

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 3976  
By: Ashby et al. (Huffman)  
State Affairs  
5/15/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties suggest that the law relating to the administration of and benefits payable under the Texas Public School Retired Employees Group Benefits Act is in need of revision. H.B. 3976 seeks to provide for that revision. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 3976 amends current law relating to the administration of and benefits payable under the Texas Public School Retired Employees Group Benefits Act.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Teacher Retirement System of Texas (TRS) is modified in SECTION 4 (Section 1575.052, Insurance Code) of this bill.

Rulemaking authority previously granted to TRS is rescinded in SECTION 24 (Sections 1575.205 and 1575.212, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1575.002, Insurance Code, by amending Subdivision (5) and adding Subdivisions (5-a) and (5-b), to redefine "health benefit plan" and defines "Medicare advantage plan" and "Medicare prescription drug plan."

SECTION 2. Amends Subchapter A, Chapter 1575, Insurance Code, by adding Section 1575.0025, as follows:

Sec. 1575.0025. REFERENCES TO BASIC PLAN. Defines "basic plan."

SECTION 3. Amends Section 1575.006(a), Insurance Code, to delete existing text providing that optional benefits payments are exempt from execution, attachment, garnishment, or any other process.

SECTION 4. Amends Section 1575.052(a), Insurance Code, as follows:

(a) Authorizes the Teacher Retirement System of Texas (TRS) to adopt rules, plans, procedures, and orders reasonably necessary to implement this chapter including:

(1) makes no change to this subdivision;

(2) group coverage for retirees, dependents, surviving spouses, and surviving dependent children, rather than basic and optional group coverage for retirees, dependents, surviving spouses, and surviving dependent children;

(3) makes no change to this subdivision;

(4) periods for enrollment and selection of coverage and procedures, rather than optional coverage and procedures, for enrolling and exercising options under the group program.

(5) and (6) makes no changes to these subdivisions; and

(7) a timetable for:

(A) makes no change to this paragraph;

(B) establishing health benefit plans offered under the group program, rather than group plans; and

(C) taking bids and awarding contracts for health benefit plans offered under the group program, rather than group plans.

SECTION 5. Amends Section 1575.152, Insurance Code, as follows:

Sec. 1575.152. New heading: HEALTH BENEFIT PLAN MUST COVER PREEXISTING CONDITIONS. Requires that a health benefit plan, rather than basic plan, offered under the group program, other than a Medicare Advantage plan or a Medicare prescription drug plan, cover preexisting conditions.

SECTION 6. Amends Section 1575.153, Insurance Code, as follows:

Sec. 1575.153. New heading: HEALTH BENEFIT PLAN COVERAGE FOR RETIREES. (a) Creates this subsection from existing text. Prohibits a retiree who applies for coverage during an enrollment period from being denied coverage in a health benefit plan, rather than in a basic plan, provided under this chapter for which the retiree is eligible unless TRS finds under Subchapter K (Expulsion for Fraud) that the retiree defrauded or attempted to defraud the group program.

(b) Requires a retiree who has coverage under a health benefit plan offered under the group program to pay a monthly contribution, as determined by TRS.

(c) Requires the retiree, as a condition of electing coverage under a health benefit plan, to, in writing, authorize TRS to deduct the amount of the contribution from the retiree's monthly annuity payment. Requires TRS to deduct the contribution in the manner and form determined by TRS.

(d) Provides that, notwithstanding Subsection (b), a retiree is not required to pay a monthly contribution under this section until the 2022 plan year if the retiree meets certain criteria.

(e) Provides that this subsection and Subsection (d) expire at the end of the 2021 plan year on December 31, 2021.

SECTION 7. Amends Section 1575.155(a), Insurance Code, to provide that a retiree participating in the group program is entitled to secure for the retiree's dependents group coverage, rather than dependents group coverage provided for the retiree, under this chapter for which the dependents are eligible under this chapter or any other law, including requirements established, rather than as determined, by TRS.

SECTION 8. Amends Section 1575.156, Insurance Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Authorizes a surviving spouse who is entitled to group coverage under this chapter to elect to retain or obtain coverage for which the surviving spouse or dependents of the surviving spouse are eligible, rather than at the applicable rate for the deceased participant.

(c) Requires a surviving spouse who elects under this section to retain or obtain coverage under a health benefit plan offered under the group program for the surviving spouse or dependents of the surviving spouse to pay a monthly contribution, as determined by TRS.

(d) Requires the surviving spouse, as a condition of electing coverage under a health benefit plan, to, in writing, authorize TRS to deduct the amount of the contribution from the surviving spouse's monthly annuity payment. Requires TRS to deduct the contribution in the manner and form determined by TRS.

