

By: Averitt

S.B. No. 11

A BILL TO BE ENTITLED

AN ACT

relating to health coverage, compensation supplementation, and health reimbursement arrangements for active school employees.

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

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

CHAPTER 1580. ACTIVE EMPLOYEE HEALTH COVERAGE

OR COMPENSATION SUPPLEMENTATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1580.001. DEFINITIONS. In this chapter:

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

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

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

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

(3) "Participating charter school" means an open-enrollment charter school established under Subchapter D, 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 Sec. 1580.003. EXPIRATION. This chapter expires September
13 1, 2005.

14 [Sections 1580.004-1580.050 reserved for expansion]

15 SUBCHAPTER B. DISTRIBUTION OF STATE FUNDS BY TRUSTEE

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

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

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

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

11 Sec. 1580.055. DETERMINATION OF TRUSTEE FINAL. A
12 determination by the trustee under this subchapter is final and may
13 not be appealed.

14 [Sections 1580.056-1580.100 reserved for expansion]

15 SUBCHAPTER C. EMPLOYEE ELECTION

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

23 (b) A cafeteria plan receiving state contributions under
24 this chapter may include a medical savings account option and must
25 include, at a minimum, the following options:

- 26 (1) a health care reimbursement account;
27 (2) a benefit or coverage other than that provided

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

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

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

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

16 Sec. 1580.103. SUPPLEMENTAL COMPENSATION. Supplemental
17 compensation under this subchapter must be in addition to the rate
18 of compensation that:

19 (1) the school district, other educational district,
20 participating charter school, or regional education service center
21 paid the employee in the preceding school year; or

22 (2) the district, school, or service center would have
23 paid the employee in the preceding school year if the employee had
24 been employed by the district, school, or service center in the same
25 capacity in the preceding school year.

26 Sec. 1580.104. TIME FOR ELECTION. For each state fiscal
27 year, an election under this subchapter must be made before the

1 later of:

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

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

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

11 (2) an election form to be completed by active
12 employees.

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

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

24 (c) The written explanation under Subsection (b) must be
25 accompanied by a copy of the election form prescribed under
26 Subsection (a)(2).

27 Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any

1 unencumbered funds that are returned to the school district from
2 accounts established under Section 1580.101 may be used only to
3 provide employee compensation, benefits, or both.

4 [Sections 1580.107-1580.150 reserved for expansion]

5 SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

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

12 Sec. 1580.152. RULES. The trustee, by rule, shall specify
13 the requirements for a medical savings account established under
14 this chapter.

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

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

23 (1) modify the rules, plans, and procedures adopted
24 under this section as necessary to ensure the qualification of
25 those accounts for appropriate federal tax exemptions; and

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

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

5 SECTION 2. Subtitle H, Title 8, Insurance Code, is amended
6 by adding Chapter 1583 to read as follows:

7 CHAPTER 1583. ACTIVE EMPLOYEE HEALTH

8 REIMBURSEMENT ARRANGEMENTS FOR CERTAIN EDUCATION EMPLOYEES

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 1583.001. GENERAL DEFINITIONS. In this chapter:

11 (1) "Account" means a health reimbursement
12 arrangement account established under this chapter for a
13 participating employee.

14 (2) "Administering firm" means any entity designated
15 by the trustee to administer any coverages, services, benefits, or
16 requirements under this chapter and the trustee's rules adopted
17 under this chapter.

18 (3) "Approved health benefit plan provider" means an
19 entity approved by the trustee to offer health benefit plan
20 coverage under this chapter.

21 (4) "Dependent" means:

22 (A) the spouse of a person;

23 (B) an unmarried child of the person if that
24 child is under 25 years of age, including:

25 (i) an adopted child;

26 (ii) a stepchild, foster child, or other
27 child who has a regular parent-child relationship with the person;

1 or

2 (iii) a recognized natural child; or

3 (C) the person's recognized natural child,
4 adopted child, foster child, stepchild, or other child who is in a
5 regular parent-child relationship with the participating employee
6 and who lives with or has his or her care provided by the person on a
7 regular basis regardless of the child's age if the child is mentally
8 retarded or physically incapacitated to an extent that the child is
9 dependent on the person for care or support, as determined by the
10 trustee.

