BILL ANALYSIS

H.B. 1269
By: Crownover
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Group Benefits Program (GBP) under the Texas Employees Group Benefits Act provides health insurance through a self-funded plan administered by the Employees Retirement System of Texas (ERS) for state employees, retirees, and their dependents, along with employees, retirees and dependents of higher education institutions with the exception of University of Texas and Texas A&M University Systems.

As proposed, H.B. 1269 would allow participants eligible for the GBP the option to participate in a Consumer-Directed Health Plan (CDHP) administered by ERS that provides a high-deductible health plan combined with a health savings account. The State will make a contribution for those who select the CDHP equal to the contribution for the basic health plan which will be split between funding the high-deductible health plan and the health savings account. Participants may also make federally tax-deductible contributions for health care expenses into their health savings account.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Board of Trustees of the Employees Retirement System of Texas in SECTION 1 (Section 1551.452, Section 1551.454, Section 1551.455, Section 1551.459, Section 1551.460, Texas Insurance Code) of this bill.

ANALYSIS

H.B. 1269 relates to the creation of a voluntary consumer-directed health plan for certain individuals eligible to participate in the insurance coverage provided under the Texas Employees Group Benefits Act and their qualified dependents.

The bill, in SECTION 1, seeks to amend Chapter 1551, Insurance Code, by adding Subchapter J. Subchapter J discusses State Consumer-Directed Health Plan. It begins by defining the terms used in the subchapter; "High deductible health plan", Participant", and "Qualified medical expense" are all defined.

Next, the bill discusses the establishment of state consumer-directed health plan and states that the state consumer-directed health plan is established for the benefit of individuals eligible to participate in the group benefits program and those individuals' eligible dependents. After the board of trustees adopts rules necessary to administer this subchapter, the board shall: establish health savings accounts under this subchapter and administer or select an administrator for the accounts; finance or purchase a high deductible health plan that: is an integral part of the state consumer-directed health plan; and provides health benefit coverage, including preventative health care, to a participant enrolled in the state consumer-directed health plan and to the dependents of an enrolled participant in accordance with Section 1551.456; and provide to individuals eligible to participate in the group benefits program information regarding the option to participate in and operation of the state consumer-directed health plan established under this subchapter. If the board of trustees purchases a high deductible health plan under this subchapter, Sections 1551.215-1551.218 apply to the high deductible health plan. In adopting rules and administering health savings accounts or selecting administrators for health savings accounts under this subchapter, the board of trustees shall ensure that the health savings accounts are qualified for appropriate federal tax exemptions.

The next section mentions the status of health savings accounts and provides that a state contribution to a health savings account or a high deductible health plan is exempt from process and is unassignable in the same manner and to the same extent as is an amount described by

Section 1551.011. The board of trustees shall give individuals eligible to participate in the basic coverage plan the option of waiving participation in the basic coverage plan and participating in the state consumer-directed health plan instead. For purposes of this chapter, participation in the consumer-directed health plan is considered participation in the group benefits program, and Sections 1551.301, 1551.303, 1551.305, and 1551.306 apply to participation in the consumer-directed health plan in the same manner that those sections apply to the basic coverage plan.

The bill goes on to say that the account administrator selected to administer a health savings account established under this subchapter must be a person: qualified to serve as trustee under Section 223(d)(1)(B), Internal Revenue Code of 1986, and the rules adopted under that section; and experienced in administering health savings accounts or other similar trust accounts. An account administrator is the fiduciary of a participant who has a health savings account established under this subchapter. Section 1551.056(b) does not apply to the account administrator.

H.B. 1269 goes on to discuss participation in the program. It states that each individual eligible to participate in the basic coverage may choose instead to participate in the state consumer-directed health plan if the participant is an eligible individual under Section 223(c)(1), Internal Revenue Code of 1986. The dependents of a participant may participate in the state consumer-directed health plan in accordance with Section 1551.456. A participant in the state consumer-directed health plan waives basic plan coverage and must be enrolled in a high deductible health plan. Participation in the state consumer-directed health plan qualifies a participant to receive a contribution to a health savings account under Section 1551.458. An individual who elects not to participate in the plan is not eligible to receive a contribution under that section. An individual who elects to participate in the state consumer-directed health plan is subject to Subchapter H in the same manner as an individual who participates in the basic coverage offered under the group benefits program. Under this section, the board of trustees has exclusive authority to determine an individual's eligibility to participate in the state consumer-directed health plan and shall adopt rules regarding eligibility to participate in the plan.

