

By: Delisi

H.B. No. 3287

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a defined contribution health care benefits program for state employees and retired state employees.

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

ARTICLE 1. PROGRAM FOR STATE EMPLOYEES AND ANNUITANTS

SECTION 1.01. Section 1551.002, Insurance Code, as effective June 1, 2003, is amended by amending Section 1551.002(1) to read as follows:

(1) provide consumer control and choice [~~uniformity~~] in life, accident, and health benefit coverages for all state officers and employees and their dependents;

SECTION 1.02. Section 1551.003, Insurance Code, as effective June 1, 2003, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Health reimbursement arrangement" means the program operated under Subchapter K.

SECTION 1.03. Section 1551.011, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 1551.011. EXEMPTION FROM EXECUTION. All benefit payments, state contributions, contributions of employees and annuitants, and optional benefit payments, any rights, benefits, or payments accruing to a person under this chapter, and all money in a fund created by this chapter:

(1) are exempt from execution, attachment,

1 garnishment, or any other process; and

2 (2) may not be assigned, except:

3 (A) for direct payment that a participant may
4 assign to a provider of health care services; and

5 (B) as specifically provided by this chapter.

6 SECTION 1.04. Section 1551.055, Insurance Code, as
7 effective June 1, 2003, is amended to read as follows:

8 Sec. 1551.055. GENERAL POWERS OF BOARD OF TRUSTEES
9 REGARDING COVERAGE PLANS. The board of trustees may:

10 (1) prepare specifications for a coverage provided
11 under this chapter;

12 (2) prescribe the time and conditions under which an
13 employee, annuitant, or dependent [~~individual~~] is eligible for a
14 coverage provided under this chapter;

15 (3) determine the methods and procedures of claims
16 administration;

17 (4) determine the amount of payroll deductions and
18 reductions applicable to employees and annuitants and establish
19 procedures to implement those deductions and reductions;

20 (5) establish procedures for the board of trustees to
21 decide contested cases arising from a coverage provided under this
22 chapter;

23 (6) study, on an ongoing basis, the operation of all
24 coverages provided under this chapter, including gross and net
25 costs, administration costs, benefits, utilization of benefits,
26 and claims administration;

27 (7) administer the employees life, accident, and

1 health insurance and benefits fund;

2 (8) provide the beginning and ending dates of
3 coverages of participants under all ~~[benefit]~~ plans;

4 (9) develop basic group coverage plans applicable to
5 all individuals eligible to participate in the group benefits
6 program under Sections 1551.101 and 1551.102;

7 (10) provide for optional group coverage plans in
8 addition to the basic group coverage plans;

9 (11) provide, as the board of trustees determines is
10 appropriate, either additional statewide optional coverage plans
11 or individual agency coverage plans;

12 (12) develop the health reimbursement arrangement in a
13 manner ~~[health benefit plans]~~ that permits ~~[permit]~~ access to
14 high-quality, cost-effective health care;

15 (13) design, implement, and monitor the health
16 reimbursement arrangement program ~~[health benefit plan]~~ features
17 intended to discourage excessive utilization, promote efficiency,
18 and contain costs;

19 (14) develop and refine, on an ongoing basis, a health
20 care delivery ~~[benefit]~~ strategy consistent with evolving benefit
21 delivery systems; and

22 (15) develop a funding strategy that efficiently uses
23 employer contributions to achieve the purposes of this chapter ~~[and~~
24 ~~that is reasonable and ensures participants a fair choice among~~
25 ~~health benefit plans as provided by Section 1551.302]~~.

26 SECTION 1.05. Section 1551.113(a), Insurance Code, as
27 effective June 1, 2003, is amended to read as follows:

1 (a) An individual described by Subsection (b) is entitled to
2 receive the state contribution [~~contributions~~] required to provide
3 health benefit plan coverage under the health reimbursement
4 arrangement [~~group benefits~~] program for two months after the
5 effective date of the individual's separation from state service.

6 SECTION 1.06. Sections 1551.159(a) and (g), Insurance Code,
7 as effective June 1, 2003, are amended to read as follows:

8 (a) Subject to any applicable limit in the General
9 Appropriations Act, the board of trustees shall use money
10 appropriated for state [~~employer~~] contributions to fund 80 percent
11 of the cost of basic coverage for a child who:

12 (1) is a dependent of an employee;

13 (2) would be eligible, if the child were not the
14 dependent of the employee, for benefits under the program
15 established by the state to implement Title XXI, Social Security
16 Act (42 U.S.C. Section 1397aa et seq.), as amended; and

17 (3) is not eligible for the state Medicaid program.