SECTION 9. Amends Section 1575.157, Insurance Code, as follows:

Sec. 1575.157. **COVERAGE FOR SURVIVING DEPENDENT CHILD.** (a) 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 group coverage for which the surviving dependent child is eligible at the applicable rate for a dependent.

(b) Requires a surviving dependent child who has coverage under a health benefit plan offered under the group program to pay a monthly contribution, as determined by TRS. Requires that the applicable contributions be provided by the surviving dependent child in the manner established by TRS, rather than by Section 1575.205 (Participation Contribution for Optional Plan) and by TRS.

SECTION 10. Amends the heading to Section 1575.158, Insurance Code, to read as follows:

Sec. 1575.158. **GROUP HEALTH BENEFIT PLANS.**

SECTION 11. Amends Section 1575.158, Insurance Code, by amending Subsection (a) and adding Subsections (c), (d), and (e), as follows:

(a) Requires TRS to establish or contract for and make available under the group program a high deductible health plan for retirees, dependents, surviving spouses, or surviving dependent children who are eligible under Section 1575.1582. Deletes existing text authorizing TRS subject to Section 1575.1581 (Limitation on Enrollment in Optional Group Health Benefit Plan) to, in addition to providing a basic plan, contract for and make available an optional group health benefit plan for retirees, dependents, surviving spouses, or surviving dependent children.

(c) Requires TRS to establish or contract for and make available under the group program a Medicare Advantage plan and a Medicare prescription drug plan for retirees, dependents, surviving spouses, and surviving dependent children who are eligible under Section 1575.1582.

(d) Authorizes TRS, notwithstanding Subsection (c), if TRS determines that a Medicare Advantage plan or Medicare prescription drug plan is no longer appropriate for the group program, to establish or contract for and make available under the group program other health benefit plans to provide medical or pharmacy benefits.

(e) Requires TRS, to the extent the group program has available funds, to consider implementing a plan design for non-Medicare eligible enrollees in the high deductible health plan established or made available under Subsection (a) that provides assistance in the payment of preventive care, including generic preventive maintenance medications, in a manner that is consistent with federal law.

SECTION 12. Amends Subchapter D, Chapter 1575, Insurance Code, by adding Section 1575.1582, as follows:

Sec. 1575.1582. **ELIGIBILITY FOR GROUP HEALTH BENEFIT PLANS.** (a) Provides that a retiree, dependent, surviving spouse, or surviving dependent child who is not eligible to enroll in Medicare is eligible to enroll in a high deductible health plan offered under the group program, subject to any other applicable eligibility requirements, including requirements established by TRS, but is not eligible to enroll in another health benefit plan offered under the group program.

(b) Provides that a retiree, dependent, surviving spouse, or surviving dependent child who is eligible to enroll in Medicare is eligible to enroll in a Medicare Advantage plan or a Medicare prescription drug plan offered under the group program, subject to any other applicable eligibility requirements, including requirements established by TRS, but is not eligible to enroll in another health benefit plan offered under the group program unless authorized by Subsection (c).

(c) Provides that if TRS makes another health benefit plan available under Section 1575.158(d), any individual otherwise eligible under this section to enroll in a Medicare Advantage plan or Medicare prescription drug plan is eligible to enroll in that health benefit plan.

SECTION 13. Amends Section 1575.159, Insurance Code, as follows:

Sec. 1575.159. COVERAGE FOR PROSTATE-SPECIFIC ANTIGEN TEST. Requires that a health benefit plan offered under the group program, other than a Medicare Advantage plan or a Medicare prescription drug plan, provide coverage for a medically accepted prostate-specific antigen test used for the detection of prostate cancer for each male enrolled in the health benefit plan who meets certain criteria.

SECTION 14. Amends the heading to Section 1575.161, Insurance Code, to read as follows:

Sec.1575.161. ENROLLMENT PERIODS.

SECTION 15. Amends Section 1575.161, Insurance Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Authorizes a retiree eligible for coverage under the group program to select for the retiree and the retiree's eligible dependents any coverage provided under this chapter for which each of those individuals, rather than the person, is otherwise eligible:

(1) on any date that is on or after the date the retiree, rather than the person, retires and on or before the 90th day after that date;

(2) during a period beginning on the date the retiree reaches 65 years of age and ending on a date set by TRS by rule; and

(3) redesignates existing Subdivision (2) as Subdivision (3) and makes no further changes to this subdivision.

(f) Authorizes an individual enrolled in a health benefit plan offered under the group program to remain enrolled in that health benefit plan as long as the individual remains eligible for that health benefit plan. Requires TRS, if an individual becomes ineligible for a health benefit plan in which the individual enrolled, to enroll the individual in a health benefit plan for which the individual is eligible, if any, in accordance with procedures established by TRS.

