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H.B. No. 1176

A BILL TO BE ENTITLED

AN ACT

relating 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.

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

SECTION 1. Chapter 1551, Insurance Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. STATE CONSUMER-DIRECTED HEALTH PLAN

Sec. 1551.451. DEFINITIONS. In this subchapter:

(1) "High deductible health plan" means a health benefit plan that complies with Section 223(c), Internal Revenue Code of 1986, and other federal law.

(2) "Participant" means an individual who is:

(A) eligible to participate in the group benefits program; and

(B) enrolled in the plan established under this subchapter.

(3) "Qualified medical expense" means an expense paid by a participant for medical care, as defined by Section 213(d), Internal Revenue Code of 1986, for the participant or the participant's dependents as defined by Section 152, Internal Revenue Code of 1986.

Sec. 1551.452. ESTABLISHMENT OF STATE CONSUMER-DIRECTED

1 HEALTH PLAN. (a) The state consumer-directed health plan is
2 established for the benefit of individuals eligible to participate
3 in the group benefits program and those individuals' eligible
4 dependents.

5 (b) After the board of trustees adopts rules necessary to
6 administer this subchapter, the board shall:

7 (1) establish health savings accounts under this
8 subchapter and administer or select an administrator for the
9 accounts;

10 (2) finance or purchase a high deductible health plan
11 that:

12 (A) is an integral part of the state
13 consumer-directed health plan; and

14 (B) provides health benefit coverage, including
15 preventative health care, to a participant enrolled in the state
16 consumer-directed health plan and to the dependents of an enrolled
17 participant in accordance with Section 1551.456; and

18 (3) provide to individuals eligible to participate in
19 the group benefits program information regarding the option to
20 participate in and operation of the state consumer-directed health
21 plan established under this subchapter.

22 (c) If the board of trustees purchases a high deductible
23 health plan under this subchapter, Sections 1551.215-1551.218
24 apply to the high deductible health plan.

25 (d) In adopting rules and administering health savings
26 accounts or selecting administrators for health savings accounts
27 under this subchapter, the board of trustees shall ensure that the

1 health savings accounts are qualified for appropriate federal tax
2 exemptions.

3 Sec. 1551.453. PARTICIPATION IN STATE CONSUMER-DIRECTED
4 HEALTH PLAN; EFFECT OF PARTICIPATION. (a) The board of trustees
5 shall give individuals eligible to participate in the basic
6 coverage plan the option of waiving participation in the basic
7 coverage plan and participating in the state consumer-directed
8 health plan instead.

9 (b) For purposes of this chapter, participation in the state
10 consumer-directed health plan is considered participation in the
11 group benefits program, and Sections 1551.301, 1551.303, 1551.305,
12 and 1551.306 apply to participation in the state consumer-directed
13 health plan in the same manner that those sections apply to the
14 basic coverage plan.

15 Sec. 1551.454. ACCOUNT ADMINISTRATOR. (a) The account
16 administrator selected to administer a health savings account
17 established under this subchapter must be a person:

18 (1) qualified to serve as trustee under Section
19 223(d)(1)(B), Internal Revenue Code of 1986, and the rules adopted
20 under that section; and

21 (2) experienced in administering health savings
22 accounts or other similar trust accounts.

23 (b) An account administrator is the fiduciary of a
24 participant who has a health savings account established under this
25 subchapter.

26 (c) Section 1551.056(b) does not apply to the account
27 administrator.

1 Sec. 1551.455. PARTICIPATION IN PROGRAM. (a) Each
2 individual eligible to participate in the basic coverage may choose
3 instead to participate in the state consumer-directed health plan
4 if the participant is an eligible individual under Section
5 223(c)(1), Internal Revenue Code of 1986. The dependents of a
6 participant may participate in the state consumer-directed health
7 plan in accordance with Section 1551.456.

8 (b) A participant waives basic plan coverage and must be
9 enrolled in a high deductible health plan.

10 (c) Participation in the state consumer-directed health
11 plan qualifies a participant to receive a contribution to a health
12 savings account under Section 1551.458. An individual who elects
13 not to participate in the plan is not eligible to receive a
14 contribution under that section.

15 (d) A participant is subject to Subchapter H in the same
16 manner as an individual who participates in the basic coverage
17 offered under the group benefits program.

18 (e) Under this section, the board of trustees has exclusive
19 authority to determine an individual's eligibility to participate
20 in the state consumer-directed health plan and shall adopt rules
21 regarding eligibility to participate in the plan.

22 Sec. 1551.456. COVERAGE FOR DEPENDENTS; REQUIRED
23 CONTRIBUTIONS. (a) Subject to Subsection (d), a participant is
24 entitled to obtain for the participant's dependents coverage in the
25 state consumer-directed health plan in the manner determined by the
26 board of trustees.

27 (b) The participant shall make any required additional

1 contribution payments for the dependent coverage in the manner
2 prescribed by the board of trustees.

3 (c) Amounts contributed by a participant under this section
4 may be:

5 (1) used to pay the cost of coverage in the state
6 consumer-directed health plan not paid by the state under Section
7 1551.458(b)(1); or

8 (2) contributed as additional amounts to the health
9 savings account provided to the participant.