18 (g) If the program established under Chapter 62, Health and
19 Safety Code, using federal funding under Title XXI, Social Security
20 Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated,
21 the use of state contributions for benefits for those eligible
22 under Subsection (a) also terminates.

23 SECTION 1.07. Section 1551.201, Insurance Code, as
24 effective June 1, 2003, is amended by amending Subsection (b) and by
25 adding Subsection (d) to read as follows:

26 (b) The group coverage plans may, in the board of trustees'
27 discretion, include:

- 1 (1) life coverage;
- 2 (2) accidental death and dismemberment coverage;
- 3 (3) ~~[health benefit coverage, including coverage for:~~
- 4 ~~[(A) hospital care and benefits,~~
- 5 ~~[(B) surgical care and treatment,~~
- 6 ~~[(C) medical care and treatment,~~
- 7 ~~[(D) dental care,~~
- 8 ~~[(E) obstetrical benefits,~~
- 9 ~~[(F) prescribed drugs, medicines, and prosthetic~~
- 10 ~~devices; and~~
- 11 ~~[(G) supplemental benefits, supplies, and~~
- 12 ~~services in accordance with this chapter,~~

13 ~~[(4)]~~ coverage providing protection against either

14 long-term or short-term loss of salary; and

15 (4) ~~[(5)]~~ any other group coverage that the board of

16 trustees~~[, in consultation with the group benefits advisory~~

17 ~~committee created under Subchapter J,~~ considers advisable.

18 (d) The group coverage plans shall include health benefit

19 coverage through the health reimbursement arrangement established

20 under Subchapter K.

21 SECTION 1.08. Section 1551.202(c), Insurance Code, as

22 effective June 1, 2003, is amended to read as follows:

23 (c) Basic coverage must include basic health coverage. The

24 basic health coverage shall ~~[may]~~ be offered through the Health

25 reimbursement arrangement established under Subchapter K ~~[any~~

26 ~~health benefit plan]~~.

27 SECTION 1.09. Chapter 1551, Insurance Code, as effective

1 June 1, 2003, is amended by adding Subchapter K to read as follows:

2 SUBCHAPTER K. PROVISION OF STATE EMPLOYEE

3 HEALTH CARE BENEFITS THROUGH HEALTH REIMBURSEMENT ARRANGEMENTS

4 Sec. 1551.501. DEFINITIONS. In this subchapter:

5 (1) "Account" means a health reimbursement
6 arrangement established under this subchapter for a participating
7 employee or annuitant.

8 (2) "Account administrator" means a person qualified
9 to act as an account administrator under Section 1551.505.

10 (3) "Health benefit plan" means a plan designed to
11 provide, pay for, or reimburse expenses for health care services.

12 The term includes:

13 (A) a group insurance policy, contract, or
14 certificate;

15 (B) a medical or hospital service agreement; and

16 (C) a similar group arrangement, including
17 coverage through a health maintenance organization operating under
18 Chapter 843.

19 (4) "Health benefit plan provider" means an entity
20 that provides health benefit plan coverage in this state. The term
21 includes:

22 (A) an insurance company authorized to do
23 business in this state;

24 (B) a group hospital service corporation
25 operating under Chapter 842;

26 (C) a health maintenance organization operating
27 under Chapter 843;

1 (D) a stipulated premium insurance company
2 operating under Chapter 884;

3 (E) a multiple employer welfare arrangement
4 subject to Chapter 846;

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

7 (G) any other entity providing a plan of health
8 insurance or health benefits coverage subject to state regulation
9 by the department.

10 (5) "Participant" means an employee or annuitant
11 enrolled in the program.

12 (6) "Program" means the health reimbursement
13 arrangement program established under this subchapter.

14 (7) "Qualified health care expense" means an expense
15 paid by a participant for medical care, as defined by 26 U.S.C.
16 Section 213(d), as amended, for the participant or the
17 participant's dependents as defined by 26 U.S.C. Section 152, as
18 amended.

19 Sec. 1551.502. ESTABLISHMENT OF PROGRAM. (a) The Texas
20 state employees health reimbursement arrangement program is
21 established for the benefit of state employees and annuitants and
22 their dependents.

