

## CHAPTER 4

## S.B. No. 149

## AN ACT

relating to reporting and payment of social security contributions for officers and employees of the state or of counties, municipalities, or other political subdivisions of the state; making an appropriation.

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

SECTION 1. Sections 8 and 9, Chapter 500, Acts of the 52nd Legislature, 1951, as amended (Article 695g, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 8. (a) Each county, municipality or other political subdivision as to which a plan has been approved ~~[may and]~~ shall ~~make deductions from covered employees' wages in accordance with applicable State and Federal requirements [pay to the State Agency, with respect to employees' wages, contributions in the amounts and at the rates specified by the applicable agreement entered into pursuant to the Federal State agreement].~~ Counties, municipalities or other political subdivisions required to make such payments are authorized, in consideration of the employees' retention in or entry upon employment, to impose upon its employees as to services which are covered by an approved plan, a contribution with respect to wages in keeping with applicable State and Federal requirements. ~~Failure [Contributions so collected shall be paid to the State Agency in partial discharge of the liability of the county, municipality or political subdivision, but failure]~~ to deduct contributions from employees' wages shall not relieve the employee or the employer of liability for the contribution. ~~[If more or less than the correct amount of any contribution is paid or deducted, adjustments or refunds shall be made in the manner and at the time proscribed by the State Agency.]~~ Matching contributions by the employing counties, municipalities or other political subdivisions ~~[as proscribed by the approved plan]~~ in keeping with *State and* Federal requirements shall be paid from the respective sources of funds from which covered employees receive their compensation.

(b) *All contributions for wages paid before January 1, 1987, are payable to the State Agency.* The State Agency by rule shall prescribe deadlines that the State Agency determines are necessary to comply with federal requirements for the program provided by this Act for the filing of reports and the payment of contributions. Contributions received after the day payment is due and wage reports received after the due date are delinquent and the reporting entity shall pay interest for each and every calendar day of delinquency including the day the delinquent contributions and reports are received by the State Agency. The interest rate shall be at the same rate as the interest rate charged by the Federal Social Security Administration for delinquent payment of contributions. Interest on delinquent contributions shall be deposited in the Social Security Administration Fund.

(c) *All contributions for wages paid after December 31, 1986, are payable in accordance with Federal requirements for the filing of reports and the payment of contributions.*

Sec. 9. When the governing body of a county, municipality or other political subdivision elects to enter into an agreement with the State Agency, it shall become the duty of the County Treasurer in the respective counties and of the person or persons who hold comparable positions in the municipalities or other political subdivisions to assess and collect the required contributions of the various employees in the respective counties, municipalities or other political subdivisions and transmit the same *as required by Section 8 of this Act* ~~[to the State Agency]~~. Each plan approved by the State Agency will specify the responsible personnel of the undertaking county, municipality or other political subdivision who will be charged with the duty to make assessments, collections, and reports.

SECTION 2. Section 1, Chapter 467, Acts of the 54th Legislature, 1955, as amended (Article 695h, Vernon's Texas Civil Statutes), is amended by adding Subdivision (i) to read as follows:

(i) *The term "employing department" means:*

(1) *any department, commission, board, office, or other agency in the executive or legislative branch of state government created by the constitution or a statute of this state;*

(2) *the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, or the Texas Civil Judicial Council; or*

(3) *a university system or an institution of higher education as defined by Section 61.003, Education Code.*

SECTION 3. Section 4, Chapter 467, Acts of the 54th Legislature, 1955, as amended (Article 695h, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. *For wages paid before April 1, 1987, the [The] State Agency is authorized to pay contributions as required by these agreements from the Social Security Trust Fund established by Chapter 500, Acts of the 52nd Legislature, Regular Session, 1951, as amended (Article 695g, Vernon's Texas Civil Statutes). For wages paid after March 31, 1987, to employees compensated by money appropriated from the State Treasury employing departments are authorized to pay contributions as required by these agreements with money appropriated to the Comptroller of Public Accounts for the contributions. The payment of contributions by the State under the program may not be considered compensation under any law of this State.*

SECTION 4. Subsection (c), Section 5, Chapter 467, Acts of the 54th Legislature, 1955, as amended (Article 695h, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) *Such contributions shall be paid ~~[to the Social Security Trust Fund]~~ from the respective funds from which covered employees receive their compensation.*

SECTION 5. Section 6, Chapter 467, Acts of the 54th Legislature, 1955, as amended (Article 695h, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. (a) *The collection of said employees' contributions shall be as follows:*

(1) *Each employing department ~~[(including for the purpose of this Act any State office, board, bureau, or agency) of the State]~~ shall cause to be deducted on each and every payroll of a covered employee for each and every payroll period beginning on the date of establishment of Social Security coverage for said employee the contributions payable by such employee, as provided in this Act. Each department head of the State shall certify to the proper disbursing officer of said department on each and every payroll a statement of the amount of the employee's contribution which should be deducted from each employee's salary and a statement of the total amount to be deducted from all salaries and shall include the total amount in the payroll voucher. For wages paid before April 1, 1987, each ~~[Each]~~ department head shall certify to the State Agency copies of said payroll statement and voucher on forms prescribed by the State Agency. Certification for wages paid after March 31, 1987, shall be made to, and in a manner prescribed by, the Comptroller of Public Accounts.*

(2) *The proper disbursing officer of each employing ~~[State]~~ department on authorization from the department head shall make deductions from salaries of the employees as provided in this Act. For wages paid before April 1, 1987, the ~~[The]~~ total amount*

deducted shall be paid by each department head to the State Treasurer as custodian of the Social Security Trust Fund, and the State Treasurer shall deposit said amounts in the Social Security Trust Fund. *For wages paid after March 31, 1987, the total amount deducted shall be paid in accordance with Federal requirements.*

(3) If less than the correct amount of an employee's contribution is deducted with respect to any remuneration, the employee shall remain liable therefor.