11 (5) "Employee" means a participating member of the
12 Teacher Retirement System of Texas who:

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

17 (B) is not a retiree covered under the program
18 established under Chapter 1575;

19 (C) is not covered by a group insurance program
20 under Chapter 1551 or 1601; and

21 (D) is not an individual performing personal
22 services for a participating entity as an independent contractor.

23 (6) "Health benefit plan" means a plan designed to
24 provide, pay for, or reimburse expenses for health care services.

25 The term includes:

26 (A) an insurance policy, contract, or
27 certificate;

1 (B) a medical or hospital service agreement; and
2 (C) a similar arrangement, including coverage
3 through a health maintenance organization operating under Chapter
4 843.

5 (7) "Health benefit plan issuer" means an entity that
6 provides health benefit plan coverage in this state. The term
7 includes:

8 (A) an insurance company authorized to do
9 business in this state;

10 (B) a group hospital service corporation
11 operating under Chapter 842;

12 (C) a health maintenance organization operating
13 under Chapter 843;

14 (D) a stipulated premium insurance company
15 operating under Chapter 884;

16 (E) a multiple employer welfare arrangement
17 subject to Chapter 846;

18 (F) an approved nonprofit health corporation
19 that holds a certificate of authority issued under Chapter 844; and

20 (G) any other entity providing a plan of health
21 insurance or health benefits coverage subject to state regulation
22 by the department.

23 (8) "Health reimbursement arrangement" is a health
24 benefit plan that:

25 (A) is paid for solely by the employer;

26 (B) is not provided under a salary reduction
27 election;

1 (C) reimburses a participant for a qualified
2 health care expense incurred by the participant or the
3 participant's dependent;

4 (D) provides reimbursements up to a maximum
5 dollar amount at the end of a coverage period; and

6 (E) provides that any unused portion of the
7 maximum dollar amount at the end of a coverage period is carried
8 forward to increase the maximum reimbursement amount in subsequent
9 coverage periods.

10 (9) "Participant" means a person enrolled in the
11 program.

12 (10) "Participating charter school" means an
13 open-enrollment charter school established under Subchapter D,
14 Chapter 12, Education Code, that participates in the program
15 established under Chapter 1579.

16 (11) "Program" means the health reimbursement
17 arrangement program established under this chapter.

18 (12) "Qualified health care expense" means an expense
19 paid by an employee for medical care, as defined by Section 213(d),
20 Internal Revenue Code of 1986, and its subsequent amendments, for
21 the employee or the employee's dependents, as defined by Section
22 152, Internal Revenue Code of 1986, and its subsequent amendments.

23 (13) "Regional education service center" means a
24 regional education service center established under Chapter 8,
25 Education Code.

26 (14) "Trustee" means the Teacher Retirement System of
27 Texas.

1 Sec. 1583.002. DEFINITION OF EMPLOYER. (a) For purposes of
2 qualification under federal law of a health reimbursement
3 arrangement established under this chapter, "employer" means this
4 state and a school district, another educational district whose
5 employees are members of the Teacher Retirement System of Texas, a
6 participating charter school, or a regional education service
7 center.

8 (b) This chapter does not make an employee an employee of
9 this state for any purpose other than the limited purpose described
10 by Subsection (a).

11 [Sections 1583.003-1583.050 reserved for expansion]

12 SUBCHAPTER B. HEALTH REIMBURSEMENT ARRANGEMENT PROGRAM;

13 STATE CONTRIBUTION

14 Sec. 1583.051. DISTRIBUTION TO HEALTH REIMBURSEMENT
15 ARRANGEMENT. (a) For each employee, the state shall annually
16 contribute \$1,000 or the amount specified in the General
17 Appropriations Act to the health reimbursement arrangement account
18 established for that employee for the payment of qualified health
19 care expenses.