23 (b) The board of trustees shall adopt rules, plans, and
24 procedures as necessary to administer this subchapter.

25 Sec. 1551.503. CONTRACTS. On a competitive bid basis, the
26 board of trustees shall, as necessary to implement this subchapter,
27 contract with:

1 (1) a qualified, experienced firm of group insurance
2 specialists;

3 (2) a qualified, experienced firm of specialists in
4 any of the benefit options authorized under this chapter; or

5 (3) an administering firm to act for the board of
6 trustees in the capacity of account administrator.

7 Sec. 1551.504. REQUIREMENTS FOR HEALTH REIMBURSEMENT
8 ARRANGEMENTS. (a) The board of trustees shall request in writing a
9 ruling or opinion from the Internal Revenue Service as to whether
10 health reimbursement arrangements adopted under this subchapter
11 and the state rules governing those accounts qualify the accounts
12 for appropriate federal tax exemptions. Based on the response of
13 the Internal Revenue Service, the board of trustees shall:

14 (1) modify the rules, plans, and procedures adopted
15 under Section 1551.502 as necessary to ensure the qualification of
16 those arrangements for appropriate federal tax exemptions; and

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

19 (b) Once finalized rules, plans, and procedures are adopted
20 by the board of trustees and approved by the Internal Revenue
21 Service, the board of trustees shall:

22 (1) solicit bids for the development and establishment
23 of the health reimbursement arrangement program; and

24 (2) provide information to participating employees
25 and annuitants regarding the operation of the health reimbursement
26 arrangements adopted under this subchapter.

27 Sec. 1551.505. ACCOUNT ADMINISTRATOR. (a) The following

1 persons may act as an account administrator under this subchapter:

2 (1) a bank, savings and loan association, savings
3 bank, or credit union chartered under the laws of this state or the
4 United States;

5 (2) a trust company authorized to act as a fiduciary;

6 (3) an insurance company authorized to engage in the
7 business of health insurance in this state, a group hospital
8 service corporation authorized under Chapter 842 to engage in
9 business in this state, or a health maintenance organization
10 authorized under Chapter 843 to engage in business in this state;

11 (4) a third-party administrator holding a certificate
12 of authority issued under Article 21.07-6 of this code; or

13 (5) a certified public accountant licensed by the
14 Texas State Board of Public Accountancy.

15 (b) An account administrator may charge a fee for services
16 performed as the administrator of an account. The amount of the fee
17 shall be established in the contract between the account
18 administrator and the board of trustees.

19 (c) The account administrator is the fiduciary of the
20 participating employee or annuitant who has an account under this
21 subchapter.

22 Sec. 1551.506. ANNUAL REPORT OF PROGRAM ACTIVITIES. (a)
23 Not later than June 1 of each year, the board of trustees shall
24 submit a report to the governor, the lieutenant governor, the
25 speaker of the house of representatives, and the commissioner.

26 (b) The report must summarize the activities of the health
27 reimbursement arrangement program in the calendar year preceding

1 the year in which the report is submitted.

2 Sec. 1551.507. REQUIRED PARTICIPATION; PARTICIPATION
3 OBLIGATIONS. (a) Each state agency shall participate in the
4 health reimbursement arrangement program as provided by this
5 subchapter.

6 (b) Participation in the health reimbursement arrangement
7 program includes compliance with rules adopted by the board of
8 trustees for the administration of the program and provision of a
9 notice to each employee and annuitant as prescribed by the board of
10 trustees relating to the existence of the program. The notice must
11 contain a mailing address and the address of an Internet site from
12 which an employee or annuitant may obtain information about:

13 (1) the coverage offered by the program;

14 (2) eligibility requirements for and costs of that
15 coverage;

16 (3) the contribution that the employee or annuitant is
17 eligible to receive from the state for the costs of the coverage;
18 and

19 (4) other information considered useful by the board
20 of trustees.

21 Sec. 1551.508. PROVISION OF COVERAGE. The health
22 reimbursement arrangement program shall provide, through health
23 reimbursement arrangements, health benefit plan coverage as
24 provided by this subchapter to an employee or annuitant who is
25 eligible for that coverage under this chapter and, as provided by
26 this chapter, to that person's dependents.

27 Sec. 1551.509. COVERAGE PLANS. (a) The health

1 reimbursement arrangement program must include:

2 (1) a primary care coverage plan; and

3 (2) a catastrophic care coverage plan.