10 (d) A covered dependent of a participant:

11 (1) is subject to Subchapter H in the same manner as a
12 dependent who is covered by the basic coverage offered under the
13 group benefits program; and

14 (2) must be a dependent for purposes of:

15 (A) Section 152, Internal Revenue Code of 1986;
16 and

17 (B) Section 1551.004.

18 Sec. 1551.457. IDENTIFICATION CARDS FOR PARTICIPANTS. (a)
19 The board of trustees or the account administrator, as applicable,
20 shall issue to each participant an identification card.

21 (b) The board of trustees or the account administrator, as
22 applicable, shall issue a duplicate identification card to each
23 participant's dependent for whom qualified medical expenses may be
24 paid out of a health savings account established under this
25 subchapter.

26 Sec. 1551.458. STATE CONTRIBUTION. (a) For each
27 participant, from the state contribution that would otherwise be

1 made for basic coverage for the participant, the state shall
2 annually contribute:

3 (1) to a high deductible health plan provided under
4 this subchapter, the amount that is necessary to pay the cost of
5 coverage under the high deductible health plan and does not exceed
6 the amount the state annually contributes for a full-time or
7 part-time employee, as applicable, who is covered by the basic
8 coverage; and

9 (2) to the participant's health savings account, any
10 remainder of the state contribution after payment of coverage under
11 Subdivision (1).

12 (b) For each participant's dependent covered under this
13 subchapter from the state contribution that would otherwise be made
14 for basic coverage for the dependent, the state shall annually
15 contribute:

16 (1) to a high deductible health plan provided under
17 this subchapter, the same percentage of the cost of coverage under
18 the high deductible health plan as the state annually contributes
19 for dependent coverage in the basic coverage; and

20 (2) to the participant's health savings account, as
21 allowed under federal law, any remainder of the state contribution
22 after payment for coverage under Subdivision (1).

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

27 Sec. 1551.459. PARTICIPANT CONTRIBUTIONS. (a) Each

1 participant, in accordance with Section 1551.305, shall contribute
2 any amount required to cover the selected participation in the
3 state consumer-directed health plan that exceeds the state
4 contribution amount under Section 1551.458.

5 (b) A participant may contribute any amount allowed under
6 federal law to the participant's health savings account in addition
7 to receiving the state contribution under Section 1551.458.

8 (c) A participant shall make contributions under this
9 section in the manner prescribed by the board of trustees.

10 Sec. 1551.460. COORDINATION WITH CAFETERIA PLAN. (a) The
11 board of trustees has exclusive authority to determine the
12 eligibility of a participant to participate in any medical flexible
13 savings account that is part of a cafeteria plan offered under this
14 chapter.

15 (b) The board of trustees shall adopt rules regarding:

16 (1) the eligibility of a participant to participate in
17 any medical flexible savings account that is part of a cafeteria
18 plan offered under this chapter; and

19 (2) the coordination of benefits provided under this
20 subchapter and any medical flexible savings account that is part of
21 a cafeteria plan offered under this chapter.

22 (c) The rules adopted by the board of trustees under
23 Subsection (b) must prohibit a participant from participating in
24 any medical flexible savings account that would disqualify the
25 participant's health savings account from favorable tax treatment
26 under federal law.

27 Sec. 1551.461. CONFIDENTIALITY OF RECORDS. To the extent

1 allowed under federal law and subject to Section 1551.063, the
2 board of trustees or the account administrator, as applicable, may
3 disclose to a carrier information in an individual's records that
4 the board of trustees or administrator determines is necessary to
5 administer the state consumer-directed health plan.

6 Sec. 1551.462. EXEMPTION FROM EXECUTION; UNASSIGNABILITY.

7 A state contribution to a health savings account or a high
8 deductible health plan is exempt from execution and is unassignable
9 in the same manner and to the same extent as is an amount described
10 by Section 1551.011.

11 Sec. 1551.463. ASSISTANCE. Any state agency that the board
12 of trustees considers appropriate shall assist the board in
13 implementing and administering this subchapter.

14 SECTION 2. The Employees Retirement System of Texas shall
15 develop the state consumer-directed health plan to be implemented
16 under Chapter 1551, Insurance Code, as amended by this Act,
17 including enrollment requirements, during the state fiscal
18 biennium beginning September 1, 2009, with coverage beginning
19 September 1, 2010.

20 SECTION 3. Not later than July 31, 2010, the Employees
21 Retirement System of Texas shall provide written information to
22 individuals eligible to participate in the state consumer-directed
23 health plan under Chapter 1551, Insurance Code, as amended by this
24 Act, that provides a general description of the requirements for
25 the plan as adopted under Chapter 1551, Insurance Code, as amended
26 by this Act.

27 SECTION 4. The Employees Retirement System of Texas shall

1 develop and implement the health savings account program under
2 Chapter 1551, Insurance Code, as amended by this Act, in a manner
3 that is as revenue neutral as is possible.

4 SECTION 5. Except as otherwise provided by this Act, this
5 Act takes effect September 1, 2009.