 2. Section 8(a) of Article 6228a-5, Vernon's Texas
5 Civil Statutes, is amended to read as follows:

6 Section 8: (a) A company that offers qualified investment
7 products other than annuity contracts, including a company that
8 offers a custodial account under Section 403(b)(7), Internal
9 Revenue Code of 1986, as amended, with only registered products of
10 other certified companies, may certify to the retirement system
11 based on rules adopted by the board of trustees. The rules shall be
12 based on reasonable factors, including:

13 (1) the financial strength of the companies offering
14 products; and

15 (2) the administrative cost to employees.

16 SECTION 3. Section 9(a) of Article 6228a-5, Vernon's Texas
17 Civil Statutes, is amended to read as follows:

18 Sec. 9. (a) An educational institution may not:

19 (1) except as provided by Subsection (b) of this
20 section, refuse to enter into a salary reduction agreement with an
21 employee if the qualified investment product that is the subject of
22 the salary reduction is an eligible qualified investment and is
23 registered with the system under Section 8A;

24 (2) require or coerce an employee's attendance at any
25 meeting at which qualified investment products are marketed;

26 (3) limit the ability of an employee to initiate,
27 change, or terminate a qualified investment product at any time the

1 employee chooses;

2 (4) grant exclusive access to an employee by
3 discriminating against or imposing barriers to any agent, broker,
4 or company that provides qualified investment products under this
5 Act;

6 (5) grant exclusive access to information about an
7 employee's financial information, including information about an
8 employee's qualified investment products, to a company or agent
9 offering qualified investment products unless the employee
10 consents in writing to the access;

11 (6) accept any benefit from a company or from an agent
12 or affiliate of a company that offers qualified investment
13 products; ~~or~~

14 (7) use public funds to recommend a qualified
15 investment product offered by a company or an agent of a company
16 that offers a qualified investment product; or

17 (8) enter into a salary reduction agreement or
18 continue a salary reduction agreement for a product that is offered
19 by a company that has not certified to the retirement system,
20 including a company whose certification has been suspended or
21 revoked.

22 SECTION 4. Article 6228a-5, Vernon's Texas Civil Statutes,
23 is amended by adding Section 9A to read as follows:

24 Sec. 9A. A certified company, a company owned by or
25 affiliated by common ownership or control with a certified company,
26 or an agent of such companies may not enter into or renew a contract
27 with an educational institution for administration of the

1 institution's Section 403(b) retirement plan.

2 SECTION 5. This Act takes effect September 1, 2009.