HOUSE
RESEARCH
ORGANIZATION bill analysis 4/30/2001

HB 3343
Sadler
(CSHB 3343 by Sadler)

SUBJECT: Group health insurance for active public-school employees

COMMITTEE: Select Committee on Teacher Health Insurance — committee substitute recommended

VOTE: 13 ayes — Sadler, Marchant, Clark, Dutton, Ehrhardt, Flores, Gallego, Hochberg, Junell, Oliveira, Pitts, Smith, Telford

0 nays

2 absent — Tillery, Wilson

WITNESSES: For — David Dunn, Texas Association of School Boards; Lynn Moak, Texas School Alliance; Kevin O'Hanlon, South Texas Association of Schools; Lisa McGiffert, Consumers Union; Revard Pfeffer, Kilgore Independent School District; Ray Freeman, Itasca Independent School District; Joel Johnston

Against — Gene Tyler, United Specialty Benefits; Brady Barham

On — Ronnie Jung, Teacher Retirement System; Paulette Barwinkel, Texas Legislative Council; Joe Wisnoski, Texas Education Agency; Eric Hartman, Texas Federation of Teachers; Donna Haschke, Texas State Teachers Association; Lonnie Hollingsworth, Jr., Texas Classroom Teachers Association; Bill Grusendorf, Texas Association of Rural Schools; Joel Romo, Association of Texas Professional Educators; Dick Hillyer; Don Crook

BACKGROUND: Under current law, teachers are considered local employees of the school districts that hire them. School districts, like many other large employers, are responsible for insuring their employees. This school year, Texas school districts are expected to spend $977 million on health insurance for their employees. More than 1,200 school districts, education service centers, and charter schools in Texas offer about 2,600 health-insurance options.

In 1991, the Legislature directed school districts to provide coverage comparable to the Uniform Group Insurance Program (UGIP), the health plan for state employees (Education Code, sec. 22.004.) However, the law contains no enforcement mechanism. In 1997, HB 2644 by Telford et al. required the Teacher Retirement System (TRS) to certify the comparability of local coverage to UGIP in a biennial survey and report to the Legislature.

According to the latest TRS comparability study, 54 percent of Texas public schools offer their employees at least one health-insurance plan that is certified as comparable to state employee coverage. Eighty-five percent of school-district employees receive employee-only coverage at no out-of-pocket cost. However, 95 percent of districts pay nothing toward dependent or family coverage for their employees. As of the 1999-2000 school year, 17 districts offered no health plan at all, and one district offered only a medical savings account.

State employee benefits. UGIP, administered by the Employees Retirement System (ERS), provides a comprehensive employee-only benefit package to all state employees at no cost to the employee. The state's cost for employee-only coverage ranges from about $170 per month for coverage by a health maintenance organization (HMO) to $250 per month for HealthSelect, a "point-of-service" plan offered by Blue Cross/Blue Shield of Texas. A point-of-service plan allows participants to choose providers and services as long as they are willing to pay higher copayments for access to providers who do not have prenegotiated contracts with the network.

In addition to HealthSelect, state employees may choose from among several other plans, such as an HMO or preferred provider organization (PPO), that require a primary-care "gatekeeper" to manage care and contain costs. As with HealthSelect, the state pays all costs of employee-only coverage and 50 percent of the cost for dependent coverage for HMO or PPO care.

Retired public-school employee benefits. TRS covers 127,000 retired public-school employees and their dependents under TRS-Care, a health-care plan begun in 1985 and financed primarily by retirees' premiums and active employees' payroll deductions. The cost of TRS-Care varies according to the level of coverage chosen and whether a retiree also is covered by Medicare Part A (hospital insurance). Like many school districts' health plans, TRS-Care coverage is not comparable to UGIP. TRS-Care gives retirees a choice of three levels of health-care coverage:

- TRS-Care 1, a catastrophic plan, available at no cost to retirees who do *not* have Medicare Part A, that offers a $4,500 deductible and a $9,500 annual out-of-pocket limit per person;
- TRS-Care 2, a catastrophic plan, available at no cost to retirees who have Medicare Part A, that offers an $1,800 deductible and a $6,800 annual out-of-pocket limit per person; and
- TRS-Care 3, a comprehensive plan, available at group rates, that offers a $240 deductible and a $5,240 annual out-of-pocket limit per person.

