

BILL ANALYSIS

Senate Research Center

H.B. 3343
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Education
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Engrossed

DIGEST AND PURPOSE

Since 1991, school districts have been required to provide health insurance to school district employees that is comparable to the insurance offered under the Texas Employees Uniform Group Insurance Program. Health insurance costs for public school employees vary from district to district, and small and rural districts, in particular, struggle with rising premium costs and limited access. School districts that pay little to none of the coverage costs may find it more difficult to attract and retain qualified employees. Individually, school districts, employees, and the state have limited resources with which to fund the rising costs of health insurance for school employees; however, contributions from a combination of these sources may lead to a stronger health insurance plan. H.B. 3343 establishes a uniform group coverage program for school district employees with funds from state, district, and employee contributions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Teacher Retirement System of Texas in SECTION 1.01 (Sections 3 and 4, Article 3.50-7, Insurance Code), SECTION 1.02 (Sections 4 and 5, Article 3.50-8, Insurance Code), and SECTION 1.04 (Section 6, Article 3.50-10, Insurance Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1.05 (Section 42.253, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. GROUP HEALTH COVERAGE PROGRAM

SECTION 1.01. Amends Chapter 3E, Insurance Code, by adding Article 3.50-7, as follows:

Art. 3.50-7. TEXAS SCHOOL EMPLOYEES UNIFORM GROUP HEALTH COVERAGE ACT

Sec. 1. **SHORT TITLE.** Authorizes this article to be cited as the Texas School Employees Uniform Group Health Coverage Act.

Sec. 2. **DEFINITIONS.** Defines “administering firm,” “cafeteria plan,” “charter school,” “employee,” “health coverage plan,” “participating entity,” “program,” “regional education service center,” and “trustee.”

Sec. 3. **ADMINISTRATION.** Requires the Teacher Retirement System of Texas (TRS), as trustee, to implement and administer the uniform group coverage program (program) described by this article. Authorizes TRS to hire and compensate employees. Authorizes TRS, on a competitive bid basis, to contract with a qualified, experienced firm of group insurance plan specialists or an administering firm who will act for TRS in the capacity of independent administrators and managers of the program. Requires the independent administrator selected by TRS to assist TRS to ensure the proper administration of this article and the coverages,

services, and benefits provided for or authorized by this article and to be paid by TRS. Authorizes TRS to enter into interagency contracts with any agency of the state, including the Employees Retirement System of Texas (ERS), for the purpose of assistance in implementing the program. Provides that TRS has the powers with regard to the program that ERS has in administering the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Insurance Code), including the power to adjudicate claims, expel participants from the program for cause, and adopt rules to administer this article.

Sec. 4. GROUP COVERAGES. Requires TRS by rule to establish plans of group coverages for employees participating in the program and their dependents. Requires the plans to include at least two tiers of group coverage, with coverage at different levels in each tier, ranging from the catastrophic care coverage plan to the primary care coverage plan. Requires each tier to contain a health coverage plan. Requires TRS by rule to define the requirements of each coverage plan and tier of coverage. Sets forth certain requirements for the catastrophic care and the primary care coverage plans. Requires comparable coverage plans of each tier of coverage to be offered to employees of all participating entities. Prohibits coverage under the program from being made subject to a preexisting condition limit. Authorizes TRS to provide a cafeteria plan for employees of participating entities.

Sec. 5. PARTICIPATION IN PROGRAM BY SCHOOL DISTRICTS AND REGIONAL EDUCATION SERVICE CENTERS. (a) Provides that each school district (district) with 500 or fewer employees and each regional education service center is required to participate in the program, effective September 1, 2002.

(a-1) Authorizes a district with more than 500 but less than 1000 employees to elect to participate in the program, effective September 1, 2002. Requires a district that elects to participate in the program under this subsection to notify TRS of the election in the manner prescribed by TRS, not later than September 30, 2001. Provides that this subsection expires January 1, 2002.

(b) Authorizes a district with more than 500 employees to elect to participate in the program, effective September 1, 2005. Requires a district that elects to participate under this subsection to apply for participation in the manner prescribed by TRS rule.

