

BILL ANALYSIS

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By: Armbrister
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DIGEST AND PURPOSE

Currently, the Teacher Retirement System (TRS) administers the Texas Public School Employees Group Insurance Act, which now serves only retired public school employees. Funding for the state-run retiree health care program will be depleted in Fiscal Year 2001 and must be addressed immediately. Health benefit coverage for active employees is determined and provided strictly at the local level by the employing school district. Coverage varies widely from employer to employer. The TRS Certification Report and Comparability Study of local coverage for the 1999-2000 school year showed that 54% of districts reporting offered at least one plan that is comparable to the basic state plan for state employees, the remainder did not. Less than half of school employees statewide are in a comparable plan. In the most recent study, 17 districts did not offer health care coverage to their employees. As proposed, S.B. 178 provides a statewide group insurance program for employees and retirees of school districts and requires each school district to participate and automatically covers each full-time employee or retiree unless they waive coverage. S.B. 178 also creates the Texas School Employees Uniform Group Insurance Benefits Act, to be administered by TRS. Enrollment begins no later than the 2003-2004 school year. The proposed bill requires the trustee (TRS) to establish a primary health plan for program participants and their dependents. Plan coverage must be comparable in scope and, to the greatest extent possible, in cost to the basic coverage that is provided state employees. S.B. 178 also provides for the state to pay an amount established in the General Appropriations Bill for each employee and retiree. The program pays 100 percent of the cost for employees and for retirees with a least 20 years of TRS service credit. The program also pays 50 percent of the cost for retirees with between 10 and 20 years of service.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of trustees in SECTION 1 (Article 3A.002, Article 3A.005, Article 3A.051, Article 3A.053, Article 3A.102, Article 3A.104, Article 3A.105, Article 3A.106, Article 3A.255, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 1, Insurance Code, by adding Chapter 3A, as follows:

CHAPTER 3A. TEXAS SCHOOL EMPLOYEES UNIFORM GROUP
INSURANCE BENEFITS ACT
SUBCHAPTER A. GENERAL PROVISIONS

Art. 3A.001. SHORT TITLE. Authorizes this chapter to be cited as the Texas School Employees Uniform Group Insurance Benefits Act.

Art. 3A.002. DEFINITIONS. Defines "administering firm," "board of trustees," "cafeteria plan," "employee," "employer," "group program," "health benefits plan," "optional insurance fund," "plan provider," "primary health plan," "primary health fund," "program participant," "school district," and "system."

Art 3A.003. DEFINITION OF DEPENDENT AND RELATED TERMS. Defines “dependent,” “surviving dependent child,” and “surviving spouse.”

Art 3A.004. DEFINITION OF RETIREE. Defines “retiree.”

Art. 3A.005. EXEMPTION FROM PROCESS. Exempts certain contributions, benefits, rights, and money from execution, attachment, garnishment, or any other process; and prohibits their assignment except for direct payment to benefit providers as authorized by the board of trustees (board) by contract or rule.

Art. 3A.006. EXEMPTION FROM STATE TAXES AND FEES. Prohibits a premium or contribution on a policy, insurance contract, or agreement authorized by this chapter from being subject to certain taxes and fees.

Art. 3A.007. APPLICABILITY OF OTHER LAW. Provides that this chapter does not prohibit a school district from providing additional or supplemental insurance coverage under Article 3.51 or 26.036 of this code or Section 22.005 (Health Care Plan and Fund), Education Code.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Art. 3A.051. ADMINISTRATION. Provides that the board is the trustee for the group program, and requires the board to administer the group program. Authorizes the board to adopt rules, plans, procedures, and orders reasonably necessary to implement this chapter including specified ones.

Art. 3A.052. PERSONNEL. Authorizes the board to employ persons to assist the board in administering this chapter.

Art. 3A.053. USE OF GENERIC AND MAIL-ORDER DRUGS. Requires the board to adopt rules to maximize cost savings from the use of generic or mail-order prescription drugs unless the use of those drugs would cause an undue burden on or adversely affect the health of any individual covered by a health benefits plan.

Art. 3A.054. CONTRACTS. Authorizes the board to contract on a competitive bid basis with a qualified, experienced firm of group insurance specialists, or an administering firm to act as an independent administrator and manager for a plan authorized under this chapter. Requires the independent administrator to assist the board in certain responsibilities. Authorizes the board to enter into interagency contracts with any state agency, including the Employees Retirement System of Texas, for assistance in implementing or administering the group program.