Next, the bill mentions coverage for dependents; required contributions. It says that, subject to Subsection (d), a participant is entitled to obtain for the participant's dependents coverage in the state consumer-directed health plan in the manner determined by the board of trustees. The participant shall make any required additional contribution payments for the dependent coverage in the manner prescribed by the board of trustees. Amounts contributed by a participant under this section may be: used to pay the cost of coverage in the state consumer-directed health plan not paid by the state under Section 1551.458(b)(1); or contributed as additional amounts to the health savings account provided to the participant. A covered dependent of a participant: is subject to Subchapter H in the same manner as a dependent who is covered by the basic coverage offered under the group benefits program; and must be a dependent for purposes of: Section 152, Internal Revenue Code of 1986; and Section 1551.004.

Further, H.B. 1269 discusses identification cards for participants and states that the board of trustees or the account administrator, as applicable, shall issue to each participant an identification card. The board of trustees or the account administrator, as applicable, shall issue a duplicate identification card to each participant's dependent for whom qualified medical expenses may be paid out of a health savings account established under this subchapter.

Next, the bill discusses state contribution. It states that for each participant, from the state contribution that would otherwise be made for basic coverage for the participant, the state shall annually contribute: to a high deductible health plan provided under this subchapter, the amount that is necessary to pay the cost of coverage under the high deductible health plan and does not exceed the amount the state annually contributes for a full-time or part-time employee, as applicable, who is covered by the basic coverage; and to the participant's health savings account, any remainder of the state contribution after payment of coverage under Subdivision (1). For each participant's dependent covered under this subchapter from the state contribution that would otherwise be made for basic coverage for the dependent, the state shall annually contribute: to a high deductible health plan provided under this subchapter, the same percentage of the cost of coverage under the high deductible health plan as the state annually contributes for dependent coverage in the basic coverage; and to the participant's health savings account, as allowed under federal law, any remainder of the state contribution after payment for coverage under

Subdivision (1). For a calendar year, the amount of state contributions under Subsections (a)(2) and (b)(2), in the aggregate, may not exceed the sum of the monthly limitations imposed by federal law for health savings accounts.

H.B. 1269 then discusses participant contributions. It says that each participant, in accordance with Section 1551.305, shall contribute any amount required to cover the selected participation in the state consumer-directed health plan that exceeds the state contribution amount under Section 1551.458. A participant may contribute any amount allowed under federal law to the participant's health savings account in addition to receiving the state contribution under Section 1551.458. A participant shall make contributions under this section in the manner prescribed by the board of trustees.

Coordination with cafeteria plan is discussed next. The bill says that the board of trustees has exclusive authority to determine the eligibility of a participant to participate in any medical flexible savings account that is part of a cafeteria plan offered under this chapter. The board of trustees shall adopt rules, plans, and procedures regarding: the eligibility of a participant to participate in any medical flexible savings account that is part of a cafeteria plan offered under this chapter; and the coordination of benefits provided under this subchapter and any medical flexible savings account that is part of a cafeteria plan offered under this chapter. The rules adopted by the board of trustees under Subsection (b) must prohibit a participant from participating in any medical flexible savings account that would disqualify the participant's health savings account from favorable tax treatment under federal law.

H.B. 1269 goes on to discusses confidentiality of records. It states that to the extent allowed under federal law and subject to Section 1551.063, the board of trustees or the program administrator, as applicable, may disclose to a carrier information in an individual's records that the board of trustees determines is necessary to administer the state consumer-directed health plan. Also, the bill discusses assistance and says that any state agency that the board of trustees considers appropriate shall assist the board in implementing and administering this subchapter.

The house bill, in SECTION 2, says that the Employees Retirement System of Texas shall develop the state consumer-directed health plan to be implemented under Chapter 1551, Insurance Code, as amended by this Act, including enrollment requirements, during the state fiscal biennium beginning September 1, 2007, with coverage beginning September 1, 2008.

SECTION 3 of the house bill says not later than July 31, 2008, the Employees Retirement System of Texas shall provide written information to individuals eligible to participate in the state consumer-directed health plan under Chapter 1551, Insurance Code, as amended by this Act, that provides a general description of the requirements for the plan as adopted under Chapter 1551, Insurance Code, as amended by this Act.

H.B. 1269 in SECTION 4, says that the Employees Retirement System of Texas shall develop and implement the health savings account program under Chapter 1551, Insurance Code, as amended by this Act, in a manner that is as revenue neutral as is possible.

Finally, the house bill in SECTION 5 says that except as otherwise provided by this Act, this Act takes effect September 1, 2007.

EFFECTIVE DATE

Except as otherwise provided by this Act, this Act takes effect September 1, 2007.