(c) Sets forth certain standards and requirements for districts to be considered part of a risk pool for the purposes of determining the number of employees of a district under Subsections (a) and (b).

(d) Provides that a risk pool that provides group health coverage (coverage) to 500 or fewer employees is subject to Subsection (a) and that the coverage of such member districts is subject to Section 4 of this article, effective September 1, 2002.

(d-1) Requires a district with more than 500 but less than 1000 employees that elects to participate in the program to notify TRS not later than September 30, 2001. Provides that this subsection expires January 1, 2002.

(e) Requires a district that is part of a specific risk pool that provides coverage to more than 500 employees to elect, by September 1, 2001, to be treated as a district with fewer than 500 employees or as part of a unit with more than 500 employees and to notify TRS of the election, in a certain manner, by September 1, 2001.

Sec. 6. PARTICIPATION BY CHARTER SCHOOLS; ELIGIBILITY. Sets forth certain requirements for a charter school to be eligible to participate in the program. Requires a charter school to notify TRS of the school's intent to participate in the program in the manner and within the time required by TRS rule.

Sec. 7. PARTICIPATION BY EMPLOYEE. Defines “full-time employee” and “part-time employee.” Sets forth certain limitations to participation in the program. Provides that an employee who applies for coverage during an open enrollment period prescribed by TRS is automatically covered by the catastrophic care coverage plan unless the employee takes certain actions. Sets forth certain conditions for a part-time employee to participate in the program. Authorizes a district, notwithstanding certain provisions, to pay any portion of what would otherwise be the employee share of premiums and other costs associated with the health coverage plan selected by the employee.

Sec. 8. FUND. Establishes the Texas school employee uniform group coverage trust fund (fund) with the comptroller. Sets forth the composition of the fund. Authorizes TRS to use amounts in the fund only to provide group coverages under this article and to pay the expenses of administering the program. Authorizes TRS to invest assets of the fund in the manner provided by Section 67(a)(3), Article XVI, Texas Constitution.

Sec. 9. PAYMENT OF CONTRIBUTIONS FOR PROGRAM. Requires the state to pay certain amounts into the fund for each participating entity. Requires a district, a charter school, and a regional education service center to make certain contributions for the program. Requires an employee covered by the program to pay that portion of the cost of coverage selected by the employee that exceeds the amount of the contributions made by the state and the participating entity. Authorizes the employee to pay the employee’s contribution under this section from the amount distributed to the employee under Article 3.50-8 of this code. Authorizes a district to pay any portion of what would otherwise be the employee share of premiums and other costs associated with the plan selected by the employee, notwithstanding certain provisions.

SECTION 1.02. Amends Chapter 3E, Insurance Code, by adding Article 3.50-8, effective September 1, 2002, as follows:

Art. 3.50-8. SCHOOL EMPLOYEE HEALTH COVERAGE OR COMPENSATION
SUPPLEMENTATION

Sec. 1. DEFINITIONS. Defines “eligible charter school,” “employee,” “regional education service center,” and “trustee.”

Sec. 2. SCHOOL EMPLOYEE HEALTH COVERAGE OR COMPENSATION
SUPPLEMENTATION. Requires TRS to deliver a certain amount of funds to each district, including a district that is ineligible for state aid under Chapter 42 (Foundation School Program), Education Code, each eligible charter school and each regional education service center. Provides that all funds received by a district, eligible charter school (school), or regional education service center (service center) under this article are held in trust for the benefit of the employee on whose behalf the district, school, or service center received the funds. Requires TRS to distribute funds under this article in equal monthly installments. Provides that TRS is entitled to recover any amount distributed under this article from a district, school, or service center to which that entity was not entitled. Provides that a determination by TRS under this section is final and not appealable.

