

By: Guillen

H.B. No. 68

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a health coverage or compensation supplementation
3 program for active school employees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 1580, Insurance Code, is reenacted and
6 amended to read as follows:

7 CHAPTER 1580. ACTIVE EMPLOYEE HEALTH COVERAGE

8 OR COMPENSATION SUPPLEMENTATION

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 1580.001. DEFINITIONS. In this chapter:

11 (1) "Cafeteria plan" means a plan as defined and
12 authorized by Section 125, Internal Revenue Code of 1986, and its
13 subsequent amendments.

14 (2) "Employee" means a participating member of the
15 Teacher Retirement System of Texas who:

16 (A) is employed by a school district, other
17 educational district whose employees are members of the Teacher
18 Retirement System of Texas, participating charter school, or
19 regional education service center; and

20 (B) is not a retiree covered under the program
21 established under Chapter 1575.

22 (3) "Participating charter school" means an
23 open-enrollment charter school established under Subchapter D,
24 Chapter 12, Education Code, that participates in the program

1 established under Chapter 1579.

2 (4) "Regional education service center" means a
3 regional education service center established under Chapter 8,
4 Education Code.

5 (5) "Trustee" means the Teacher Retirement System of
6 Texas.

7 Sec. 1580.002. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

8 (a) The trustee may adopt rules to implement this chapter.

9 (b) The trustee may enter into interagency contracts with
10 any agency of this state for the purpose of assistance in
11 implementing this chapter.

12 [Sections 1580.003-1580.050 reserved for expansion]

13 SUBCHAPTER B. DISTRIBUTION OF STATE FUNDS BY TRUSTEE

14 Sec. 1580.051. DISTRIBUTION BY TRUSTEE. For purposes of
15 this chapter [~~Each year~~], the trustee shall deliver to each school
16 district, including a school district that is ineligible for state
17 aid under Chapter 42, Education Code, each other educational
18 district that is a member of the Teacher Retirement System of Texas,
19 each participating charter school, and each regional education
20 service center state funds in an amount, as determined by the
21 trustee, equal to:

22 (1) for school year 2004-2005, the product of the
23 number of active employees employed by the district, school, or
24 service center multiplied by \$1,000 or a greater amount as provided
25 by the General Appropriations Act; and

26 (2) for each school year after school year 2004-2005,
27 an amount equal to 120 percent of the amount computed under

1 Subdivision (1) [~~for purposes of this chapter~~].

2 Sec. 1580.052. EQUAL INSTALLMENTS. The trustee shall
3 distribute funds under this chapter in equal monthly installments.

4 Sec. 1580.053. FUNDS HELD IN TRUST. All funds received by a
5 school district, other educational district, participating charter
6 school, or regional education service center under this chapter are
7 held in trust for the benefit of the active employees on whose
8 behalf the district, school, or service center received the funds.

9 Sec. 1580.054. RECOVERY OF DISTRIBUTIONS. The trustee is
10 entitled to recover from a school district, other educational
11 district, participating charter school, or regional education
12 service center any amount distributed under this chapter to which
13 the district, school, or service center was not entitled.

14 Sec. 1580.055. DETERMINATION OF TRUSTEE FINAL. A
15 determination by the trustee under this subchapter is final and may
16 not be appealed.

17 [Sections 1580.056-1580.100 reserved for expansion]

18 SUBCHAPTER C. EMPLOYEE ELECTION

19 Sec. 1580.101. EMPLOYEE COVERED BY CAFETERIA PLAN. (a) If
20 an active employee is covered by a cafeteria plan of a school
21 district, other educational district, participating charter
22 school, or regional education service center, the state
23 contribution under this chapter shall be deposited in the cafeteria
24 plan, and the employee may elect among the options provided by the
25 cafeteria plan.

26 (b) A cafeteria plan receiving state contributions under
27 this chapter may include a medical savings account option and must

1 include, at a minimum, the following options:

2 (1) a health care reimbursement account;

3 (2) a benefit or coverage other than that provided
4 under Chapter 1579, or any employee coverage or dependent coverage
5 available under Chapter 1579 but not otherwise fully funded by the
6 state or the employer contributions, any of which must be a
7 "qualified benefit" under Section 125, Internal Revenue Code of
8 1986, and its subsequent amendments;

9 (3) an option for the employee to receive the state
10 contribution as supplemental compensation; or

11 (4) an option to divide the state contribution among
12 two or more of the other options provided under this subsection.

