

By: Crownover

H.B. No. 1766

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) "Plan enrollee" means a participant who is enrolled in the plan established under this subchapter.

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

Sec. 1551.452. ESTABLISHMENT OF STATE CONSUMER-DIRECTED HEALTH PLAN. (a) 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

1 dependents.

2 (b) The board of trustees may adopt rules necessary to  
3 administer this subchapter. In implementing this subchapter the  
4 board shall:

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

8 (2) finance or purchase a high deductible health plan  
9 that:

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

12 (B) provides health benefit coverage, including  
13 preventive health care, to a plan enrollee in the state  
14 consumer-directed health plan and to the dependents of a plan  
15 enrollee in accordance with Section 1551.456; and

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

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

23 (d) In adopting rules and administering health savings  
24 accounts or selecting administrators for health savings accounts  
25 under this subchapter, the board of trustees shall ensure that the  
26 health savings accounts are qualified for appropriate federal tax  
27 exemptions.

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

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

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

16               (1) qualified to serve as trustee under Section  
17 223(d)(1)(B), Internal Revenue Code of 1986, and the rules adopted  
18 under that section; and

19               (2) experienced in administering health savings  
20 accounts or other similar trust accounts.

21       (b) An account administrator is the fiduciary of a plan  
22 enrollee who has a health savings account established under this  
23 subchapter.

24       (c) Section 1551.056(b) does not apply to the account  
25 administrator.

26       Sec. 1551.455. PARTICIPATION IN PROGRAM. (a) Each  
27 individual eligible to participate in the basic coverage may choose

1 instead to participate in the state consumer-directed health plan  
2 if the plan enrollee is an eligible individual under Section  
3 223(c)(1), Internal Revenue Code of 1986. The dependents of a plan  
4 enrollee may participate in the state consumer-directed health plan  
5 in accordance with Section 1551.456.

6 (b) A plan enrollee waives basic plan coverage and must be  
7 enrolled in a high deductible health plan.

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

13 (d) A plan enrollee is subject to Subchapter H in the same  
14 manner as an individual who participates in the basic coverage  
15 offered under the group benefits program.

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

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

25 (b) The plan enrollee shall make any required additional  
26 contribution payments for the dependent coverage in the manner  
27 prescribed by the board of trustees.

1        (c) Amounts contributed by a plan enrollee under this  
2 section may be:

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

6            (2) allocated by the board to an enrollee's health  
7 savings account in the manner described by Section 1551.458(c).

8        (d) A covered dependent of a plan enrollee:

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

12            (2) must be a dependent for purposes of this chapter.

13        Sec. 1551.457. IDENTIFICATION CARDS FOR PLAN ENROLLEES.

14        (a) The board of trustees or the account administrator, as  
15 applicable, shall issue to each plan enrollee an identification  
16 card.

17        (b) The board of trustees or the account administrator, as  
18 applicable, shall issue a duplicate identification card to each  
19 plan enrollee's dependent for whom qualified medical expenses may  
20 be paid out of a health savings account established under this  
21 subchapter.

22        Sec. 1551.458. STATE CONTRIBUTION. (a) For each plan  
23 enrollee, from the state contribution that would otherwise be made  
24 for basic coverage for the enrollee, the state shall annually  
25 contribute to a high deductible health plan provided under this  
26 subchapter the amount that is necessary to pay the cost of coverage  
27 under the high deductible health plan and does not exceed the amount

1 the state annually contributes for a full-time or part-time  
2 employee, as applicable, who is covered by the basic coverage.

3 (b) For each plan enrollee's dependent covered under this  
4 subchapter from the state contribution that would otherwise be made  
5 for basic coverage for the dependent, the state shall annually  
6 contribute to a high deductible health plan provided under this  
7 subchapter the same percentage of the cost of coverage under the  
8 high deductible health plan as the state annually contributes for  
9 dependent coverage in the basic coverage.

10 (c) Before each plan year, the board may determine how to  
11 allocate to an enrollee's health savings account the portion, if  
12 any, of the state contribution that would otherwise be made for  
13 basic coverage for the enrollee and that remains after payment for  
14 coverage under Subsection (a) or (b).

15 (d) For a calendar year, the amount of any allocations made  
16 under Subsection (c) and Section 1551.456(c)(2), in the aggregate,  
17 may not exceed the sum of the monthly limitations imposed by federal  
18 law for health savings accounts.

19 Sec. 1551.459. PLAN ENROLLEE CONTRIBUTIONS. (a) Each plan  
20 enrollee, in accordance with Section 1551.305, shall contribute any  
21 amount required to cover the selected participation in the state  
22 consumer-directed health plan that exceeds the state contribution  
23 amount under Section 1551.458.

24 (b) A plan enrollee may contribute any amount allowed under  
25 federal law to the enrollee's health savings account in addition to  
26 receiving an allocation of the state contribution under Section  
27 1551.458.

1       (c) A plan enrollee shall make contributions under this  
2 section in the manner prescribed by the board of trustees.

3       Sec. 1551.460. COORDINATION WITH CAFETERIA PLAN. (a) The  
4 board of trustees has exclusive authority to determine the  
5 eligibility of a plan enrollee to participate in any medical  
6 flexible savings account that is part of a cafeteria plan offered  
7 under this chapter.

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

9           (1) the eligibility of a plan enrollee to participate  
10 in any medical flexible savings account that is part of a cafeteria  
11 plan offered under this chapter; and

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

15       (c) The rules adopted by the board of trustees under  
16 Subsection (b) must prohibit a plan enrollee from participating in  
17 any medical flexible savings account that would disqualify the  
18 enrollee's health savings account from favorable tax treatment  
19 under federal law.

20       Sec. 1551.461. CONFIDENTIALITY OF RECORDS. To the extent  
21 allowed under federal law and subject to Section 1551.063, the  
22 board of trustees or the account administrator, as applicable, may  
23 disclose to a carrier information in an individual's records that  
24 the board of trustees or administrator determines is necessary to  
25 administer the state consumer-directed health plan.

26       Sec. 1551.462. EXEMPTION FROM EXECUTION; UNASSIGNABILITY.  
27 A state contribution to a health savings account or a high

1 deductible health plan is exempt from execution and is unassignable  
2 in the same manner and to the same extent as is an amount described  
3 by Section 1551.011.

4 Sec. 1551.463. ASSISTANCE. Any state agency that the board  
5 of trustees considers appropriate shall assist the board in  
6 implementing and administering this subchapter.

7 SECTION 2. The Employees Retirement System of Texas shall  
8 develop the state consumer-directed health plan to be implemented  
9 under Chapter 1551, Insurance Code, as amended by this Act,  
10 including enrollment requirements, during the state fiscal  
11 biennium beginning September 1, 2011, with coverage beginning  
12 September 1, 2012.

13 SECTION 3. Not later than July 31, 2012, the Employees  
14 Retirement System of Texas shall provide written information to  
15 individuals eligible to participate in the state consumer-directed  
16 health plan under Chapter 1551, Insurance Code, as amended by this  
17 Act, that provides a general description of the requirements for  
18 the plan as adopted under Chapter 1551, Insurance Code, as amended  
19 by this Act.

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

24 SECTION 5. Except as otherwise provided by this Act, this  
25 Act takes effect September 1, 2011.