

CHAPTER 922

H.B. No. 903

AN ACT

relating to payroll deductions for state employees for credit union membership and for contributions to charitable organizations; making an appropriation.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 6813g, Revised Statutes, is amended to read as follows:

Art. 6813g. DEDUCTIONS FOR SUPPLEMENTAL BENEFITS FOR STATE EMPLOYEES

Sec. 1. DEFINITIONS. In this article "state agency" means a department, commission, board, office, or other agency of any branch of state government, including an institution of higher education as defined by Section 61.003, Education Code.

Sec. 2. DEDUCTION AUTHORIZED. In addition to deductions for coverage under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or other law, an employee of a state agency may authorize in writing a deduction each pay period from the employee's salary or wage payment for coverage of the employee under a supplemental optional benefits program, including a program of permanent life insurance, catastrophic illness insurance, disability insurance, or prepaid legal services, that may be made if the program has been approved by the Employees Retirement System of Texas under Section 3 of this article. *An employee may also authorize a deduction for payment to a credit union to be credited to a share or deposit account of that employee.* The written authorization must direct the comptroller or, if applicable, the appropriate financial officer of an institution of higher education to transfer the withheld funds to the program or

credit union designated by the employee. The comptroller or financial officer shall comply with the direction.

Sec. 3. **ELIGIBLE PROGRAM.** The Employees Retirement System of Texas shall designate supplemental benefit programs that are eligible to receive deductions under Section 2 of this article and that promote the interests of the state and state agency employees. *No designation is necessary for credit union deductions.*

Sec. 4. **FORM; DURATION.** (a) A [~~The~~] payroll deduction must be accomplished in a form and manner prescribed by the comptroller or the appropriate financial officer of an institution of higher education.

(b) The employee or the employee's designee may change or revoke a [~~the~~] deduction authorization by delivering written notice of the change or revocation to the comptroller or financial officer, as appropriate. An [~~The~~] authorization is effective until the date the comptroller or financial officer receives the notice. The notice must be given in a form and manner prescribed by the comptroller or financial officer.

Sec. 5. **VOLUNTARY PARTICIPATION.** Participation by employees in the *supplemental optional benefits or credit union deduction programs* [~~program~~] authorized by this article is voluntary.

Sec. 6. **ADMINISTRATIVE FEE.** (a) The state may withhold from the employee's salary or wage payment an administrative fee for making the deduction under this article. The fee may not exceed the actual administrative cost of making the deduction or the highest fee charged by the state for making a similar deduction, whichever amount is less. *The state shall allocate and pay to each employing state agency that incurs costs in administering this article the administrative fees on a proportional basis. Any administrative fees withheld under this section are appropriated to the comptroller and the employing state agencies.*

(b) *Institutions of higher education that are authorized to operate a payroll system reimbursable from the state treasury may withhold from the employee's salary or wage payment an administrative fee for making the deduction under this article. The fee may not exceed the actual administrative cost of making the deduction or the highest fee charged for making a similar deduction, whichever amount is less.*

SECTION 2. Title 117, Revised Statutes, is amended by adding Article 6813h to read as follows:

Art. 6813h. PAYROLL DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS

Sec. 1. DEFINITIONS. *In this article:*

(1) "Campaign manager" means a local campaign manager or state campaign manager.

(2) "Charitable organization" means an organization that:

(A) is organized for charitable purposes under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and its subsequent amendments or holds a certificate of authority issued under that Act;

(B) is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code and to which contributions are deductible for income tax purposes under Section 170 of that code;

(C) fully complies with all applicable federal nondiscrimination law, including Chapter 21, Title 42, United States Code;

(D) fully complies with all state statutes and rules relating to charitable organizations; and

(E) is not a private foundation.

(3) "Direct services" means providing funds or programs for health and human services that directly benefit the recipients.

(4) "Eligible charitable organization" means a charitable organization that is determined to be eligible to participate in the state employee charitable contribution campaign as provided by Section 10 of this article.