Sec. 3. EMPLOYEE ELECTION. Sets forth certain ways in which each employee is required to elect where state funds distributed under this article to the employee’s employing district, school, or service center are to be used. Sets forth a time-frame within which an election under this section must be made. Requires TRS to prescribe and distribute certain items to each district, school, and service center. Requires a district, school, or service center to prepare and distribute to each employee a written explanation, in English and Spanish, as appropriate, of the options the employee may elect under this section. Sets forth certain requirements for the explanation. Authorizes any unencumbered funds that are returned to the

district from accounts established under Section 3(a)(1) to be used only to provide employee compensation, benefits, or both.

Sec. 4. RULES. Authorizes TRS to adopt rules to implement this article.

Sec. 5. MEDICAL SAVINGS ACCOUNT. Defines “qualified health care expense.” Requires TRS, by rule, to specify the requirements for the medical savings account (account) established under this article. Requires TRS to request in writing a ruling or opinion from the Internal Revenue Service (IRS) as to whether the accounts adopted under this article and the state rules governing those accounts qualify the accounts for appropriate federal tax exemptions. Requires TRS, based on the response of the IRS, to take certain actions. Authorizes an employee who elects under Section 3(a) of this article to have state funds distributed under this article to be placed in an account to use that money only for a qualified health care expense.

SECTION 1.03. Amends Chapter 3E, Insurance Code, by adding Article 3.50-9, effective September 1, 2002, as follows:

Art. 3.50-9. STATE CONTRIBUTION FOR COVERAGE PLANS FOR EDUCATIONAL EMPLOYEES

Sec. 1. DEFINITIONS. Defines “covered entity,” “employee,” and “health coverage plan.”

Sec. 2. STATE CONTRIBUTION. Requires the state to contribute a sum certain as determined by appropriation monthly for each employee of a participating covered entity, to be used by the covered entity only for the purchase of health care coverage plans for the employees of the covered entity as authorized by certain state law. Sets forth certain funds into which a state contribution made under this section are required to be deposited. Prohibits state funds received under this article from being considered for any purpose under Chapter 41 (Equalized Wealth Level) or 42, Education Code.

SECTION 1.04. Amends Chapter 3E, Insurance Code, by adding Article 3.50-10, as follows:

Art. 3.50-10. SCHOOL DISTRICT EXPENDITURES FOR EMPLOYEE HEALTH COVERAGE PLANS

Sec. 1. DEFINITION. Defines “participating employee.”

Sec. 2. MAINTENANCE OF EFFORT FOR 2000-2001 SCHOOL YEAR. Requires a district that paid amounts to share the costs of a group benefits plan coverage with employees for the 2000-2001 school year, subject to Section 3 of this article and except as provided by Section 5 of this article, to pay an amount to provide health coverage for each participating employee at least equal to the amount computed as provided by this section, for each fiscal year. Sets forth the manner to compute the amount required by this section. Requires amounts used as required by this section to be deposited into a specific fund.

Sec. 3. MINIMUM EFFORT. Sets forth certain requirements and guidelines for a district to use certain amounts to provide health coverage for participating employees. Authorizes a school district to use state funds received under Chapter 42, Education Code, to comply with this section, other than funds that may be used under that chapter only for a specific purpose.

Sec. 4. STATE ASSISTANCE FOR MEETING MINIMUM EFFORT. (a) Provides that a district, for any state fiscal year, that imposes maintenance and operations taxes at the maximum rate permitted under Section 45.003(d), Education Code, is entitled to state funds in an amount equal to the difference between certain amounts, if any.

(a-1) Provides that a district is entitled to certain state funds for the state fiscal year beginning September 1, 2002.

(a-2) Provides that a district is entitled to certain state funds for the state fiscal year beginning September 1, 2003.

(a-3) Provides that a district is entitled to certain state funds for the state fiscal year beginning September 1, 2004.

(a-4) Provides that a district is entitled to certain state funds for the state fiscal year beginning September 1, 2005.

(a-5) Provides that a district is entitled to certain state funds for the state fiscal year beginning September 1, 2006.

(a-6) Provides that a district is entitled to certain state funds for the state fiscal year beginning September 1, 2007.

(a-7) Requires state funds to which a district is entitled under Subsections (a-1)-(a-6) of this section to be deposited in a certain fund.

