BILL ANALYSIS

C.S.H.B. 1766
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The ever-increasing cost of health care is an issue for the Employees Retirement System of Texas (ERS) employee health insurance program. One method of combating the increasing cost of insurance is to offer state employees high deductible health care plans combined with health savings accounts. C.S.H.B. 1766 authorizes the ERS board of trustees to create a consumer-directed health plan for eligible individuals, providing a state employee the option to participate in a consumer-directed health plan administered by ERS that provides a high deductible health plan combined with a health savings account as an alternative to participating in a traditional health plan and requires the board to submit a report regarding various aspects of the plan.

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 of this bill.

ANALYSIS

C.S.H.B. 1766 amends the Insurance Code to establish the state consumer-directed health plan for the benefit of individuals eligible to participate in the state employees group benefits program provided by the Texas Employees Group Benefits Act and those individuals' eligible dependents. The bill authorizes the Employees Retirement System of Texas (ERS) board of trustees to adopt rules necessary to administer the plan provisions. The bill requires the board, in implementing the plan provisions, to establish health savings accounts 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 for health benefit coverage, including preventive health care, to a plan enrollee in the state consumer-directed health plan and to an enrollee's dependents; 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. The bill makes certain provisions of the Texas Employees Group Benefits Act relating to carrier accounting, a carrier's contingency reserve, computation of premiums, and drug formularies apply to a high deductible plan if the board purchases a high deductible health plan under the bill's provisions. The bill requires the board, in adopting rules and administering health savings accounts or selecting administrators for such accounts, to ensure that the health savings accounts are qualified for appropriate federal tax exemptions.

C.S.H.B. 1766 requires the board to offer individuals eligible to participate in the basic coverage plan the option of waiving participation in the basic coverage plan and instead electing participation in the state consumer-directed health plan. The bill establishes that, for purposes of the bill's provisions, participation in the state consumer-directed health plan is considered participation in the group benefits program and that certain provisions of the Texas Employees Group Benefits Act relating to funding of basic and optional coverage, cost of basic coverage, and payment apply to participation in the state consumer-directed health plan in the same manner that those provisions apply to the basic coverage plan. The bill requires the account administrator selected to administer a health savings account to be a person qualified to serve as trustee under

applicable provisions of the federal Internal Revenue Code of 1986 and the rules adopted under that law and experienced in administering health savings accounts or other similar trust accounts. The bill establishes that an account administrator is the fiduciary of a plan enrollee who has a health savings account established under the bill's provisions. The bill exempts the account administrator from a provision of the Texas Employees Group Benefits Act requiring an administrator to be a qualified, experienced firm of group insurance specialists or an administering firm.

C.S.H.B. 1766 authorizes each individual eligible to participate in the basic coverage to choose instead to participate in the state-consumer directed health plan if the plan enrollee is an eligible individual under applicable provisions of the federal Internal Revenue Code of 1986. The bill authorizes a plan enrollee's dependents to participate in the state consumer-directed health plan in accordance with the bill. The bill establishes that a plan enrollee waives basic plan coverage and is required to be enrolled in a high deductible health plan. The bill establishes that participation in the state consumer-directed health plan qualifies a plan enrollee to receive a state contribution to a health savings account and that an individual who elects not to participate in the plan is not eligible to receive a state contribution. The bill makes a plan enrollee subject to Texas Employees Group Benefits Act provisions regarding sanctions and claims adjudication in the same manner as an individual who participates in the basic coverage offered under the group benefits program. The bill grants the board 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 the eligibility to participate in the plan.

C.S.H.B. 1766 entitles a plan enrollee to obtain for the enrollee's dependents coverage in the state consumer-directed health plan in the manner determined by the board. The bill requires a plan enrollee to make any required additional contribution payments for the dependent coverage in the manner prescribed by the board. The bill authorizes a plan enrollee's contributions to be used to pay the cost of coverage in the state consumer-directed health plan not paid by the state or to be allocated by the board to an enrollee's health savings accounts. The bill makes a plan enrollee's covered dependent subject to Texas Employees Group Benefits Act provisions regarding sanctions and claims adjudication in the same manner as a dependent who is covered by the basic coverage offered under the group benefits program and requires a plan enrollee's dependent to be a dependent for purposes of the bill's provisions. The bill requires the board or the account administrator, as applicable, to issue to each plan enrollee an identification card and to issue a duplicate identification card to each plan enrollee's dependent for whom qualified medical expenses may be paid out of a health savings account.