(5) "Federated community campaign organization" means a federation or fund that:

- (A) *has demonstrated expertise in conducting workplace charitable campaigns; and*
- (B) *distributes funds raised through a cooperative community campaign to at least five agencies that provide direct services to residents of the campaign area.*
- (6) *“Federation or fund” means an umbrella fundraising entity that:*
- (A) *is a charitable organization;*
- (B) *acts as an agent for at least five charitable organizations;*
- (C) *is not organized exclusively to solicit contributions from state employees; and*
- (D) *is supported by voluntary contributions by the public and is:*
- (i) *incorporated in this state and has an established physical presence in this state in the form of an office or service facility that is staffed at least 20 hours a week; or*
- (ii) *incorporated outside this state, includes at least 10 affiliated charitable organizations, has existed at least three years, and participates in state employee charitable campaigns in at least 10 other states.*
- (7) *“Health and human services” means services provided by a charitable organization that:*
- (A) *benefit citizens of this state, including children, youth, adults, elderly individuals, ill or infirm individuals, or individuals with a mental or physical disability; and*
- (B) *consist of:*
- (i) *human care, medical or other research in the field of human health, education, social adjustment, or rehabilitation;*
- (ii) *relief for victims of natural disaster or other emergencies; or*
- (iii) *assistance to impoverished individuals in need of food, shelter, clothing, or other basic needs.*
- (8) *“Indirect services” means health and human services that:*
- (A) *are not direct services; and*
- (B) *demonstrably benefit citizens of this state.*
- (9) *“Institution of higher education” has the meaning assigned by Section 61.003, Education Code.*
- (10) *“International federation or fund” means a federation or fund whose affiliated charities provide direct and substantial health and human services to needy individuals of other nations.*
- (11) *“Local campaign area” means the county or counties in which a local campaign manager conducts a state employee charitable campaign.*
- (12) *“Local campaign manager” means a federated community campaign organization that is selected by the local employee committee as provided by Section 7 of this article.*
- (13) *“Local charitable organization” means a charitable organization that:*
- (A) *provides direct or indirect health and human services; and*
- (B) *is accessible to state employees in the local campaign area by maintaining:*
- (i) *a publicly identified office with a professional or volunteer staff within the local campaign area that is open at least 20 hours a week during normal working hours; and*
- (ii) *a locally listed telephone number.*
- (14) *“Local employee committee” means a local state employee charitable campaign committee selected as provided by Section 6 of this article.*
- (15) *“State advisory committee” means the state employee charitable campaign advisory committee appointed under Section 5 of this article.*
- (16) *“State agency” means a department, commission, board, office, institution of higher education, or other agency of state government.*

(17) "State campaign manager" means an eligible federated community campaign organization that is selected by the state policy committee to coordinate campaign operations with local campaign managers.

(18) "State employee" means an employee of a state agency.

(19) "State employee charitable campaign" means an annual campaign conducted in communities or areas in which state employees work to solicit contributions to eligible charitable organizations.

(20) "State policy committee" means the state employee charitable campaign policy committee appointed under Section 4 of this article.

(21) "Statewide charitable organization" means a federation or fund and its affiliated agencies that:

(A) provides direct or indirect health and human services to residents of two or more noncontiguous standard metropolitan statistical areas of this state; and

(B) has demonstrated the federation or fund is accessible to state employees by maintaining:

(i) a staff or volunteer representative residing in this state who is accessible at least 20 hours a week during normal working hours; and

(ii) a toll-free long distance telephone number.

Sec. 2. DEDUCTION AUTHORIZED. (a) An employee of a state agency may authorize a deduction each pay period from the employee's salary or wage payment for a contribution. The comptroller by rule may establish a reasonable minimum deduction for each pay period.

(b) An authorization shall direct the comptroller to distribute the deducted funds to participating federations or funds and local campaign managers as prescribed by rule.

(c) An authorization may designate an eligible charitable organization to receive the deductions. If an authorization does not designate an eligible charitable organization, the employee's deductions shall be distributed to each participating federation or fund and eligible local charitable organization in the proportion that the deductions designated for that charitable organization bear to the total of designated deductions in the local state employee charitable campaign.

(d) A deduction under this article must be in the form prescribed by the comptroller.

(e) A state agency other than an institution of higher education is not required to permit employees to authorize a deduction under this article until the first full payroll period after the agency is converted to a system in which uniform statewide payroll procedures are followed.

Sec. 3. DURATION OF DEDUCTION. (a) A deduction under this article ends on:

(1) the first anniversary of the date it begins; or

(2) the effective date of a revocation of or change in the authorization by the employee.

(b) A state employee may revoke or change an authorization by giving notice to the employing state agency. The notice must be in the form and manner prescribed by the comptroller. A revocation or change takes effect when it is approved by the comptroller.

Sec. 4. STATE EMPLOYEE CHARITABLE CAMPAIGN POLICY COMMITTEE. (a) The state employee charitable campaign policy committee consists of not more than 10 members.

