

BILL ANALYSIS

H.B. 1176
By: Crownover
Pensions, Investments & Financial Services
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 employees of The University of Texas System and The Texas A&M University System.

H.B. 1176 allows 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 bill provides for the state to make a contribution for those who select the CDHP equal to the contribution for the basic health plan, which contribution will be split between funding the high-deductible health plan and the health savings account. Participants also may 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 Employees Retirement System of Texas board of trustees in SECTION 1 of this bill.

ANALYSIS

H.B. 1176 amends the Insurance Code to create the state consumer-directed health plan under the Texas employees group benefits program for the benefit of individuals eligible to participate in the group benefits program and those individuals' eligible dependents. The bill requires the Employees Retirement System of Texas board of trustees, after adopting rules necessary to administer the state consumer-directed health plan, to establish health savings accounts for the health plan, to administer or select an administrator for the accounts, and to ensure that the health savings accounts are qualified for appropriate federal tax exemptions. The bill requires the board to finance or purchase a high deductible health plan that is an integral part of the state consumer-directed health plan and that provides health benefit coverage, including preventive health care, to a participant enrolled in the state consumer-directed health plan and to an enrolled participant's dependents. The bill requires the board to provide to eligible individuals information regarding the option to participate in and operation of the state consumer-directed health plan. The bill establishes that if the board of trustees purchases a high deductible health plan, certain provisions relating to carrier accounting, special contingency reserve, use of salaries to compute premium or coverage, and prior authorization for certain drugs apply to the plan. The bill requires the board of trustees, in adopting rules and administering health savings accounts or selecting administrators for health savings accounts under provisions of the bill, to ensure that the health savings accounts are qualified for appropriate federal tax exemptions.

H.B. 1176 requires the board of trustees to 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. The bill establishes that participation in the state

consumer-directed health plan is considered participation in the group benefits program. The bill applies provisions relating to the funding of basic and optional coverages, the cost of basic coverage exceeding employer contributions, and the payment of excess cost over basic coverage contribution to the state consumer-directed health plan in the same manner that those provisions apply to the basic coverage plan.

H.B. 1176 requires the account administrator selected to administer a health savings account to be qualified to serve as trustee according to applicable provisions of the federal Internal Revenue Code of 1986 and the rules adopted by the board of trustees and to be experienced in administering health savings accounts or other similar trust accounts. The bill designates the account administrator as the fiduciary of a participant who has a health savings account established under the state consumer-directed health plan. The bill exempts the account administrator from the requirement that an independent administrator be a qualified, experienced firm of group insurance specialists or an administering firm.

H.B. 1176 authorizes each individual eligible to participate in the basic coverage to choose instead to participate in the state consumer-directed health plan if the participant is an eligible individual according to the applicable provisions of the federal Internal Revenue Code of 1986, and the bill authorizes the participant's dependents also to participate in the state consumer-directed health plan. The bill establishes that a participant waives basic plan coverage and requires the participant to be enrolled in a high deductible health plan. The bill qualifies a participant in the state consumer-directed health plan to receive certain contributions from the state to a health savings account and makes an individual who elects not to participate in the plan ineligible to receive a contribution from the state. The bill makes a participant subject to sanctions and adjudication of claims in the same manner as an individual who participates in the basic coverage offered under the group benefits program. The bill grants the board of trustees exclusive authority to determine an individual's eligibility to participate in the state consumer-directed health plan and requires the board to adopt rules regarding such eligibility.

H.B. 1176 entitles a participant 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 bill requires the participant to make any required additional contribution payments for the dependent coverage in the manner prescribed by the board of trustees. The bill authorizes amounts contributed by a participant to be used to pay the cost of coverage in the state consumer-directed health plan not paid by the state or to be contributed as additional amounts to the health savings account provided to the participant. The bill makes a covered dependent subject to sanctions and adjudication of claims in the same manner as a dependent who is covered by the basic coverage offered under the group benefits program. The bill requires a covered dependent to be a dependent for purposes of applicable provisions of the federal Internal Revenue Code of 1986 and according to the standard provisions relating to dependents.

H.B. 1176 requires the board of trustees or the account administrator, as applicable, to issue to each participant an identification card and to issue a duplicate identification card to each dependent for whom qualified medical expenses may be paid out of a health savings account established under the state consumer-directed health plan.

H.B. 1176 requires the state, for each participant, to contribute annually to a high deductible health plan the amount that is necessary to pay the cost of coverage under that 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. The bill requires the state, for each participant, to contribute annually to the participant's health savings account any remainder of the state contribution after payment of coverage to a high deductible health plan. The bill requires the state to make similar contributions for each participant's dependent covered under the state consumer-directed health plan except that the state's contribution to the high deductible health plan is the same percentage of the cost of coverage under that plan as the state annually contributes for dependent coverage in the basic coverage. The bill establishes that these

contributions are payment from the state contribution that would otherwise be made for basic coverage for each participant. The bill exempts a state contribution to a health savings account or a high deductible health plan from execution and makes it unassignable in the same manner and to the same extent as certain other amounts exempt from execution and unassignable. The bill prohibits the amount of state contributions to a participant's health savings account, in the aggregate, from exceeding the sum of the monthly limitations imposed by federal law for health savings accounts.

H.B. 1176 requires each participant to contribute any amount required to cover the selected participation in the state consumer-directed health plan that exceeds the state contribution. The bill authorizes a participant to contribute any amount allowed under federal law to the participant's health savings account in addition to receiving the state contribution. The bill requires the participant to make contributions in the manner prescribed by the board of trustees.

H.B. 1176 grants the board of trustees 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 the group benefits program. The bill requires the board of trustees to adopt rules regarding the eligibility of a participant to participate in any medical flexible savings account that is part of such a cafeteria plan and the coordination of benefits provided under the state consumer-directed health plan and any medical flexible savings account that is part of a cafeteria plan. The bill requires the rules adopted by the board of trustees to 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. 1176 authorizes the board of trustees or the account administrator, as applicable, to disclose to a carrier, to the extent allowed under federal and state law relating to the confidentiality of certain records, information in an individual's records that the board of trustees or administrator determines is necessary to administer the state consumer-directed health plan.

H.B. 1176 requires any state agency that the board of trustees considers appropriate to assist the board in implementing and administering the state consumer-directed health plan.

H.B. 1176 requires the Employees Retirement System of Texas to develop the state consumer-directed health plan, including enrollment requirements, for implementation during the state fiscal biennium beginning September 1, 2009, with coverage beginning September 1, 2010. The bill requires the retirement system to provide written information to individuals eligible to participate in the state consumer-directed health plan that provides a general description of the requirements for the plan not later than July 31, 2010. The bill requires the retirement system to develop and implement the health savings account program in a manner that is as revenue neutral as possible.

H.B. 1176 defines "participant," "qualified medical expense," and "high deductible health plan."

EFFECTIVE DATE

September 1, 2009, except as otherwise provided.