

By: Darby

H.B. No. 3496

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a health reimbursement arrangement program for certain
3 eligible retirees covered by the Employees Retirement System, the
4 Teacher Retirement System, and the University of Texas and Texas
5 A&M Uniform Benefits.

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

7 SECTION 1. Section 1551.003, Insurance Code, is amended by
8 adding Subsection (5-a) to read as follows:

9 (5-a). "Health reimbursement arrangement" means an
10 arrangement that:

11 (A) is funded solely by the board of trustees;

12 (B) is not provided under a salary reduction election or
13 otherwise pursuant to a cafeteria plan;

14 (C) reimburses an annuitant, dependent, surviving spouse,
15 or surviving dependent in the group benefits program for medical
16 care as defined in Section 213(d) of the Internal Revenue Code (26
17 U.S.C. Section 213(d)), including reimbursements for insurance
18 premiums for health coverage covering such medical care;

19 (D) provides reimbursements up to a maximum dollar amount
20 for a coverage period; and

21 (E) provides that any unused portion of the maximum dollar
22 amount at the end of a coverage period is carried forward to
23 increase the maximum reimbursement amount in subsequent coverage
24 periods.

1 SECTION 2. Subchapter E, Chapter 1551, Insurance Code, is
2 amended by adding Section 1551.226 to read as follows:

3 Sec 1551.226. HEALTH REIMBURSEMENT ARRANGEMENTS. The board
4 of trustees may self-fund a plan under this chapter which provides
5 health reimbursement arrangements to annuitants, dependents,
6 surviving spouses, and surviving dependents who are covered by
7 Medicare. The board of trustees shall have the authority to
8 determine the terms and conditions of the health reimbursement
9 arrangements. Funds allocated to the health reimbursement
10 arrangements for annuitants, dependents, surviving spouses, and
11 surviving dependents who are covered by Medicare may be used to pay
12 for or to make reimbursements for individual health insurance
13 policy premiums. The annuitants (or dependents, surviving spouses,
14 or surviving dependents, as applicable) may select any individual
15 health insurance policy, including a Medigap or Medicare supplement
16 policy, Medicare Advantage policy or a Medicare prescription drug
17 policy, as applicable, to the extent provided by the terms and
18 conditions of the health reimbursement arrangement. Pursuant to
19 Section 1551.212 of this chapter, the board of trustees may
20 contract with an administering firm to administer the health
21 reimbursement arrangements.

22 SECTION 3. Section 1575.002, Insurance Code, is amended by
23 adding Subsection (5-a) to read as follows:

24 (5-a). "Health reimbursement arrangement" means an
25 arrangement that:

26 (A) is funded solely by the Teacher Retirement System of
27 Texas;

1 (B) is not provided under a salary reduction election or
2 otherwise pursuant to a cafeteria plan;

3 (C) reimburses a participant, dependent, surviving spouse,
4 or surviving dependent child in the group program for medical care
5 as defined in Section 213(d) of the Internal Revenue Code (26 U.S.C.
6 Section 213(d)), including reimbursements for insurance premiums
7 for health coverage covering such medical care;

8 (D) provides reimbursements up to a maximum dollar amount
9 for a coverage period; and

10 (E) provides that any unused portion of the maximum dollar
11 amount at the end of a coverage period is carried forward to
12 increase the maximum reimbursement amount in subsequent coverage
13 periods.

14 SECTION 4. Section 1575.103, Texas Code, is amended to read
15 as follows:

16 Sec. 1575.103. PLANS MAY VARY ACCORDING TO MEDICARE
17 COVERAGE. For retirees, dependents, [~~and~~] surviving spouses, and
18 surviving dependent children who are not covered by Medicare, the
19 trustee may provide one or more plans that are different from the
20 plans provided for retirees, dependents, [~~and~~] surviving spouses,
21 and surviving dependent children who are [~~not~~] covered by Medicare
22 using funds from health reimbursement arrangements.

23 SECTION 5. Subchapter C, Chapter 1575, Insurance Code, is
24 amended by adding Section 1575.011 to read as follows:

25 Sec 1575.011. HEALTH REIMBURSEMENT ARRANGEMENTS. The trustee
26 may self-fund a plan under this chapter which provides health
27 reimbursement arrangements to retirees, dependents, surviving

1 spouses, and surviving dependent children who are covered by
2 Medicare. The trustee has the authority to determine the terms and
3 conditions of the health reimbursement arrangements. Funds
4 allocated to the health reimbursement arrangements for retirees,
5 dependents, surviving spouses and surviving dependent children who
6 are covered by Medicare may be used to pay for or to make
7 reimbursements for individual health insurance policy premiums.
8 The retirees (or dependents, surviving spouses, or dependent
9 children, as applicable) may select any individual health insurance
10 policy, including a Medigap or Medicare supplement policy, Medicare
11 Advantage policy or a Medicare prescription drug policy, as
12 applicable, to the extent provided by the terms and conditions of
13 the health reimbursement arrangement. Pursuant to Sections
14 1575.106 and 1575.107 of this chapter, the trustee may contract
15 with a third-party to administer the health reimbursement
16 arrangements.

17 SECTION 6. Section 1601.003, Insurance Code, is amended by
18 amending Subsection (1) and (4) to read as follows:

19 (1) "Administering firm [~~carrier~~]" means an [~~a carrier or~~]
20 organization that is:

21 (A) qualified to engage in business in this state; and

22 (B) designated by a system to administer services,
23 benefits, insurance coverages, or requirements in accordance with
24 this chapter.