(b) The governor may appoint not more than four members. The lieutenant governor and the comptroller may appoint not more than three members each.

(c) Each member of the state policy committee must be a state employee. The membership must represent employees at different levels of employee classification.

(d) Appointments shall be made to the state policy committee in a manner that ensures that the committee reflects the race, ethnicity, and national origin of the citizens of this state.

(e) The state policy committee has the duties provided by Section 9(c) of this article.

Sec. 5. STATE EMPLOYEE CHARITABLE CAMPAIGN ADVISORY COMMITTEE. (a) *The state employee charitable campaign advisory committee consists of eight members appointed by the governor.*

(b) *Four members must represent campaign managers. Four members must represent federations or funds that are not campaign managers.*

(c) *Appointments shall be made to the state advisory committee in a manner that ensures that the committee reflects the race, ethnicity, and national origin of the citizens of this state.*

(d) *The state advisory committee has the duties provided by Section 9(d) of this article.*

Sec. 6. LOCAL STATE EMPLOYEE CHARITABLE CAMPAIGN COMMITTEE. (a) *The state policy committee shall appoint the presiding officer of a local state employee charitable campaign committee in each local campaign area.*

(b) *The presiding officer of a local employee committee shall recruit at least five but not more than 10 additional members. The members must represent different levels of employee classification.*

(c) *Each member of a local employee committee may vote on matters before the committee.*

(d) *Appointments shall be made to a local employee committee in a manner that ensures that the committee reflects the race, ethnicity, and national origin of the citizens of the local campaign area for which appointments are being made.*

(e) *A local employee committee has the duties provided by Section 9(e) of this article.*

Sec. 7. LOCAL CAMPAIGN MANAGER. (a) *A local employee committee shall select a local campaign manager to conduct the state employee charitable campaign in the local campaign area.*

(b) *A local campaign manager must have demonstrated expertise to:*

(1) *provide effective campaign counsel and management; and*

(2) *serve as fiscal agent for the eligible local charitable organizations.*

(c) *A local campaign manager has the duties provided by Section 9(g) of this article.*

Sec. 8. TERMS OF COMMITTEE MEMBERS; COMPENSATION. (a) *A member of the state advisory committee, the state policy committee, or a local employee committee serves a two-year term.*

(b) *A member of the state advisory committee, the state policy committee, or a local employee committee may not receive compensation for serving on the committee and is not entitled to reimbursement for expenses incurred in performing functions as a member of the committee.*

Sec. 9. ADMINISTRATION OF STATE EMPLOYEE CHARITABLE CAMPAIGN. (a) *A state employee charitable campaign shall be conducted each autumn. A state employee charitable campaign must be managed fairly and equitably in accordance with this article and the policies and procedures established by the state policy committee.*

(b) *With the advice of the state advisory committee, the comptroller shall adopt rules for the administration of this article.*

(c) *The state policy committee shall:*

(1) *establish local campaign areas based on recommendation by the state advisory committee;*

(2) *select the state campaign manager;*

(3) *determine the eligibility of federations or funds and their affiliated agencies for statewide participation in the state employee charitable campaign;*

(4) *approve the recommended campaign plan, budget, and generic materials to be used by campaign managers;*

(5) *oversee the state employee charitable campaign to ensure that all campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and*

(6) *perform other duties prescribed by the comptroller's rules.*

(d) *The state advisory committee shall:*

(1) *advise the comptroller and state policy committee in adopting rules and establishing procedures for the operation and management of the state employee charitable campaign;*

(2) *recommend the number, not to exceed 50, and geographic scope of local campaign areas to the state policy committee; and*

(3) *review and submit the recommended campaign plan, budget, and generic materials to be used by campaign managers.*

(e) *The local employee committee shall:*

(1) *contract with a federated community campaign organization to serve as the local campaign manager;*

(2) *determine the eligibility of local charitable organizations to participate in the state employee charitable campaign;*

(3) *in consultation with the local campaign manager, approve the recommended campaign plan, budget, and generic materials to be used by campaign managers;*

(4) *oversee the local state employee charitable campaign to ensure that all local campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and*

(5) *perform other duties prescribed by the comptroller's rules.*

(f) *The state campaign manager shall:*

(1) *develop a campaign plan;*

(2) *prepare a statewide campaign budget in cooperation with the local campaign managers;*

(3) *prepare generic materials to be used by campaign managers;*

(4) *coordinate and facilitate campaign services to state employees throughout the state;*

(5) *ensure that all state employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and*