More than 75 percent of retirees are enrolled in TRS-Care 3. In recent years, according to TRS, almost all retirees have chosen TRS-Care 3.

A catastrophic health-care plan provides a financial stop-gap for employees who may experience a costly illness such as cancer, a heart attack, or a premature birth. A catastrophic plan usually requires the employee to pay several thousand dollars out of pocket before benefits kick in, but the plan limits employees' liability after they meet their annual maximum.

CHIP and SKIP. The federal Health Care Financing Administration (HCFA) recently issued final rules on eligibility guidelines for the Children's Health Insurance Program (CHIP), a state-federal program designed to insure the children of working families who earn too much to qualify for Medicaid, yet cannot afford the coinsurance for their employer's plan. It is estimated that about 15,000 dependents of public-school employees are eligible for CHIP. HCFA rules exclude from CHIP benefits not only state government employees but any public employee who has access to a state health-benefit plan, even if he or she waives coverage. The second test for exclusion from CHIP eligibility is whether a public agency (including the state or a public school district) that provides a state health-benefit plan makes more than a nominal contribution ($10 or more) toward dependent coverage on behalf of the employee.

The 76th Legislature enacted SB 1351 by Barrientos, creating the State Kids Insurance Program (SKIP) specifically for dependents of low-income state employees and some higher education employees (Health and Safety Code, ch. 62). Rather than providing a separate health plan for these employees' children, SKIP subsidizes an additional 30 percent of premiums for dependent coverage under UGIP. Because public-school employees are not state employees, they are not eligible for SKIP.

Equity issues. In the context of school finance in Texas, equity is defined as providing substantially equal access to similar revenue per student at similar levels of tax effort. Under the equalized school-finance system set forth in Education Code, ch. 42, for every penny of local property-tax effort, most school districts receive state funds through equity formulas designed to equalize the tax effort of rich and poor districts. Under ch. 41, about 100 wealthy districts contribute revenue to the state or to another district as part of the equalization system.

On average, school districts now dedicate to health insurance about 10 cents per $100 of assessed value from their maintenance and operations (M&O) taxes, according to Texas Education Agency estimates. Many small and rural districts dedicate a much higher portion to health insurance — some more than 20 cents per $100. Currently, state law caps most school districts' M&O tax rate at $1.50 per $100 of assessed value.

Rollback tax rate. Tax Code, sec. 26.08 sets forth guidelines for local elections to ratify ad valorem taxes for school districts and defines a school district's rollback tax rate. Each year, the district's rollback rate equals the sum of the district's M&O rate necessary to maintain current revenue per weighted average daily attendance, plus 6 cents per $100 of taxable value, plus the district's current debt rate. Essentially, when a district reaches its rollback rate, it must hold a local election to approve any further increase in the tax level up to the legal maximum.

For more background, see House Research Organization Focus Report Number 77-7, *Teacher Health Insurance: The Multibillion-Dollar Question*, February 23, 2001.

DIGEST:

CSHB 3343 would establish a state-funded uniform group health-insurance plan for teachers and other employees of public school districts, beginning with the 2002-03 school year. Major provisions are summarized below.

! Participation would be mandatory for school districts with 500 or fewer employees and for regional service centers beginning in September 2002.