4 (b) The catastrophic care coverage plan must be less
5 expensive than the primary care coverage plan for employee-only and
6 employee and dependents coverage and annuitant-only and annuitant
7 and dependents coverage.

8 (c) The board of trustees shall establish an annual
9 deductible of \$4,000 for the catastrophic care coverage plan
10 provided in conjunction with the health reimbursement arrangement
11 program.

12 Sec. 1551.510. PARTICIPATION BY EMPLOYEES AND
13 ANNUITANTS. (a) Each employee and each annuitant is eligible to
14 participate in the health reimbursement arrangement program
15 established under this subchapter. An employee or annuitant who
16 elects to participate shall be enrolled in the primary care
17 coverage plan unless the employee or annuitant elects in writing to
18 participate only in the catastrophic care coverage plan.

19 (b) Participation in the health reimbursement arrangement
20 program qualifies an employee or annuitant to receive a
21 contribution to the employee's or annuitant's account, as
22 authorized under Section 1551.515. An employee or annuitant who
23 elects not participate in the program is ineligible to receive a
24 contribution.

25 Sec. 1551.511. COVERAGE FOR DEPENDENTS. (a) A
26 participating employee or annuitant is entitled to obtain for a
27 dependent of the participating employee or annuitant coverage in

1 the plan selected by the employee or annuitant in the manner
2 determined by the board of trustees.

3 (b) The participating employee or annuitant shall make any
4 required additional contribution payments for the dependent
5 coverage in the manner prescribed by the board of trustees.

6 (c) Amounts contributed under this section shall not be
7 contributed to the health reimbursement arrangement provided to the
8 employee or annuitant, but may be contributed to any other account
9 or arrangement established under this, or another chapter, or by
10 rule, to the extent allowed by federal law and regulation.

11 Sec. 1551.512. IDENTIFICATION CARDS. (a) The account
12 administrator shall issue to each participating employee and
13 annuitant an identification card indicating:

14 (1) the name of the employee or annuitant and any
15 dependent of the employee or annuitant for whom eligible expenses
16 may be paid under the health reimbursement arrangement program;

17 (2) the name, address, and phone number of the account
18 administrator; and

19 (3) a description of the coverage plan in which the
20 employee or annuitant is participating.

21 (b) The account administrator shall issue a duplicate
22 identification card to each dependent for whom eligible expenses
23 may be paid under the program.

24 Sec. 1551.513. USE OF ACCOUNT. (a) The account
25 administrator shall use money in an employee's or annuitant's
26 account to pay:

27 (1) the costs of the health benefit plan coverage

1 selected by:

2 (A) the employee for the employee and the
3 employee's dependents; or

4 (B) the annuitant for the annuitant and the
5 annuitant's dependents; and

6 (2) any additional eligible medical expenses of the
7 participating employee, annuitant, or dependents or to reimburse
8 the employee or annuitant for those expenses.

9 (b) A medical expense is eligible for payment or
10 reimbursement under Subsection (a)(2) if:

11 (1) it is a medical expense described under Section
12 213(d), Internal Revenue Code of 1986, as amended; and

13 (2) payment or reimbursement for the expense is not
14 otherwise provided for under the coverage plan selected by the
15 employee or annuitant or under another insurance policy, including
16 a motor vehicle or workers' compensation insurance policy.

17 Sec. 1551.514. PROMPT PAYMENT OF CLAIMS. (a) Except as
18 provided by Subsection (b), the account administrator shall pay a
19 claim for an expense that is eligible for payment or reimbursement
20 from the account not later than the 30th day after the date the
21 claim is submitted to the account administrator.

22 (b) The account administrator may request documents
23 necessary to verify whether an expense is eligible for payment or
24 reimbursement from the account. If the account administrator makes
25 a request under this subsection, the account administrator shall
26 pay a claim for an expense that is eligible for payment or
27 reimbursement from the account not later than the 30th day after the

1 date the documents are received by the account administrator.

2 Sec. 1551.515. STATE CONTRIBUTION. For each participating
3 employee or annuitant, the state shall annually contribute \$3,000
4 or the amount specified in the General Appropriations Act to the
5 health reimbursement arrangement established for that employee or
6 annuitant for the payment of qualified health care expenses if the
7 board of trustees has determined that those accounts meet the
8 requirements described by Section 1551.504.