(6) *perform other duties prescribed by the comptroller's rules.*

(g) *A local campaign manager shall:*

(1) *in consultation with the local employee committee, develop a cooperative plan, budget, and local campaign materials for the local state employee charitable campaign;*

(2) *manage the local state employee charitable campaign and provide for the effective involvement of each participating federation or fund;*

(3) *ensure that all local state employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and*

(4) *perform other duties prescribed by the comptroller's rules.*

Sec. 10. ELIGIBILITY OF CHARITABLE ORGANIZATIONS IN GENERAL. (a) *To be eligible to participate in a state employee charitable campaign, a charitable organization must:*

(1) *be governed by a voluntary board of citizens that meets at least twice each year to set policy and manage the affairs of the organization;*

(2) *if the organization's annual budget:*

(A) *does not exceed \$100,000, provide a completed Internal Revenue Service Form 990 and an accountant's review that offers full and open disclosure of the organization's internal operations; or*

(B) *exceeds \$100,000, be audited annually in accordance with generally accepted auditing standards of the American Institute of Certified Public Accountants; and*

(3) *not spend more than 25 percent of its annual revenue for administrative and fundraising expenses, unless the state policy committee grants the organization an exemption under Subsection (b) of this section.*

(b) *The state policy committee may grant a charitable organization a temporary exemption from the requirement of Subsection (a)(3) of this section if the committee finds that:*

(1) the organization's administrative and fundraising expenses are reasonable under the circumstances; and

(2) the organization has a practical plan to reduce its administrative and fundraising expenses to 25 percent of its annual revenue within the next three years.

Sec. 11. *ELIGIBILITY FOR STATEWIDE PARTICIPATION.* (a) A federation or fund that seeks statewide participation in a state employee charitable campaign must apply on behalf of itself and its affiliated agencies to the state policy committee during the annual eligibility determination period specified by the committee. The state policy committee shall review each application and may approve a federation or fund for statewide participation only if the federation or fund qualifies as a statewide charitable organization or as an international federation or fund. The state policy committee may approve an affiliated charitable organization for statewide participation only if the organization qualifies as a statewide charitable organization or is an affiliated agency of an international federation or fund.

(b) An affiliated organization of an eligible federation or fund that does not qualify as a statewide charitable organization because it does not provide services in two or more noncontiguous standard metropolitan statistical areas may apply to a local employee committee for participation in a local state employee charitable campaign.

(c) The state policy committee may use outside expertise and resources available to it to assess the eligibility of charitable organizations that seek to participate in a state employee charitable campaign.

(d) An appeal from a decision of the state policy committee shall be conducted in the manner prescribed by the committee. The appeals process must permit a charitable organization that is not approved for statewide participation to apply for participation in a local state employee charitable campaign.

Sec. 12. *ELIGIBILITY FOR LOCAL PARTICIPATION.* (a) A charitable organization that seeks local participation in a state employee charitable campaign must apply to the appropriate local employee committee during the annual eligibility determination period specified by the state policy committee. The local employee committee shall review each application and may approve a charitable organization for local participation only if the organization qualifies as a local charitable organization and is:

(1) an unaffiliated local organization; or

(2) a federation or fund or an affiliate of a federation or fund that is not approved for statewide participation.

(b) An appeal from a decision of a local employee committee shall be conducted in the manner prescribed by the state policy committee.

Sec. 13. *FEES.* (a) A campaign manager may not charge a fee to the comptroller, a state agency, or a state employee for the services the campaign manager provides in connection with a state employee charitable campaign.

(b) A campaign manager may charge a reasonable and necessary fee for actual campaign expenses to the participating charitable organizations in the same proportion that the contributions to that charitable organization bear to the total of contributions in the state employee charitable campaign.

(c) A fee under Subsection (b) of this section must be based on the combined expenses of the state campaign manager and each local campaign manager and may not exceed 10 percent of the total amount collected in the state employee charitable campaign unless the state policy committee approves a higher amount to accommodate reasonable documented costs.

(d) The comptroller shall charge an administrative fee to cover costs incurred by the comptroller and employing state agencies in the implementation of this article to the charitable organizations participating in the first state employee charitable campaign conducted under this article in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. The comptroller shall charge an administrative fee to cover costs incurred by the comptroller and employing state agencies in the administration of this article to the charitable organizations in each

subsequent state employee charitable campaign in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. The comptroller shall determine the most efficient and effective method of collecting the administrative fee and shall adopt rules for the implementation of this section.