Art. 3A.055. ADVISORY COMMITTEES. Authorizes the board to appoint advisory committees, which may include credentialing, medical, and retirement advisory committees, to advise the system in the implementation or administration of the group program.

SUBCHAPTER C. PROGRAM PARTICIPATION AND COVERAGE

Art. 3A.101. PARTICIPATION IN GROUP PROGRAM. Provides that each school district is required to participate in the group program unless the school district is participating in a group insurance program under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, V.T.I.C.). Provides that each full-time employee or retiree is automatically covered by the primary health plan for employees or retirees unless the employee or retiree specifically waives coverage or is expelled from the group program. Provides that each part-time employee is eligible to participate in the primary health plan on proper application unless the employee has been expelled from the group program. Requires each employer to notify each of its part-time employees of their eligibility for participation in the primary health plan.

Art. 3A.102. PRIMARY HEALTH COVERAGE. Requires the board to administer a primary health plan for program participants and their dependents, surviving spouses, and surviving children. Requires the plan to be comparable in scope and cost to the basic coverage of state employees under the Texas Employees Uniform Group Insurance Benefits Act. Requires the board to offer program participants plans of comparable health coverage, but authorizes the board to offer enhanced primary health coverage to program participants without Medicare coverage so that all program participants receive comparable benefits under the primary health plan. Requires the board by rule to define the primary health coverage in which each full-time employee or retiree participates unless specifically waived.

Art. 3A.103. COVERAGE FOR DEPENDENTS OF PRIMARY HEALTH PLAN PARTICIPANTS. Provides that a program participant who is covered by the primary health plan is entitled to obtain dependent coverage in the primary health plan as determined by the board. Requires additional contribution payments for dependent coverage to be made by the program participant in the manner determined by the board of trustees.

Art. 3A.104. COVERAGE FOR SURVIVING SPOUSE OR DEPENDENTS OF SURVIVING SPOUSE. Authorizes a surviving spouse to elect to retain or obtain coverage from the primary health plan for the surviving spouse or dependents of the surviving spouse at the applicable rate for a dependent. Requires the surviving spouse to make contributions as determined by rule by the board.

Art. 3A.105. COVERAGE FOR SURVIVING DEPENDENT CHILD. Authorizes a surviving dependent child, the guardian of the child's estate, or the person having custody of the child to elect to retain or obtain coverage from the primary health plan for the surviving dependent child. Requires the applicable contributions to be provided in the manner established by rules adopted by the board of trustees.

Art. 3A.106. OPTIONAL GROUP COVERAGE. Requires the board to contract with a qualified plan provider to offer program participants certain insurance coverage, and authorizes the board to offer program participants other optional group insurance coverages considered advisable by the board. Requires competitive bidding prescribed by rule by the board in contracting for any benefits, and authorizes the rules to provide criteria to determine qualified plan providers. Provides that the board is not required to select the lowest bid, and authorizes the board to consider ability to service contracts, past experiences, financial stability, and other relevant criteria. Requires the deviation of products by the awarded entity to be recorded and fully justified in the minutes of the next meeting of the board. Requires insurance coverage to be made available periodically during open-enrollment periods determined by the board.

Art. 3A.107. AVAILABILITY OF OPTIONAL COVERAGE. Requires the board to offer the optional insurance coverage to employees through their employers and retirees through the system. Requires the board to offer long-term care insurance to a program participant's dependent, surviving spouse, parent or grandparent, and spouse's or surviving spouse's parent. Provides that each program participant who participates in optional insurance coverage is responsible for the full cost of that coverage. Requires employees and retirees who participate in optional insurance coverage to fully pay the cost of the coverage through contributions by payroll deduction remitted by the employee's employer and contributions by deduction from the retiree's monthly retirement annuity respectively.

SUBCHAPTER D. CONTRIBUTIONS

Art. 3A.151. FUNDING OF PRIMARY HEALTH COVERAGE. Requires the state to contribute for each program participant the amount provided by the General Appropriations Act. Requires the board to pay from the primary health fund 100 percent of the cost of coverage for employees of a school district participating in the group program and for retirees who retired with

at least 20 years of actual service credit with the system, and 50 percent of the cost of coverage for retirees who retired with at least 10 years but less than 20 years of actual service credit with the system. Requires the amount that exceeds state contributions for the selected primary health coverage to be paid by the employee or retiree or the employee's school district, according to the employee's employment contract.