(a-8) Provides that a district that receives funds under Subsection (a) of this section for a state fiscal year is not entitled to state funds under Subsection (a-1), (a-2), (a-3), (a-4), (a-5), or (a-6) of this section.

(a-9) Provides that Subsections (a-1) (a-8) and this subsection expire September 1, 2008.

(b) Requires TRS to distribute state funds to districts under this section in equal monthly installments and for such funds to be deposited in a certain fund. Requires the Texas Education Agency (TEA) to provide to TRS necessary information for TRS to determine a district's eligibility for state funds under this section.

(c) Provides that TRS is entitled to recover any amount distributed to a district under this section to which the district was not entitled. Provides that a determination by TRS under this section is final and not appealable.

Sec. 5. USE OF EXCESS MAINTENANCE OF EFFORT. Authorizes a district, if the amount the district is required to use to provide health coverage under Section 2 of this article for a fiscal year exceeds the amount necessary for the district to comply with Section 3 of this article for that year, to use the difference only to provide employee compensation, benefits, or both.

Sec. 6. EFFECT OF RECEIPT OF STATE FUNDS. Prohibits state funds received by a district under this article from being considered for any purpose under Chapters 41 or 42, Education Code. Provides that this article, except as provided by Section 2 or 5 of this article, does not permit TRS, TEA, or the commissioner of education (commissioner) to require a district to spend local funds for any specific purpose.

Sec. 7. ADDITIONAL SUPPORT FOR CERTAIN SCHOOL DISTRICTS. Provides that this section only applies to certain districts. Sets forth the manner in which to determine the amount of additional support the state is required to provide for certain districts. Authorizes TRS to adopt rules necessary to implement this section. Provides that this section expires September 1, 2008.

SECTION 1.05. Amends Section 42.253, Education Code, to provide that for certain school years, for a school district that is required to increase its maintenance and operations tax rate to permit the district to comply with Section 3(a), Article 3.50-10, Insurance Code, the limit authorized under Subsection (e) is increased by an amount equal to the portion of the district's maintenance and operations tax for that year necessary for the district, when added to state funds received under this chapter for that portion of the tax, to comply with Section 3(a), Article 3.50-10, Insurance Code. Provides that for certain school years, the limit authorized under Subsection (e) does not include any portion of a school district's maintenance and operations tax rate for which the limit under Subsection (e) applicable to the district was increased under this subsection. Authorizes the commissioner to adopt rules necessary to administer this subsection. Provides that a determination of the commissioner under this subsection is final and not appealable. Provides that this subsection expires September 1, 2009.

SECTION 1.06. Amends Section 26.08, Tax Code, by adding Subsections (k) and (l) to set forth the rollback tax rate for a district that is required to increase its maintenance and operations tax rate to permit the district to comply with Section 3(a), Article 3.50-10, Insurance Code, for certain tax years. Provides that Subsection (k) and (l) expire January 1, 2009.

SECTION 1.07. Amends Chapter 62C, Health and Safety Code, by adding Section 62.1015, as follows:

Sec. 62.1015. ELIGIBILITY OF CERTAIN CHILDREN; DISALLOWANCE OF MATCHING FUNDS. Defines "charter school," "employee," and "regional education service center." Authorizes a child of an employee of a school, district, or service center to be enrolled in health benefits coverage under the child health plan. Provides that a child enrolled in the child health plan under this section participates in the same manner as any other child enrolled in the child health plan. Requires the cost of health benefits coverage for children enrolled in the child health benefit plan under this section to be paid as provided in the General Appropriations Act. Prohibits expenditures made to provide health benefits coverage under this section from being included for the purpose of determining the state children's health insurance expenditures, as that term is defined by 42 U.S.C. Section 1397ee(d)(2)(B), as amended.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Article 3.50-4, Insurance Code, by adding Section 3A, as follows:

Sec. 3A. TRANSFER OF RECORDS. Requires TRS to transfer from the program established under this article all records relating to active employees participating in the uniform group coverage program established under Article 3.50-7 of this code not later than the date on which the program of coverages provided under Article 3.50-7 of this code is implemented.