- Participation would be voluntary for school districts with between 501 and 1,000 employees beginning in September 2002.
- Charter schools whose employees were eligible to participate in TRS could opt in to the state plan, subject to open records and annual auditing requirements, beginning in September 2002.
- School districts with more than 1,000 employees could opt in beginning with the 2005-06 school year.
- The bill would remain silent on opting out once a district had elected to participate.
- TRS would have to administer a self-insured plan that provided at least two tiers of health-care coverage, from a basic catastrophic plan up to a comprehensive plan equal to UGIP.
- Full-time and part-time TRS participants who were employed by covered entities would be enrolled automatically in the catastrophic plan unless they waived coverage or selected another plan.
- Part-time employees who were not TRS participants could participate if they paid their own premiums.
- Money for the plan would flow through a trust fund for public school employees' health insurance, rather than through the school-finance formulas.
- The state would contribute $75 per month to the trust fund for every eligible school-district employee, regional service center employee, and charter-school employee.
- All school districts would have to maintain their current effort or make a minimum monthly contribution of $150 per participating employee, whichever was greater.
- A "hold-harmless" clause would provide graduated assistance to districts that could not meet their local minimum contribution immediately.
- School districts that now contribute more than $150 per month per employee would have to use the excess for employee compensation or benefits.
- Every eligible employee would receive a $1,000 passthrough from the state that could be used for a medical savings account, dependent coverage, and/or a salary supplement.
- Dependents of low-income employees would be eligible for SKIP.
- Retirees would continue to be covered separately under TRS-Care.

Who could participate. Effective September 1, 2002, participation would be mandatory for school districts with 500 or fewer employees and for regional service centers. School districts with between 501 and 1,000 employees could opt in voluntarily beginning with the 2002-03 school year. Voluntary districts would have to decide whether to opt in by September 30, 2001. Effective September 1, 2005, school districts with more than 1,000 employees could opt in.

Charter schools whose employees were eligible for TRS could participate in 2002, subject to open records rules and annual auditing requirements. Charter schools would bear the cost of auditing their records relating to the health-care program. The bill also would amend various portions of the Insurance Code to prohibit participating entities from procuring or renewing insurance contracts through other sources after the bill's effective date.

Eligible employees. The bill would define an eligible employee as a participating member of TRS employed by a school district, eligible charter school, or regional education service center who was not receiving coverage already under UGIP, TRS, or the state university insurance plan. Any public-school employee who was eligible for TRS retirement benefits also would be eligible for health benefits under CSHB 3343. This would include any public-school employee who worked at least 20 hours a week and bus drivers, who automatically are eligible for TRS benefits.

Trustee. TRS would be the trustee of the statewide health plan and could adopt rules to implement the program. TRS would have to establish group coverage plans and negotiate contracts through competitive bidding with group insurance specialists or independent health-care administrators to implement the plan. It could enter into contracts with other state agencies, such as ERS, for assistance.

Trust fund. CSHB 3343 would establish the Texas school employees uniform group coverage trust fund under the Comptroller's Office, comprising all state, local, and employee contributions to the plan, plus any investment income and additional appropriations by the Legislature for contingency reserves and administrative or other expenses. The fund would be dedicated to paying for group coverage for public-school employees and for administrative expenses. TRS would have to administer the fund and hold in trust all contributions to the fund for an employee's health benefits. It also would administer the state's payment of the employee passthrough.

Plan benefits. TRS would have to offer at least two tiers of health-care coverage to all participating employees. The lower-tier plan would have to be at least as extensive as catastrophic coverage under TRS-Care 2. The higher-tier plan would have to be comparable to the comprehensive coverage offered to all state employees under UGIP. Full-time and part-time TRS participants who were employed by covered entities would be covered automatically under the catastrophic plan unless they specifically waived coverage, selected a higher-tier plan, or were expelled from the program. Part-time employees who were not TRS participants could participate if they paid their own premiums. TRS would have to define full-time and part-time employee for the purposes of the program. No employee could be excluded because of a pre-existing condition.

