

CHAPTER 944

H.B. No. 1370

AN ACT

relating to voluntary reductions of salaries of certain public employees for federal cafeteria plan benefits or for child-care expenses.

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

SECTION 1. Title 110A, Revised Statutes, is amended by adding Articles 6252-3c and 6252-3d to read as follows:

Art. 6252-3c. CAFETERIA PLAN SALARY REDUCTIONS FOR COUNTY EMPLOYEES

Sec. 1. DEFINITION. *In this article, "county employee" means a person who receives compensation for service performed, other than as an independent contractor, for a county, for a precinct or other unit of a county, or for a county officer acting in an official capacity.*

Sec. 2. CAFETERIA PLAN PROGRAM. *The commissioners court of a county by order or resolution may establish a program to provide benefits that qualifies as a cafeteria plan under Section 125 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 125) and regulations adopted under that section.*

Sec. 3. SALARY REDUCTION AGREEMENTS. (a) *If a commissioners court establishes a cafeteria plan program under Section 2 of this article, the court shall authorize county employees to enter into voluntary agreements with the county to reduce the periodic compensation paid the employees by the county by amounts to be used to finance benefit options provided under the cafeteria plan. An authorization under this section must be made available to all employees of the county.*

(b) *Amounts by which a county employee's compensation is reduced under an agreement under this section are excluded from the computation of contributions and other payments governed by federal law to the extent authorized by federal law, including withholding payments for federal income taxes and contributions to the federal old age and survivors insurance program, but are not excluded in the computation of contributions to and benefits from the Texas County and District Retirement System and other retirement programs governed by state law.*

Sec. 4. RULES. *The commissioners court may adopt rules, consistent with this article and federal cafeteria plan requirements, for participation in and administration of the program authorized by this article.*

Art. 6252-3d. CHILD-CARE EXPENSE SALARY REDUCTIONS FOR PUBLIC EMPLOYEES

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

(1) *"School district" has the meaning assigned by Section 11.13(m)(2), Tax Code.*

(2) *"School district employee" means a person who receives compensation for service performed, other than as an independent contractor, for a school district.*

(3) *"State agency" means:*

(A) *a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;*

(B) *the legislature or a legislative agency; or*

(C) *the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.*

(4) *"State employee" means a person who receives compensation for service performed, other than as an independent contractor, for a state agency, or a person who is a district judge.*

Sec. 2. SALARY REDUCTION AGREEMENTS FOR CHILD-CARE EXPENSES OF STATE EMPLOYEES. (a) *The state may enter into an agreement with a state employee to reduce the periodic compensation paid the employee by the state by an amount to be used for the payment of child-care expenses that meet the requirements for exclusion from gross income as provided by Section 129 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 129) and regulations adopted under that section. A state employee may request an agreement under this section by filing a written request for the reduction, on a form prescribed by the comptroller of public accounts, with the payroll officer of the state agency with which the employee is employed.*

(b) *The comptroller of public accounts shall adopt rules for administration of the program authorized by this section, including rules designed to determine eligibility for exclusion from gross income for federal tax purposes of amounts by which a state employee's salary may be reduced.*

(c) *The payroll officer of a state agency having employees who are paid by warrant issued by the comptroller of public accounts shall send a copy of each request filed by an employee of the agency to the comptroller. If the comptroller determines that the request meets the requirements for exclusion from gross income for federal tax purposes, the comptroller, on behalf of the state, shall enter into an agreement with the requesting employee for the reduction and shall make payments in amounts by which the employee's compensation is reduced in the manner specified in the agreement.*

(d) *The payroll officer of a state agency having employees who are not paid by warrant issued by the comptroller of public accounts may enter into agreements with requesting employees of the agency and make payments in amounts by which compensation is reduced in the manner specified in the agreements, subject to applicable rules adopted by the comptroller under this section.*

(e) *A state employee is entitled to select the recipient of payments by which the employee's compensation is reduced under a salary reduction agreement entered into under this section.*

(f) *If other legislation authorizing for state employees a cafeteria plan as defined and authorized by Section 125 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 125) is enacted by the 70th Legislature to take effect not later than September 1, 1988, and if the legislation places the administrative responsibilities for the cafeteria plan with the Employees Retirement System of Texas or the governing boards of institutions of higher education, the administrative responsibilities of the comptroller of public accounts for child-care salary reduction agreements specified in this article are transferred to the Employees Retirement System of Texas or the governing boards of institutions of higher education, as applicable, on the effective date of the legislation. The Employees Retirement System of Texas or the governing boards of institutions of higher education shall make child-care salary reduction options available to state employees not later than September 1, 1988.*

Sec. 3. SALARY REDUCTION AGREEMENTS FOR CHILD-CARE EXPENSES OF SCHOOL DISTRICT EMPLOYEES. *The governing body of a school district may authorize school district employees to enter into agreements with the school district to reduce the periodic compensation paid the employees by the school district by amounts to be used for the payment of child-care expenses that meet the requirements for exclusion from gross income as provided by Section 129 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 129) and regulations adopted under that section. The governing body may adopt rules for participation in and administration of the program authorized by this section.*

SECTION 2. Section 21.001(7), Title 110B, Revised Statutes, is amended to read as follows:

(7) "Compensation" means the base salary of a person plus longevity and hazardous duty pay and includes nonmonetary compensation, the value of which is determined by the retirement system, and amounts by which the person's salary is reduced under a

salary reduction agreement authorized by Article 6252-3d, Revised Statutes, but excludes overtime pay.

SECTION 3. Section 32.201(b), Title 110B, Revised Statutes, is amended to read as follows:

(b) "Salary and wages" as used in Subsection (a) of this section means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) career ladder payments of money authorized by Section 16.057, Education Code; [and]

(3) *amounts by which the member's salary is reduced under a salary reduction agreement authorized by Article 6252-3d, Revised Statutes; and*

(4) amounts that would otherwise qualify as salary and wages under Subdivision (1) or (2) of this subsection but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the United States Internal Revenue Code, if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans.

SECTION 4. Section 71.001, Title 110B, Revised Statutes, is amended by adding Subdivision (11) to read as follows:

(11) *"Compensation" includes amounts by which a member's salary is reduced under a salary reduction agreement authorized by Article 6252-3d, Revised Statutes.*

SECTION 5. 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 April 30, 1987, by the following vote: Yeas 142, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1370 on May 26, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1370 on May 29, 1987, by the following vote: Yeas 141, Nays 0, 2 present, not voting. Passed by the Senate, with amendments, on May 21, 1987, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1370 on May 29, 1987, by the following vote: Yeas 28, Nays 0.

Approved June 20, 1987.

Effective June 20, 1987.