SECTION 2.02. Amends Section 1, Article 3.50-4, Insurance Code, to authorize this article to be cited as the Texas Public School Retired Employees Group Insurance Act.

SECTION 2.03. Amends Sections 2(3) and (4), Article 3.50-4, Insurance Code, to redefine "dependent" and "fund."

SECTION 2.04. Amends Section 3(a), Article 3.50-4, Insurance Code, to establish the Texas Public School Retired Employees Group Insurance Program, rather than the Texas Public School Employees Group Insurance Program, to provide for an insurance plan or plans under this article.

SECTION 2.05. Amends Section 5(a), Article 3.50-4, Insurance Code, to delete existing text relating to active employees.

SECTION 2.06. Amends Section 8(e), Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 2.07. Amends Section 9, Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 2.08. Amends Section 12, Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 2.09. Amends Section 13, Article 3.50-4, Insurance Code, to make conforming changes.

SECTION 2.10. Amends Section 15, Article 3.50-4, Insurance Code, as follows:

Sec. 15. New heading: RETIRED SCHOOL EMPLOYEES GROUP INSURANCE FUND.
Makes a conforming change.

SECTION 2.11. Amends Section 18A, Article 3.50-4, Insurance Code, to provide that a proceeding under this section is a contested case under Chapter 2001 (Administrative Procedure), Government Code, rather than under the Administrative Procedure and Texas Register Act (Article 6252-13a, V.T.C.S.). Makes conforming changes.

SECTION 2.12. Amends Section 18B(a), Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 2.13. Amends Sections 18C(c), (d), and (i), Article 3.50-4, to make conforming changes.

SECTION 2.14. Amends Article 3.51, Insurance Code, by adding Section 3, as follows:

Sec. 3. Prohibits a common or independent school district or any other agency or subdivision of the public school system of this state that is participating in the program established under Article 3.50-7 of this code, notwithstanding any other provision of this article, from procuring contracts under this article for health insurance coverage and from renewing a health insurance contract procured under this article after the date on which the program of coverages under Article 3.50-7 of this code is implemented.

SECTION 2.15. Amends Article 26.036, Insurance Code, to prohibit an independent school district that is participating in the program established under Article 3.50-7 of this code from participating in the small employer market under this article for health insurance coverage and from renewing a health insurance contract obtained in accordance with this article after the date on which the program of coverages under Article 3.50-7 of this code is implemented.

SECTION 2.16. Amends Section 22.004, Education Code, to prohibit a district participating in the program established under Article 3.50-7 (Texas School Employees Uniform Group Health Coverage Act), Insurance Code, notwithstanding any other provision of this section, from making group health coverage available to its employees under this section after the date on which the program of coverages provided under Article 3.50-7, Insurance Code, is implemented.

SECTION 2.17. Amends Section 822.201(c), Government Code, to add supplemental compensation an employee elects to receive under Article 3.50-8 (School Employee Health Coverage or Compensation Supplementation), Insurance Code, to the list of items that are excluded from salary and wages.

SECTION 2.18. Repealer: Sections 7A (Participation by Active Employees), 20 (Effective Date of Coverage), 21 (Nonapplicability of Article 3.51), Article 3.50-4, Insurance Code.

SECTION 2.19. Provides that Sections 2.02 - 2.13, 2.17, and 2.18 of this Act are effective September 1, 2002.

ARTICLE 3. TRANSITION; EFFECTIVE DATE

SECTION 3.01. Requires TRS to develop the coverage plans to be implemented in the program established under Article 3.50-7, Insurance Code, as added by this Act, beginning September 1, 2001, and to develop the enrollment requirements for the program during the 2001-2002 school year, with coverage beginning September 1, 2002.

SECTION 3.02. Requires a district that becomes eligible to participate in the program established under Article 3.50-7, Insurance Code, as added by this Act, as provided by Section 5(b) of that article and that elects to participate in the program beginning September 1, 2005, to notify TRS of the election not later than January 1, 2005.

SECTION 3.03. Effective date: September 1, 2001, except as otherwise provided by this Act.