Art. 3A.152. CERTIFICATION OF AMOUNT NECESSARY TO PAY STATE CONTRIBUTION. Requires the board to certify the amount necessary to pay the state contributions to the primary health fund to the Legislative Budget Board and the budget division of the governor's office, not later than October 31 preceding each regular session of the legislature.

SUBCHAPTER E. FUNDS

Art. 3A.201. SCHOOL EMPLOYEES PRIMARY HEALTH COVERAGE FUND. Provides that the school employees primary health coverage fund is created as a trust fund with the comptroller, who is custodian of the fund. Requires the board to administer the primary health coverage fund on behalf of the participants in the plans of coverage provided under this chapter. Requires certain monies to be paid into the primary health fund. Authorizes money in the primary health fund to be used only to pay for primary health coverage, including the expenses of administering the program.

Art. 3A.202. PUBLIC SCHOOL EMPLOYEES OPTIONAL INSURANCE FUND. Provides that the school employees optional insurance fund is created as a trust fund with the comptroller, who is custodian of the fund. Requires the board to administer the optional insurance fund, which is required to be credited with monies from certain sources, on behalf of the participants in the plans of insurance coverage. Authorizes money in the optional insurance fund to be used only to pay for optional insurance coverage, including the expenses of administering the optional insurance program.

Art. 3A.203. INVESTMENT AUTHORITY. Authorizes the board to invest assets of any fund administered under this subchapter in the manner provided by Subchapter D (Management of Assets), Chapter 825, Government Code.

SUBCHAPTER F. RECORDS, PROCEEDINGS, AND ACCOUNTING

Art. 3A.251. CONFIDENTIALITY OF RECORDS. Provides that Section 825.507 (Confidentiality of Information About Members, Retirees, Annuitants, Beneficiaries, or Alternate Payees), Government Code, applies to information in records relating to a retiree, employee, annuitant, or beneficiary under the group program. Authorizes the system to disclose to a health or benefit provider information in the records of an individual that the system determines is necessary to administer the group program.

Art. 3A.252. CLAIM DENIAL OR EXPULSION. Authorizes a program participant or a covered dependent, surviving spouse, or surviving dependent child to appeal a claim denial or an expulsion from the group program to the board, and provides that an adjudication of claims and expulsion from the group program are subject to the contested case provisions under Chapter 2001 (Administrative Procedure), Government Code.

Art. 3A.253. HEARING EXAMINER. Authorizes the board to delegate its authority to adjudicate claims and expulsions to a qualified hearing examiner.

Art. 3A.254. APPEAL. Provides that a decision of the board or a hearing examiner is subject to review by a district court in Travis County or in the county in which the claimant resides, and provides that an appeal of a determination under this section is under the substantial evidence rule.

Art. 3A.255. ANNUAL ACCOUNTING. Defines “plan year” as the period beginning on September 1 and ending on the following August 31. Requires group coverage to provide for an accounting, which must be submitted on a form approved by the board and not later than the 90th day after the last day of each plan year, to the board of trustees by each plan provider providing the coverage. Requires a plan provider to prepare any other report required by rule by the board, and prohibits an accounting report from being assessed an additional charge.

SECTION 2. Repealers: Section 22.004 (Group Health Benefits for School Employees), Education Code.

Repealer: Article 3.50-4 (Texas Public School Employees Group Insurance Program), Insurance Code.

Repealer: Article 3.50-4A (Insurance for School District Employees and Retirees), Insurance Code, as added by Chapter 1540, Acts of the 76th Legislature, Regular Session, 1999.

Repealer: Article 3.50-4A (Texas Public School Employees Group Long-Term Care Insurance Program), Insurance Code, as added by Chapter 372, Acts of the 76th Legislature, Regular Session, 1999.

SECTION 3. Provides for certain transfers of assets and liabilities, coverages, and records not later than certain dates.

SECTION 4. Requires the Teacher Retirement System of Texas (TRS) to use money appropriated by the 77th Legislature for initial costs for the establishment of a primary health plan in a manner necessary to ensure that enrollment in that plan provided under Chapter 3A, Insurance Code, begins not later than the 2003-2004 school year. Requires TRS in 2002 to deliver with the certification required under Article 3A.152, Insurance Code, a comprehensive report on its proposal for the primary health plan under that article and the status of planned implementation of the primary health plan.

SECTION 5. Effective date: upon passage or 90 days after adjournment.

Effective date of SECTION 2 of this Act: September 1, 2003.