Employee passthrough. The state would have to provide a $1,000 annual passthrough to every full-time active public-school employee, charter-school employee, and regional service center employee, regardless of whether their employer participated in the statewide health insurance plan. Employees could use the passthrough for any combination of the following:

- establishing a health-care reimbursement account;
- buying optional health-care coverage for the employee or dependents; or
- supplementing their compensation.

Employees would have to choose in what form they wanted to receive their passthroughs by August 1 of the preceding state fiscal year or on the 31st day after their hire date. If elected as a salary supplement, the passthrough would be exempted from standard payroll deductions, such as for retirement.

Sum-certain contribution. The state would have to provide a $75 monthly sum-certain state contribution for every full-time school-district employee, regional service center employee, and eligible charter-school employee. Even school districts that were ineligible for aid under Education Code, ch. 42 would receive the sum-certain contribution. The state would have to deposit the money and hold it in trust for each employee's health-care coverage in the school employees uniform group coverage trust fund or in another fund established for the payment of school employees' health coverage.

TRS would have to deliver in equal monthly installments to each school district, charter school, or regional service center an amount equal to the number of employees at that entity, multiplied by the annual sum-certain amount per employee appropriated by the Legislature for that fiscal year. TRS would be entitled to recover any amount distributed to which an entity was not entitled.

Maintenance of effort. All school districts would have to maintain a level of effort for health insurance comparable to that made in the 2000-01 school year. Maintenance of effort would be calculated by dividing the total dollar amount a school district contributed toward health care in the 2000-01 school year by the total number of full-time employees of the district in 2000-01. The resulting amount would be multiplied by the number of full-time employees of the district in the fiscal year for which the computation was made.

Minimum local contribution. All school districts would have to make a minimum local contribution of $150 per month per participating employee dedicated to providing health-insurance coverage. School districts could use state matching funds received under Education Code, ch. 42 to make their local contribution, unless those funds were specified for another purpose. TRS would have to define regional service centers' and charter schools' contributions. If a district already were contributing more than $150 per month, the excess amount could be used only to provide employee compensation, benefits, or both.

Hold-harmless clause. A hold-harmless clause would provide graduated state assistance for up to six years to school districts that needed help meeting the minimum local share. For example, if a district now pays nothing toward employees' health insurance, the state would provide $1,800 per employee in that district for the first year of coverage (in addition to the sum-certain annual total contribution of $900 per employee) and would reduce that amount by $300 in each subsequent year until the district was paying the full amount. A district that already was at the $1.50 M&O cap would be entitled to the difference between $1,800 and its current effort.

The annual maximum amount of hold-harmless money available from the state per participating employee would decline each year as follows:

- in 2002, up to $1,800;
- in 2003, up to $1,500;
- in 2004, up to $1,200;
- in 2005, up to $900;
- in 2006, up to $600; and
- in 2007, up to $300.

The Texas Education Agency would have to provide TRS with information necessary to determine whether a school district was eligible for state assistance under the hold-harmless provision.

Local tax effort. CSHB 3343 would amend Education Code, sec. 42.253 to allow school districts that qualify for hold-harmless money to increase their M&O tax rates by the amount needed to meet the minimum local contribution for employee health-insurance coverage. The education commissioner could adopt rules needed to administer this provision, which would expire September 1, 2009.

The bill would amend Tax Code, sec. 26.08 to change the definition of the rollback tax rate for school districts that received hold-harmless money under CSHB 3343. A school district could add to its rollback tax rate the amount necessary for the district to comply with the minimum local effort clause. In effect, this would adjust the definition of the rollback rate upward enough to allow districts that already were close to their $1.50 M&O limits to continue to meet their health-insurance obligations without triggering a local rollback election.

Dependent coverage. If the state and district contribution together did not provide enough funds to buy dependent coverage, employees could use their $1,000 passthroughs or their own personal funds to buy optional health coverage for dependents. Low-income employees who would be disqualified from CHIP coverage because of access to a statewide health-care plan could participate in SKIP. The bill would extend SKIP eligibility to the dependent children of full-time employees of school districts, charter schools, or regional service centers who otherwise would be eligible for CHIP.