(4) *For wages paid before April 1, 1987, if [If] more than the correct amount of the employee's contribution is paid or deducted with respect to any remuneration, proper adjustments, or refund, if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the State Agency shall prescribe.*

(b) The collection of the State's contribution shall be made as follows:

(1) ~~The Legislature shall appropriate [After September 1, 1978, and after the date of the establishment of Social Security coverage for State employees, there is hereby allocated and appropriated to the Social Security Trust Fund, in accordance with this Act,] from the several funds from which the employees benefited by this Act receive their respective salaries, a sum equal to the amount of the contribution to be paid by the State as provided in Sections 4 and 5 of this Act for employees whose compensation is paid from funds in the State Treasury. For wages paid before April 1, 1987, the [The] State Agency shall certify to the [State] Comptroller of Public Accounts at the end of each payroll period the total amount of the State's contributions for that period for employees whose salaries are paid from funds in the State Treasury. The [State] Comptroller after receipt of the certification shall pay the amount to the State Treasurer as custodian of the Social Security Trust Fund. The State Treasurer shall deposit the amounts so received in the Social Security Trust Fund. Certification for wages paid after March 31, 1987, shall be made to, and in a manner prescribed by, the Comptroller of Public Accounts.~~

(2) ~~Each employing department having employees who are compensated by money appropriated from the State Treasury shall include in the budget information it submits to the Legislative Budget Board and the budget division of the Governor's office a certification of [Thereafter, on or before the first day of November next preceding each Regular Session of the Legislature, the State Agency shall certify to the Governor for review and adoption] the amount necessary to pay the contributions of the State for the employees [of Texas] for the ensuing biennium. This amount shall be included in the budget of the State which the Governor submits to the Legislature. [The State Agency shall send a copy to the State Comptroller of Public Accounts of the certification to the Governor.]~~

(3) ~~All money [moneys hereby allocated and] appropriated by the State to the Social Security Trust Fund shall be paid to the Fund as required by rule of the State Agency. After March 31, 1987, all money appropriated to the Comptroller of Public Accounts for the contributions of the State shall be allocated to employing departments as required by rules adopted by the Comptroller.~~

(4) In those instances in which State employees are paid from funds not in the State Treasury, the department head shall certify to the proper disbursing officer the total amount of the State's contributions based upon compensation paid the employees. *For wages paid before April 1, 1987, the [The] disbursing officer shall pay that amount to the State Treasurer as custodian of the Social Security Trust Fund. The State Treasurer shall deposit the amounts in the Social Security Trust Fund. A copy of the department heads' certification in these instances shall be given to the State Agency at the same time the original is certified to the disbursing officer. These copies shall be on forms prescribed by the State Agency. For wages paid after March 31, 1987, the disbursing officer of each employing department having employees who are compensated by money not in the State Treasury shall pay the total amount of the contributions of the State for the employees in accordance with Federal requirements.*

(c) *For wages paid before April 1, 1987, the [The] State Agency by rule shall prescribe deadlines that the State Agency determines are necessary to comply with federal requirements for the program provided by this Act for the filing of reports and the payment of contributions. Contributions received after the day payment is due and wage reports received after the due date are delinquent and the reporting entity shall pay*

interest for each and every calendar day of delinquency including the day the delinquent contributions and reports are received by the State Agency. The interest rate shall be at the same rate as the interest rate charged by the Federal Social Security Administration for delinquent payment of contributions. Interest on delinquent contributions shall be deposited in the State Social Security Administration Fund. *For wages paid after March 31, 1987, employing departments shall comply with Federal requirements for the filing of reports and the making of payments of contributions.*

SECTION 6. (a) The appropriations to the social security trust fund that were made in accordance with Sections 5 and 6, Chapter 467, Acts of the 54th Legislature, 1955 (Article 695h, Vernon's Texas Civil Statutes), by the General Appropriations Act for fiscal year 1987 and that have not been paid into that fund on the effective date of this Act are transferred and appropriated to the comptroller of public accounts for use as contributions payable as provided by Sections 5 and 6, Chapter 467, Acts of the 54th Legislature, 1955 (Article 695h, Vernon's Texas Civil Statutes), as amended by this Act.

(b) The Employees Retirement System of Texas and the comptroller of public accounts cooperatively shall establish procedures for the orderly transfer of contribution voucher processing from the retirement system to employing departments and of appropriations from the retirement system to the comptroller.

SECTION 7. This Act takes effect April 1, 1987.

SECTION 8. 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 according to its terms, and it is so enacted.

Passed the Senate on February 2, 1987, by the following vote: Yeas 30, Nays 0; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas.

Passed the House on March 5, 1987, by the following vote: Yeas 142, Nays 0, one present not voting; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas.

Approved March 12, 1987.

Effective April 1, 1987.