

## **BILL ANALYSIS**

Senate Research Center  
85R10474 LED-F

S.B. 788  
By: Huffman  
State Affairs  
3/31/2017  
As Filed

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

The Teacher Retirement System of Texas (TRS) delivers retirement and related benefits as authorized by law for TRS members and their beneficiaries. In order to comply with fiduciary standards, funds held in the TRS trust must be used exclusively for the benefit of members.

S.B. 788 amends current law relating to contributions to, benefits from, and the administration of systems and programs administered by TRS.

As proposed, S.B. 788 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Rulemaking authority previously granted to TRS is rescinded in SECTION 22 (Sections 1575.205 and 1575.212, Insurance Code) of this bill.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 define "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 remove optional benefit payments from among the payments that 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 (trustee) to adopt rules, plans, procedures, and orders to implement this chapter, including group coverage, rather than basic and optional group coverage, for retirees, dependents, surviving spouses, and surviving dependent children, periods for enrollment and selection of coverage, rather than optional coverage, and procedures for enrolling and exercising options under the group program and a timetable for establishing certain information relating to 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 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, to 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 basic plan, provided under this chapter for which the retiree is eligible unless the trustee 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 the trustee.

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

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 under this chapter (Texas Public School Employees Group Benefit Program for which the dependents are eligible, rather than group coverage provided for the retiree under this chapter as determined by the trustee.

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 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 the trustee.

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

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

Sec. 1575.157. COVERAGE FOR SURVIVING DEPENDENT CHILD. (a) Authorizes a surviving dependent child or certain guardians of the child to elect to retain group coverage for which the child is eligible.

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

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) and (d), as follows:

(a) Requires the trustee to establish or contract for and make available under the group program a high deductible health plan for certain persons who are eligible under Section 1575.1582, rather than authorizes the trustee to contract for and make available an optional group health benefit plan for certain persons. Deletes existing text providing that the authorization for the trustee is subject to Section 1575.1581 (Limitation of Enrollment in Optional Group Health Benefit Plan).

(c) Requires the trustee 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 the trustee, notwithstanding Subsection (c) and if the trustee determines that a Medicare Advantage plan or a 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.

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, 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, 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 the trustee 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, to require a health benefit plan offered under the group program, other than a Medicare Advantage plan or a Medicare prescription drug plan, to provide coverage for a medically accepted prostate-specific antigen test for certain males enrolled in the health benefit plan.

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, surviving spouse, or surviving dependent child, rather than a retiree, eligible for coverage under the group program to select for that individual and the individual's eligible dependents any coverage provided under this chapter for which each of those individuals is otherwise eligible on certain dates or during certain periods.

(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 the trustee, if an individual becomes ineligible for a health benefit plan in which the individual is enrolled, to enroll the individual in a health benefit plan for which the individual is eligible, if any, in accordance with procedures established by the trustee.

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.

SECTION 17. Amends Section 1575.170(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, that uses a drug formulary in providing a prescription drug benefit to require prior authorization for coverage of certain categories of drugs.

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

(a) Requires the state through the trustee to 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, rather than the total cost of the basic plan covering each participating retiree and, for each participating dependent, surviving spouse, and surviving dependent child, part of the cost.

(c) Authorizes the trustee 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 1575.211(a), Insurance Code, to require the total costs for the operation of the group program to be shared among the state, the public schools, the active employees, the retirees, the surviving spouses, and the surviving dependent children, rather than the state, the public schools, the active employees, and the retirees.

SECTION 20. Amends Section 1575.212, Insurance Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

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

SECTION 21. Amends Section 1575.302, Insurance Code, to remove contributions for optional coverages from among certain contributions required to be paid into the fund.

SECTION 22. Repealers:

(1) Section 1575.103 (Plans May Vary According to Medicare Coverage);

(2) 1575.156(b) (relating to the requirement for a surviving spouse to provide payment of applicable contributions);

(3) 1575.158(b) (relating to certain benefits an optional group health benefit plan is authorized to provide);

(4) 1575.1581 (Limitation on Enrollment in Optional Group Health Benefit Plan);

(5) 1575.161(b) (relating to certain eligible retirees in addition to the authorized enrollment periods) (c) (relating to the authorization for certain retirees to enroll in a higher coverage tier), (d) (relating to the authorization of retirees covered by Medicare to enroll themselves and dependents in certain coverage tiers), and (e) (relating to the right to select a lower tier of coverage);

(6) 1575.201(b) (relating to the requirement for the trustee to collect a certain amount of premium)

(7) 1575.205;

(8) 1575.211(b) (relating to the requirement of the state and retirees to pay certain amounts of the total cost); and

(9) 1575.212(a) (relating to the requirement that the trustee by rule establish payment ranges for sharing the total cost), Insurance Code.

SECTION 23. Makes application of this Act prospective to the 2019 plan year.

SECTION 24. Effective date: September 1, 2017.