25 (4) "Group life, accident, or health benefit plan" means a
26 group agreement, policy, contract, or arrangement provided by a [~~an~~
27 ~~administering~~] carrier, including:

- 1 (A) a group insurance policy or contract;
- 2 (B) a life, accident, medical, dental, or hospital service
3 agreement;
- 4 (C) a membership or subscription contract; [~~or~~]
- 5 (D) any other similar group arrangement; or
- 6 (E) a health reimbursement arrangement.

7 SECTION 7. Section 1601.003, Insurance Code, is amended by
8 adding Subsection (4-a) to read as follows:

9 (4-a) "Health reimbursement arrangement" means an
10 arrangement that:

- 11 (A) is funded solely by the governing board of a system;
- 12 (B) is not provided under a salary reduction election or
13 otherwise through a cafeteria plan;
- 14 (C) reimburses a retired employee, dependent, surviving
15 spouse, or surviving dependent in the uniform program for medical
16 care as defined in Section 213(d) of the Internal Revenue Code (26
17 U.S.C. Section 213(d)), including reimbursements for insurance
18 premiums for health coverage covering such medical care;
- 19 (D) provides reimbursements up to a maximum dollar amount
20 for a coverage period; and
- 21 (E) provides that any unused portion of the maximum dollar
22 amount at the end of a coverage period is carried forward to
23 increase the maximum reimbursement amount in subsequent coverage
24 periods.

25 SECTION 8. Chapter 1601.054, Insurance Code, is amended to
26 read as follows:

27 Sec. 1601.054. COMPETITIVE BIDDING REQUIRED. A system shall

1 submit the uniform program, including any agreement under which an
2 administering firm [~~a carrier~~] is engaged to administer a
3 self-insured program, for competitive bidding at least every six
4 years.

5 SECTION 9. Chapter 1601.057, Insurance Code, is amended to
6 read as follows:

7 Sec. 1601.057. SELECTION OF BIDS. (a) A system is not
8 required to select the lowest bid under Section 1601.054 but shall
9 take into consideration other relevant criteria, such as ability to
10 service contracts, past experience, and financial stability.

11 (b) If a system selects a carrier or administering firm
12 whose bid differs from that advertised, the governing board of the
13 system shall fully justify and record the reasons for the deviation
14 in the minutes of the next meeting of the governing board.

15 SECTION 10. Chapter 1601.062, Insurance Code, is amended to
16 read as follows:

17 Sec. 1601.062. REPORTS AND RECORDS BY ADMINISTERING FIRM OR
18 CARRIER. Each contract entered into under this chapter between a
19 system and an administering firm or carrier must:

20 (1) require the administering firm or carrier to provide
21 reasonable reports that the system determines are necessary for the
22 system to perform its functions under this chapter; and

23 (2) permit the system and representatives of the state
24 auditor to examine records of the administering firm or carrier as
25 necessary to accomplish the purposes of this chapter.

26 SECTION 11. Chapter 1601.151, Insurance Code, is amended to
27 read as follows:

1 Sec. 1601.151. AUTHORITY TO SELF-INSURE; EXEMPTION FROM
2 OTHER INSURANCE LAWS. (a) Notwithstanding any other provisions of
3 this chapter, the governing board of a system may:

- 4 (1) self-insure a plan provided under this chapter; and
5 (2) hire a [an-carrier] administering firm to administer the
6 system's uniform program.

7 (b) A plan for which a system provides coverage on a self-
8 insured basis is exempt from any other insurance law of this state
9 that does not expressly apply to that plan or this chapter.

10 (c) Expenses for the administration of a self-insured plan
11 may come from the contributions of employees and the state after
12 payments for any coverage provided under this chapter have been
13 made.

14 SECTION 12. Chapter 1601.155, Insurance Code, is amended to
15 read as follows:

16 Sec. 1601.155. REINSURANCE. A system may arrange with [~~an~~
17 ~~administering~~] a carrier issuing a policy under this chapter for
18 the reinsurance of portions of the total amount of insurance under
19 the policy with other carriers that elect to participate in the
20 reinsurance.

21 SECTION 13. Subchapter D, Chapter 1601, Insurance Code, is
22 amended by adding Section 1601.156 to read as follows:

23 Sec. 1601.156. HEALTH REIMBURSEMENT ARRANGEMENTS. The
24 governing board of a system may self-insure a plan under this
25 chapter which provides health reimbursement arrangements to
26 retired employees, dependents, surviving spouses, and surviving
27 dependents who are covered by Medicare. The board has the authority

1 to determine the terms and conditions of the health reimbursement
2 arrangements. Funds allocated to the health reimbursement
3 arrangements for retired employees, dependents, surviving spouses,
4 and surviving dependents who are covered by Medicare may be used to
5 pay for or to make reimbursements for individual health insurance
6 policy premiums. The retired employees (or dependents, surviving
7 spouses, or surviving dependents, as applicable) may select any
8 individual health insurance policy, including a Medigap or Medicare
9 supplement policy, Medicare Advantage policy or a Medicare
10 prescription drug policy, as applicable, to the extent provided by
11 the terms and conditions of the health reimbursement arrangement.
12 Pursuant to Sections 1601.054 through 1601.057 of this chapter, the
13 system may contract with an administering firm to administer the
14 health reimbursement arrangements.

15 SECTION 14. EFFECTIVE DATE. This Act takes effect
16 immediately if it receives a vote of two-thirds of all the members
17 elected to each house, as provided by Section 39, Article III, Texas
18 Constitution. If this Act does not receive the vote necessary for
19 immediate effect, this Act takes effect September 1, 2011.