9 Sec. 1551.516. EMPLOYEE CONTRIBUTIONS. (a) Each
10 participating employee or annuitant shall contribute any amounts
11 required to cover health benefit options selected by the employee
12 beyond the state contribution under Section 1551.515.

13 (b) The participating employee or annuitant shall make the
14 contributions in the manner prescribed by the board of trustees.

15 (c) Amounts contributed under this section shall not be
16 contributed to the health reimbursement arrangement provided to the
17 employee or annuitant, but may be contributed to any other account
18 or arrangement established under this, or another chapter, or by
19 rule, to the extent allowed by federal law and regulation.

20 Sec. 1551.517. CONFIDENTIALITY OF RECORDS. (a) Section
21 1551.063 applies to information in records relating to an employee,
22 annuitant, or other participant under the health reimbursement
23 arrangement program.

24 (b) The program may disclose to a health benefit plan
25 provider information in the records of an individual that the board
26 of trustees determines is necessary to administer the program.

27 Sec. 1551.518. ANNUAL ACCOUNTING. (a) In this subchapter,

1 "plan year" means the period beginning on September 1 and ending the
2 following August 31.

3 (b) Coverage purchased under this subchapter must provide
4 for an accounting to the board of trustees by each health benefit
5 plan provider.

6 (c) The accounting must be submitted:

7 (1) not later than the 90th day after the last day of
8 each plan year; and

9 (2) on a form approved by the board of trustees.

10 (d) Each health benefit plan provider shall prepare any
11 other report required by rule by the board of trustees.

12 (e) A health benefit plan provider may not assess an
13 additional charge for preparation of an accounting report.

14 Sec. 1551.519. ASSISTANCE. In implementing and
15 administering this subchapter, the board of trustees may obtain the
16 assistance of any state agency the board of trustees considers
17 appropriate.

18 Sec. 1551.520. ROLLOVER. (a) At the end of a plan year,
19 the unexpended and unobligated balance of any state contribution
20 deposited in an employee's or annuitant's health reimbursement
21 arrangement under this subchapter during that plan year remains in
22 the health reimbursement arrangement and may be spent only as
23 authorized by this subchapter for a qualified health care expense.

24 (b) At the end of a plan year, the unexpended and
25 unobligated balance of any state contributions that have rolled
26 over from previous plan years remain in the health reimbursement
27 arrangement.

1 SECTION 1.10. Sections 1551.003(5) and (12), 1551.005,
2 1551.060, 1551.205, 1551.206, 1551.207, 1551.302, 1551.309,
3 1551.402, 1551.403, and 1551.404, Insurance Code, are repealed.

4 SECTION 1.11. The Employees Retirement System of Texas
5 shall develop the health reimbursement arrangement program to be
6 implemented under Chapter 1551, Insurance Code, as amended by this
7 article, beginning September 1, 2003, and shall develop enrollment
8 requirements for the program during 2004, with coverage beginning
9 September 1, 2004.

10 SECTION 1.12. The Employees Retirement System of Texas
11 shall continue to operate the health benefit coverage offered under
12 the group benefits program established under Chapter 1551,
13 Insurance Code, as that chapter existed before amendment by this
14 article, until September 1, 2004.

15 SECTION 1.13. Not later than July 31, 2004, the Employees
16 Retirement System of Texas shall provide written information to
17 employees eligible to participate in the health reimbursement
18 arrangement program under Chapter 1551, Insurance Code, as amended
19 by this article, that provides a general description of the
20 requirements for such a program as adopted under Chapter 1551,
21 Insurance Code, as amended by this article.

22 SECTION 1.14. During the initial implementation of Chapter
23 1551, Insurance Code, as amended by this article, and
24 notwithstanding any bidding requirements or other requirements set
25 forth in Chapter 1551, Insurance Code, as that chapter existed
26 before amendment by this article, the Employees Retirement System
27 of Texas may amend any agreement in effect on September 1, 2003,

1 that it has entered into as necessary to comply with Chapter 1551,
2 Insurance Code, as amended by this article.

3 SECTION 1.15. The unexpended balance as of September 1,
4 2004, of any payments made by a state employee for participation in
5 a cafeteria plan under Section 1551.206, Insurance Code, as that
6 section existed before repeal by this Act, shall be held in trust
7 with the comptroller for the exclusive benefit for that employee
8 and that employee's beneficiaries.

9 SECTION 1.16. Except as otherwise provided by this Act,
10 this Act takes effect September 1, 2003.