SECTION 16. Amends Section 1575.164(b), Insurance Code, to require a health benefit plan provided under this chapter, other than a Medicare Advantage plan or a Medicare prescription drug plan, to provide certain disease management services or coverage for disease management services in the manner required by TRS.

SECTION 17. Amends Section 1575.170(b), Insurance Code, to require that a health benefit plan under this chapter, other than a Medicare Advantage plan or a Medicare prescription drug plan, that uses drug formulary in providing a prescription drug benefit require prior authorization for coverage of certain categories of prescribed drugs if the specific drug prescribed is not included in the formulary.

SECTION 18. Amends Section 1575.201, Insurance Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires that the state, through TRS, contribute from money in the retired school employees group insurance fund (fund) an amount prescribed by the General Appropriations Act to cover all or part of the cost for each retiree, surviving spouse, and surviving dependent child enrolled in a health benefit plan offered under the group program. Deletes existing text requiring the state through TRS to contribute from money in the fund the total cost of the basic plan covering each participating retiree and for each participating dependent, surviving spouse, and surviving dependent child, the amount prescribed by the General Appropriations Act to cover part of the cost of the basic plan covering the dependent, surviving spouse, and surviving dependent child.

(c) Authorizes TRS to spend a part of the money received for the group program to offset a part of the costs for dependent coverage if the group program is projected to remain financially solvent during the currently funded biennium.

SECTION 19. Amends Section 1575.202(a), Insurance Code, by increasing from one percent to 1.25 percent the amount that the state is required to contribute to the fund.

SECTION 20. Amends Section 1575.210(a), Insurance Code, as follows:

(a) Requires that contributions allocated and appropriated under this subchapter for a state fiscal year be:

(1) paid in equal monthly installments, rather than paid from the general revenue fund in equal monthly installments;

(2) and (3) makes no changes to these subdivisions.

SECTION 21. Amends Section 1575.211(a), Insurance Code, to require that the total costs for the operation of the group program be shared among the state, the public schools, the active employees, the retirees, the surviving spouses, and the surviving dependent children in the manner prescribed by the General Appropriations Act. Makes a nonsubstantive change.

SECTION 22. Amends Section 1575.212, Insurance Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires TRS to establish and collect payments for the share of total costs allocated under Section 1575.211 (Cost Sharing) to retirees, surviving spouses, and surviving dependent children.

(b) Authorizes TRS, in establishing the payments under Subsection (a-1), to consider various factors, including an enrollee's Medicare status, health benefit plan election, and dependent coverage. Deletes existing text authorizing TRS, in establishing ranges for payment of the share of total costs allocated under Section 1575.211 to retirees, to consider the years of service credit accrued by a retiree and to reward those retirees with more years of service credit.

SECTION 23. Amends Section 1575.302, Insurance Code, as follows:

Sec. 1575.302. PAYMENTS INTO FUND. Requires that the following be paid into the fund:

(1) contributions from active employees and the state, rather than contributions from active employees and the state, including contributions for optional coverages;

(2) investment income;

(3) appropriations for implementation of the group program; and

(4) other money required or authorized to be paid into the fund.

SECTION 24. Repealer: Section 1575.103 (Plans May Vary According to Medicare Coverage), Insurance Code.

Repealer: Section 1575.156(b) (relating to requiring a spouse to provide payment of applicable contributions in a certain manner), Insurance Code.

Repealer: Section 1575.158(b) (relating to authorizing an optional group health benefit to provide for certain things), Insurance Code.

Repealer: Section 1575.1581 (Limitation on Enrollment in Optional Group Health Benefit Plan), Insurance Code.

Repealers: Sections 1575.161(b) (relating to certain enrollment periods for certain benefits for retirees), (c) (relating to authorizing the retiree to enroll in any coverage tier under the group program and to add dependent coverage in that same tier), (d) (relating to authorizing the retiree, if the retiree is covered by the Medicare program, to enroll in any coverage tier under the group program and to add dependent coverage in that same coverage tier), and (e) (relating to a retiree enrolled in a coverage tier under the group program to select a lower level of coverage at any time), Insurance Code.

Repealer: Section 1575.201(b) (relating to requiring the trustee to collect the amount of premium required for basic coverage under the group program that exceeds the amount contributed by the state for certain individuals), Insurance Code.

Repealer: Section 1575.205 (Participation Contribution For Optional Plan), Insurance Code.

Repealer: Section 1575.211(b) (relating to the amount paid by certain entities determining the allocation of total costs of a group program), Insurance Code.

Repealer: Section 1575.212(a) (relating to requiring the trustee by rule to establish ranges for payment of the share of total costs), Insurance Code.

SECTION 25. Makes application of this Act prospective to the 2018 plan year.

SECTION 26. Effective date: September 1, 2017.