20 (b) Each year, the trustee shall contribute to the health
21 reimbursement arrangement account of each employee of each school
22 district, including a school district that is ineligible for state
23 aid under Chapter 42, Education Code, each other educational
24 district that is a member of the Teacher Retirement System of Texas,
25 each participating charter school, and each regional education
26 service center the amount to which the employee is entitled under
27 Subsection (a).

1 Sec. 1583.052. EQUAL INSTALLMENTS. The trustee shall
2 distribute funds under this chapter in equal monthly installments.

3 Sec. 1583.053. DIRECTION OF EXPENDITURES BY EMPLOYEE. (a)
4 Each employee shall direct the expenditure of the amount of the
5 state contribution made under this subchapter and that is allocated
6 to the employee in accordance with the General Appropriations Act
7 and this chapter.

8 (b) An employee may use money described by Subsection (a)
9 only in accordance with this chapter for the employee and the
10 employee's dependents for health benefit plan coverage offered by
11 approved health benefit plan providers and for other qualified
12 health care expenses.

13 Sec. 1583.054. EFFECT ON CAFETERIA PLAN. Any funds in a
14 cafeteria plan authorized by Section 125, Internal Revenue Code of
15 1986, and its subsequent amendments, and described by Section
16 1580.101, for an employee who received the funds under Chapter 1580
17 as that chapter existed immediately before September 1, 2005, that
18 were designated by the employee for health care expenses and are
19 unspent as of September 1, 2005, must be spent by the employee for
20 qualified health care expenses before the employee may spend any
21 funds from the health reimbursement arrangement account
22 established for that employee under this section.

23 Sec. 1583.055. EQUITABILITY IN NEGOTIATED RATES. (a) A
24 health benefit plan used to provide coverage under the program must
25 be designed to ensure that an employee who purchases coverage under
26 the health benefit plan through the employee's health reimbursement
27 arrangement account is entitled to pay a physician or other health

1 care provider for services provided to the employee that are not
2 reimbursed from the account at the same rate negotiated with the
3 physician or other health care provider by the approved health
4 benefit plan provider for provision of those services under the
5 plan.

6 (b) Subsection (a) applies to medical services, dental
7 services, and vision care services.

8 [Sections 1583.056-1583.100 reserved for expansion]

9 SUBCHAPTER C. PROGRAM FUNDING STRUCTURE

10 Sec. 1583.101. PROGRAM FUNDING STRUCTURE. (a) The
11 trustee, in consultation with the comptroller, shall by rule
12 develop a funding structure that:

13 (1) implements Subchapter B in accordance with this
14 chapter;

15 (2) permits an employee to carry over money allocated
16 to the employee throughout the period the employee is eligible to
17 participate in the program; and

18 (3) ensures, to the extent feasible and consistent
19 with this chapter, favorable federal tax treatment to the employee.

20 (b) The funding structure shall use a health reimbursement
21 arrangement established in a manner compatible with federal tax
22 law.

23 Sec. 1583.102. COMPTROLLER DUTIES. To implement Section
24 1583.101, the comptroller shall, as requested by the trustee:

25 (1) establish separate accounts attributable to
26 individual participating employees within the Texas school
27 employees uniform group coverage trust fund; or

1 (2) transfer funds from the Texas school employees
2 uniform group coverage trust fund to trust accounts outside the
3 fund in the custody of the comptroller established for the benefit
4 of employees.

5 Sec. 1583.103. EFFECT OF EMPLOYEE SEPARATION FROM SERVICE.

6 On an employee's separation from service with an entity described
7 by Section 1583.051(b), the employee may continue to use for
8 qualified health care expenses any money carried over by the
9 employee under Section 1583.101(a)(2) that was allocated to the
10 employee under this chapter and was not spent before the effective
11 date of the separation.