13 Sec. 1580.102. EMPLOYEE NOT COVERED BY CAFETERIA PLAN. If
14 an active employee is not covered by a cafeteria plan of a school
15 district, other educational district, participating charter
16 school, or regional education service center, the state
17 contribution under this chapter shall be paid to the active
18 employee as supplemental compensation.

19 Sec. 1580.103. SUPPLEMENTAL COMPENSATION. Supplemental
20 compensation under this subchapter must be in addition to the rate
21 of compensation that:

22 (1) the school district, other educational district,
23 participating charter school, or regional education service center
24 paid the employee in the preceding school year; or

25 (2) the district, school, or service center would have
26 paid the employee in the preceding school year if the employee had
27 been employed by the district, school, or service center in the same

1 capacity in the preceding school year.

2 Sec. 1580.104. TIME FOR ELECTION. For each state fiscal
3 year, an election under this subchapter must be made before the
4 later of:

- 5 (1) August 1 of the preceding state fiscal year; or
- 6 (2) the 31st day after the date the employee is hired.

7 Sec. 1580.105. WRITTEN EXPLANATION; ELECTION FORM. (a)
8 The trustee shall prescribe and distribute to each school district,
9 other educational district, participating charter school, and
10 regional education service center:

11 (1) a model explanation written in English and Spanish
12 of the options active employees may elect under this section and the
13 effect of electing each option; and

14 (2) an election form to be completed by active
15 employees.

16 (b) Each state fiscal year, a school district, other
17 educational district, participating charter school, or regional
18 education service center shall prepare and distribute to each
19 active employee a written explanation in English and Spanish, as
20 appropriate, of the options the employee may elect under this
21 section. The explanation must be based on the model explanation
22 prepared by the trustee under Subsection (a) and must reflect all
23 available health coverage options available to the employee. The
24 explanation must be distributed to an employee before the later of:

- 25 (1) July 1 of the preceding state fiscal year; or
- 26 (2) the fifth day after the date the employee is hired.

27 (c) The written explanation under Subsection (b) must be

1 accompanied by a copy of the election form prescribed under
2 Subsection (a)(2).

3 Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any
4 unencumbered funds that are returned to the school district from
5 accounts established under Section 1580.101 may be used only to
6 provide employee compensation, benefits, or both.

7 [Sections 1580.107-1580.150 reserved for expansion]

8 SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

9 Sec. 1580.151. DEFINITION. In this subchapter, "qualified
10 health care expense" means an expense paid by an employee for
11 medical care, as defined by Section 213(d), Internal Revenue Code
12 of 1986, and its subsequent amendments, for the employee or the
13 employee's dependents, as defined by Section 152, Internal Revenue
14 Code of 1986, and its subsequent amendments.

15 Sec. 1580.152. RULES. The trustee, by rule, shall specify
16 the requirements for a medical savings account established under
17 this chapter.

18 Sec. 1580.153. QUALIFICATION OF ACCOUNT. (a) The trustee
19 shall request in writing a ruling or opinion from the Internal
20 Revenue Service as to whether the medical savings accounts
21 established under this chapter and the state rules governing those
22 accounts qualify the accounts for appropriate federal tax
23 exemptions.

24 (b) Based on the response of the Internal Revenue Service
25 under Subsection (a), the trustee shall:

26 (1) modify the rules, plans, and procedures adopted
27 under this section as necessary to ensure the qualification of

1 those accounts for appropriate federal tax exemptions; and

2 (2) certify the information regarding federal tax
3 qualifications to the comptroller.

4 Sec. 1580.154. EMPLOYEE ELECTION. An employee who elects
5 under Section 1580.101 to have state funds distributed under this
6 chapter placed in a medical savings account may use the money in
7 that account only for a qualified health care expense.

8 SECTION 2. The following laws are repealed:

9 (1) Section 57, Chapter 201, Acts of the 78th
10 Legislature, Regular Session, 2003; and

11 (2) Chapter 313, Acts of the 78th Legislature, Regular
12 Session, 2003.

13 SECTION 3. (a) This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this Act takes effect on the 91st day after the last day of
18 the legislative session.

19 (b) The changes in law made by this Act apply beginning with
20 the 2004-2005 school year.