C.S.H.B. 1766 requires the state, for each plan enrollee, to contribute annually from the state contribution that would otherwise be made for basic coverage for the enrollee to the high deductible health plan provided under the bill's provisions the amount that is necessary to pay the cost of coverage for the enrollee under the high deductible health plan and that does not exceed the amount the state annually contributes for a full-time or part-time employee. The bill requires the state, for each plan enrollee's dependent, to contribute annually from the state contribution that would otherwise be made for basic dependent coverage to the high deductible health plan the same percentage of the cost of coverage under the high deductible plan as the state annually contributes for dependent coverage in the basic coverage. The bill authorizes the board to determine, before each plan year, how to allocate to an enrollee's health savings account the portion, if any, of the state contribution that would otherwise be made for basic coverage for the enrollee and that remains after payment for coverage. The bill limits, for a calendar year, the amount of any such allocations made under this provision and amounts contributed by a plan enrollee and allocated by the board to an enrollee's health savings account, in the aggregate, to the sum of the monthly limitations imposed by federal law for health savings accounts.

C.S.H.B. 1766 requires each plan enrollee to contribute any amount required to cover the selected participation in the state consumer-directed health plan that exceeds the state contribution amount. The bill authorizes a plan enrollee to contribute any amount allowed under

federal law to the enrollee's health savings account in addition to receiving an allocation of the state contribution. The bill requires a plan enrollee to make contributions in the manner prescribed by the board.

C.S.H.B. 1766 grants the board exclusive authority to determine the eligibility of a plan enrollee to participate in any medical flexible savings account that is part of a cafeteria plan offered under the Texas Employees Group Benefits Act. The bill requires the board to adopt rules regarding the eligibility of a plan enrollee to participate in any medical flexible savings account that is part of a cafeteria plan offered under the Texas Employees Group Benefits Act and the coordination of benefits provided under the bill's provisions and any medical flexible savings account that is part of such a cafeteria plan. The bill requires such board rules to prohibit a plan enrollee from participating in any medical flexible savings account that would disqualify the enrollee's health savings account from favorable tax treatment under federal law. The bill authorizes the board or the account administrator, as applicable, to the extent allowed under federal law and subject to Texas Employees Group Benefits Act provisions regarding confidentiality of records, to disclose to a carrier information in an individual's records that the board or administrator determines is necessary to administer the state consumer-directed health plan. The bill exempts a state contribution to a health savings account or a high deductible health plan from execution and establishes that such contribution is unassignable in the same manner and to the same extent as is an amount similarly exempted under Texas Employees Group Benefits Act provisions. The bill requires any state agency that the board considers appropriate to assist the board in implementing and administering the bill's provisions.

C.S.H.B. 1766 requires ERS to develop the state consumer-directed health plan, including enrollment requirements, during the state fiscal biennium beginning September 1, 2011, with coverage beginning September 1, 2012. The bill requires ERS, not later than July 31, 2012, 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. The bill requires ERS to develop and implement the health savings account program in a manner that is as revenue neutral as is possible.

C.S.H.B. 1766 requires the ERS board of trustees, not later than January 1, 2017, to submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board concerning the manner in which, and the level at which, plan enrollees use the coverage provided under the state consumer-directed health plan; whether the coverage provided under the state consumer-directed health plan is more or less cost-effective for plan enrollees and the state than the coverage provided under the basic coverage plan; and whether continuation of the state consumer-directed health plan is feasible or desirable. The bill authorizes the report to be submitted separately from, or included in, the annual report that the board is required to provide concerning the coverages provided and the benefits and services being received by all participants in the employees group benefits program and that is submitted closest to January 1, 2017.

C.S.H.B. 1766 defines "high deductible health plan," "plan enrollee," and "qualified medical expense."

EFFECTIVE DATE

Except as otherwise provided, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1766 contains a provision not included in the original requiring the Employees Retirement System of Texas board of trustees, not later than January 1, 2017, to submit a report to the governor, lieutenant governor, speaker of the house, and Legislative Budget Board concerning plan enrollees' use of the coverage provided under the state consumer-directed health

plan; the cost effectiveness of coverage provided under that plan relative to the coverage provided under the basic coverage plan; and whether continuation of the state consumer-directed health plan is feasible or desirable. The substitute contains a provision not included in the original authorizing the report to be submitted separately from, or included in, the annual report on the coverages provided by and the benefits and services received through the employees group benefits program that is submitted closest to January 1, 2017.