12 [Sections 1583.104-1583.150 reserved for expansion]

13 SUBCHAPTER D. GENERAL RULES AND ADMINISTRATION OF PROGRAM

14 Sec. 1583.151. RULES. The trustee shall adopt rules to
15 implement this chapter.

16 Sec. 1583.152. TRUSTEE AUTHORITY; LIMITATIONS. (a) The
17 trustee may not directly administer health benefit plan coverages
18 made available under the program and may not provide those
19 coverages on a self-funded basis.

20 (b) The trustee may not establish, approve, or limit premium
21 rates for health benefit plan coverages made available under the
22 program.

23 (c) Notwithstanding Subchapter B, the trustee may pay all
24 administrative costs incurred by the trustee in operating the
25 program from the contributions made by the state under Section
26 1583.051(a).

27 Sec. 1583.153. CONTRACTS. (a) The trustee may contract

1 with an independent and experienced group insurance consultant or
2 actuary for advice and counsel in implementing and administering
3 the program.

4 (b) The trustee may enter into interagency contracts with
5 any agency of this state, including the Employees Retirement System
6 of Texas and the department, for the purpose of assistance in
7 implementing this chapter.

8 Sec. 1583.154. COMPETITIVE BIDDING REQUIREMENTS. (a) The
9 trustee may, on a competitive bid basis, contract with an entity to
10 act for the trustee as an independent administrator or manager of
11 the coverages, services, and benefits authorized under this
12 chapter.

13 (b) The entity must be a qualified, experienced firm of
14 group insurance specialists or an administering firm and shall
15 assist the trustee in ensuring the proper administration of this
16 chapter and the coverages, services, and benefits authorized under
17 this chapter.

18 Sec. 1583.155. CONTRACT AWARD; CONSIDERATIONS. (a) In
19 awarding a contract under this chapter, the trustee is not required
20 to select the lowest bid and may consider also any relevant
21 criteria, including the bidder's:

22 (1) ability to service contracts;

23 (2) past experience, including experience with the
24 operation of health reimbursement arrangements; and

25 (3) financial stability.

26 (b) If the trustee awards a contract to a bidder whose bid
27 deviates from that advertised, the trustee shall record the

1 deviation and fully justify the reason for the deviation in the
2 minutes of the next trustee meeting.

3 Sec. 1583.156. CONFIDENTIALITY OF PARTICIPANT RECORDS. (a)
4 The records of a participant in the program in the custody of the
5 trustee, or of an administrator or health benefit plan issuer
6 acting under the program, are confidential and not subject to
7 disclosure and are exempt from the public access provisions of
8 Chapter 552, Government Code, except as provided by this section.

9 (b) The trustee may release the records to:

10 (1) an administrator, health benefit plan issuer,
11 agent, or attorney acting under the program;

12 (2) another governmental entity;

13 (3) a medical provider of the participant to
14 accomplish the purposes of this chapter; or

15 (4) a party in response to a subpoena issued under
16 applicable law.

17 [Sections 1583.157-1583.200 reserved for expansion]

18 SUBCHAPTER E. DUTIES OF HEALTH BENEFIT PLAN ISSUER

19 Sec. 1583.201. CERTIFICATE OF COVERAGE. An approved health
20 benefit plan provider shall issue, to each employee purchasing
21 health benefit plan coverage from the health benefit plan provider
22 under the program, a certificate of coverage that states:

23 (1) the benefits to which the participant is entitled;

24 (2) to whom the benefits are payable;

25 (3) to whom a claim must be submitted; and

26 (4) the provisions of the plan document, in summary
27 form, that principally affect the participant.

1 Sec. 1583.202. ISSUER RECORDS. A health benefit plan
2 issuer providing coverages to participants in the program shall:

3 (1) furnish any reasonable report the trustee
4 determines is necessary to enable the trustee to perform its
5 functions under this chapter; and

6 (2) permit the trustee and a representative of the
7 state auditor to examine records of the health benefit plan issuer
8 as necessary to accomplish the purposes of this chapter.

