

By: Casteel

H.B. No. 43

A BILL TO BE ENTITLED

AN ACT

relating to health coverage or compensation supplementation for certain education employees.

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

SECTION 1. Chapter 1580, Insurance Code, is reenacted 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 [Sections 1580.003-1580.050 reserved for expansion]

13 SUBCHAPTER B. DISTRIBUTION OF STATE FUNDS BY TRUSTEE

14 Sec. 1580.051. DISTRIBUTION BY TRUSTEE. Each year, the
15 trustee shall deliver to each school district, including a school
16 district that is ineligible for state aid under Chapter 42,
17 Education Code, each other educational district that is a member of
18 the Teacher Retirement System of Texas, each participating charter
19 school, and each regional education service center state funds in
20 an amount, as determined by the trustee, equal to the product of the
21 number of active employees employed by the district, school, or
22 service center multiplied by \$1,000 or a greater amount as provided
23 by the General Appropriations Act for purposes of this chapter.

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

26 Sec. 1580.053. FUNDS HELD IN TRUST. All funds received by a
27 school district, other educational district, participating charter

1 school, or regional education service center under this chapter are
2 held in trust for the benefit of the active employees on whose
3 behalf the district, school, or service center received the funds.

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

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

12 [Sections 1580.056-1580.100 reserved for expansion]

13 SUBCHAPTER C. EMPLOYEE ELECTION

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

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

24 (1) a health care reimbursement account;

25 (2) a benefit or coverage other than that provided
26 under Chapter 1579, or any employee coverage or dependent coverage
27 available under Chapter 1579 but not otherwise fully funded by the

1 state or the employer contributions, any of which must be a
2 "qualified benefit" under Section 125, Internal Revenue Code of
3 1986, and its subsequent amendments;

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

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

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

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

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

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

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

27 (1) August 1 of the preceding state fiscal year; or

1 (2) the 31st day after the date the employee is hired.

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

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

9 (2) an election form to be completed by active
10 employees.

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

20 (1) July 1 of the preceding state fiscal year; or

21 (2) the fifth day after the date the employee is hired.

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

25 Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any
26 unencumbered funds that are returned to the school district from
27 accounts established under Section 1580.101 may be used only to

1 provide employee compensation, benefits, or both.

2 [Sections 1580.107-1580.150 reserved for expansion]

3 SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

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

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

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

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

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

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

26 Sec. 1580.154. EMPLOYEE ELECTION. An employee who elects
27 under Section 1580.101 to have state funds distributed under this

1 chapter placed in a medical savings account may use the money in
2 that account only for a qualified health care expense.

3 SECTION 2. Section 822.201(c), Government Code, is
4 reenacted and amended to read as follows:

5 (c) Excluded from salary and wages are:

6 (1) expense payments;

7 (2) allowances;

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

9 (4) maintenance or other nonmonetary compensation;

10 (5) fringe benefits;

11 (6) deferred compensation other than as provided by
12 Subsection (b)(3);

13 (7) compensation that is not made pursuant to a valid
14 employment agreement;

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

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

20 (10) supplemental compensation received by an
21 employee under Chapter 1580 [~~Article 3.50-8~~], Insurance Code; and

22 (11) any compensation not described in Subsection (b).

23 SECTION 3. (a) The following laws are repealed:

24 (1) Section 57, Chapter 201, Acts of the 78th
25 Legislature, Regular Session, 2003;

26 (2) Chapter 313, Acts of the 78th Legislature, Regular
27 Session, 2003; and

1 (3) Section 1.01, Chapter 366, Acts of the 78th
2 Legislature, Regular Session, 2003.

3 (b) Chapter 1580, Insurance Code, as reenacted by this Act,
4 applies beginning with the 2006-2007 school year.

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect on September 1, 2006.