(e) An institution of higher education that is authorized to operate a payroll system reimbursable from the state treasury shall charge an administrative fee to the participating charitable organizations to cover the actual costs incurred in the administration of this article. The fee shall be assessed and collected annually and shall be charged in the same proportion that the contributions to the charitable organization bear to the total contributions in that campaign.

Sec. 14. **FUNDRAISING PRACTICES.** The fundraising practices of a participating charitable organization must:

- (1) be truthful and consumer-oriented;
- (2) clearly identify and distinguish community-based organizations from statewide and international organizations; and
- (3) assure protection against:
 - (A) unauthorized use of a list of contributors to the organization;
 - (B) payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fundraising;
 - (C) mailing unordered merchandise or tickets with a request for money in return; and
 - (D) general telephone solicitation of the public.

Sec. 15. **APPLICATION OF CONTRIBUTIONS.** (a) A participating charitable organization may use contributions under this article only to provide health and human services or to fund a charitable organization that provides health and human services.

(b) A participating charitable organization may not use contributions under this article to:

- (1) conduct litigation; or
- (2) make expenditures that would require the organization to register under Chapter 305, Government Code, if the organization were not an entity exempt from registration under that chapter.

Sec. 16. **MISAPPLICATION OF CONTRIBUTIONS.** (a) If the state policy committee has reason to believe that a participating charitable organization, a campaign manager, or a local employee committee has misapplied contributions under this article, the state policy committee may request the comptroller or state auditor to audit the person.

(b) If an audit under this section reveals gross negligence or intentional misconduct on the part of a campaign manager or a local employee committee, the state policy committee shall remove the campaign manager or local employee committee. A person removed under this subsection is not eligible to serve in the capacity from which the person was removed before the fifth anniversary of the date the person was removed.

(c) If an audit under this section reveals intentional misconduct on the part of a campaign manager or a local employee committee, the state policy committee shall forward its findings to the appropriate law enforcement agency for further action.

(d) The attorney general may bring an action in a court of competent jurisdiction to recover misapplied contributions.

(e) If an investigation or lawsuit results in a recovery of misapplied contributions and there is not a judgment distributing the amounts recovered, the state policy committee shall instruct the comptroller as to the manner of refunding contributions to the appropriate state employees.

Sec. 17. **VOLUNTARY PARTICIPATION.** (a) Participation by a state employee in a state employee charitable campaign is voluntary. Each campaign manager, local employee committee, charitable organization, state employee, and state agency shall inform state employees that deductions are voluntary.

(b) The comptroller shall adopt rules establishing a process for hearing employee complaints regarding coercive activity in a state employee charitable campaign.

Sec. 18. CONFIDENTIALITY. Except as necessary to administer this article or on written authorization of the employee, the following information is confidential:

- (1) whether a state employee has authorized a deduction under this article;*
- (2) the amount of a deduction authorized by a state employee under this article; and*
- (3) the name of a federation or fund or local charitable organization that a state employee has designated to receive contributions under this article, unless the employee has executed a written pledge card or other document indicating that the employee wishes to receive an acknowledgement from the designated charitable organization.*

Sec. 19. EXEMPTION FOR INTERNATIONAL FEDERATION OR FUND. An international federation or fund is exempt from the requirements of this article relating to the provision of health and human services to citizens of this state.

SECTION 3. In addition to other amounts appropriated to the comptroller or an employing state agency for the fiscal biennium beginning September 1, 1993, the administrative fees authorized by Section 13, Article 6813h, Revised Statutes, as added by this Act, are appropriated to the comptroller and the employing state agencies for the fiscal biennium beginning September 1, 1993, to administer that article.

SECTION 4. The credit union payroll deduction program authorized by Article 6813g, Revised Statutes, as amended by this Act, may not be implemented until the earlier of January 1, 1994, or the date that the comptroller adopts rules describing the operation and implementation of the credit union payroll deduction program.

SECTION 5. An institution of higher education is not required to permit employees to authorize a deduction under Article 6813h, Revised Statutes, as added by this Act, until the first full payroll period that occurs after six months after the publication of rules adopted under Article 6813h, Revised Statutes, as added by this Act.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 31, 1993, by a non-record vote; the House refused to concur in Senate amendments to H.B. No. 903 on May 11, 1993, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 903 on May 30, 1993, by a non-record vote; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas; passed by the Senate, with amendments, on May 4, 1993: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 903 on May 29, 1993: Yeas 31, Nays 0; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Approved June 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.