9 SECTION 3. Section 822.201(c), Government Code, is
10 reenacted and amended to read as follows:

11 (c) Excluded from salary and wages are:

12 (1) expense payments;

13 (2) allowances;

14 (3) payments for unused vacation or sick leave;

15 (4) maintenance or other nonmonetary compensation;

16 (5) fringe benefits;

17 (6) deferred compensation other than as provided by
18 Subsection (b)(3);

19 (7) compensation that is not made pursuant to a valid
20 employment agreement;

21 (8) payments received by an employee in a school year
22 that exceed \$5,000 for teaching a driver education and traffic
23 safety course that is conducted outside regular classroom hours;

24 (9) the benefit replacement pay a person earns as a
25 result of a payment made under Subchapter B or C, Chapter 661;

26 (10) supplemental compensation received by an
27 employee under Chapter 1580 [~~Article 3.50-8~~], Insurance Code, or

1 contributions to a health reimbursement arrangement account
2 received by an employee under Chapter 1583, Insurance Code; and

3 (11) any compensation not described by [~~in~~] Subsection
4 (b).

5 SECTION 4. (a) The following laws are repealed:

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

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

10 (b) Chapter 1580, Insurance Code, as reenacted and amended
11 by this Act, applies beginning with the 2004-2005 school year.

12 (c) Chapter 1583, Insurance Code, as added by this Act,
13 applies beginning with the 2005-2006 school year and takes effect
14 September 1, 2005.

15 SECTION 5. (a) The Teacher Retirement System of Texas
16 shall continue to operate the medical savings account program
17 established under Chapter 1580, Insurance Code, as reenacted and
18 amended by this Act, until September 1, 2005.

19 (b) Any unspent funds in a medical savings account
20 established for an employee under Chapter 1580, Insurance Code, as
21 reenacted and amended by this Act, are transferred to the health
22 reimbursement arrangement account established for that employee
23 under Chapter 1583, Insurance Code, as added by this Act, effective
24 September 1, 2005.

25 (c) The Teacher Retirement System of Texas, in consultation
26 with the comptroller, shall develop the funding structure required
27 by Subchapter B, Chapter 1583, Insurance Code, as added by this Act,

1 and shall take necessary action to implement the health
2 reimbursement arrangement program in accordance with Chapter 1583,
3 Insurance Code, as added by this Act, not later than September 1,
4 2005.

5 (d) Notwithstanding any other law, until September 1, 2005,
6 the Teacher Retirement System of Texas may pay for administrative
7 expenses incurred by the system in developing the health
8 reimbursement arrangement program from funds received by the system
9 in fiscal year 2004 under Chapter 1580, Insurance Code, as
10 reenacted and amended by this Act, for operation of the employee
11 health coverage and compensation supplementation program.

12 (e) Not later than July 31, 2005, the Teacher Retirement
13 System of Texas shall provide written information to school
14 districts eligible to participate in the health reimbursement
15 arrangement program under Chapter 1583, Insurance Code, as added by
16 this Act, that provides a general description of the requirements
17 for such a program under Chapter 1583, Insurance Code, as added by
18 this Act.

19 (f) During the initial implementation of Chapter 1583,
20 Insurance Code, as added by this Act, and notwithstanding any
21 bidding requirements or other requirements set forth in Chapter
22 1580, Insurance Code, as reenacted and amended by this Act, the
23 Teacher Retirement System of Texas may amend any agreement in
24 effect on September 1, 2004, that it has entered into under Chapter
25 1580, Insurance Code, as reenacted and amended by this Act, as
26 necessary to comply with Chapter 1583, Insurance Code, as added by
27 this Act.

1 SECTION 6. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect on the 91st day after the last day of the
6 legislative session.