Retiree coverage. The bill would amend the Insurance Code to separate the benefits of retired and active public-school employees. Retirees would continue to be covered separately under TRS-Care, and the bill would not affect the scope and cost of their health-care coverage.

This bill would take effect September 1, 2001, except as otherwise provided.

SUPPORTERS SAY:

CSHB 3343 would represent the "best of the best" plans put forth this session. From adopting the wise fiscal idea of a sum-certain contribution to targeting relief to the dozens of rural districts that have pled their case to the Legislature, CSHB 3343 would reflect a responsive and responsible approach to the problem of insuring public-school employees. The Legislature has deliberated this issue for many years, and it was the subject of a lengthy interim study and many hours of careful research and passionate testimony. CSHB 3343 would acknowledge the input of all players and would honor Texas public-school employees by making a respectable first step toward comprehensive health benefits for a group of professionals who have proved their dedication to the schoolchildren of Texas.

Of the 500,000 certified teachers in Texas, only 264,000 are teaching in the classroom. About 41,400 public-school teachers now are teaching outside of their fields of expertise. A recent survey by the Texas State Teachers Association (TSTA) and Stephen F. Austin State University found that 43 percent of Texas teachers are considering leaving the classroom because of low pay, poor benefits, and stress. Another survey by Texas A&M University ranked Texas last among all states and the District of Columbia in providing health benefits for teachers.

The state must take an active role to create a fairer system. Because the Legislature did not establish a penalty for noncompliance under Education Code, sec. 22.004, considerable disparities remain in both the cost and the quality of school districts' health coverage. While the law requires that school-district benefits be comparable to UGIP in terms of benefits offered, they need not be comparable in price. According to a TSTA survey of 973 school districts, the average monthly cost to most public-school employees for family coverage is $400. Thus, a starting teacher who makes $26,000 per year pays 18 percent of his or her gross salary for health insurance that is not necessarily comparable to state employees' coverage. CSHB 3343 would begin to address these inequities in the current system.

CSHB 3343 would start with smaller districts. Smaller school districts are less likely than larger ones to provide affordable health-care benefits to their employees. Many rural districts lack the property-tax revenues, "pooling power," and access to providers to obtain affordable health insurance. Also, urban districts have greater access to a variety of health-care providers, enabling them to negotiate more competitive contracts and pass on the savings to their employees. Data compiled by TSTA reveal that of 82 school districts with the highest costs for employee/family coverage, 65 have fewer than 100 teachers. In 40 percent of those districts, insurance carriers charge more than $800 per month for employee/family coverage, and in five rural districts, the cost exceeds $1,000 per month.

This bill would help every school employee. CSHB 3343 would provide a $1,000 passthrough to all public-school employees, regardless of whether their district participated in the state plan. The same amount of money would go to teachers as to bus drivers or cafeteria workers, and all could choose how to spend it. Allowing employees to choose whether to use this benefit for additional health-care coverage or for salary supplementation would be the fairest, most flexible approach to helping school employees. The state cannot know each employee's personal situation and should trust employees to make wise decisions with their own money.

This bill would help every school district. The only way to provide health coverage for public-school employees while maintaining equity in the school finance system would be for the state to give every district the same benefit. Under CSHB 3343, the same passthrough would go to all school employees, and the same sum-certain contribution per employee would go to all school districts, whether or not they participated in the state plan. As long as all districts received the same state benefit, whatever equity gap now exists among districts would remain the same.

Mandatory participation is essential. CSHB 3343 would avoid having the state become the insurer of last resort by requiring the participation of school districts with fewer than 500 employees. Mandating school districts' participation would avoid adverse selection or "cherry picking," which would result if high-risk districts with an expensive claims history opted into the program while low-risk districts with a less expensive claims history opted out. This would leave the state paying the bill for only the high-risk participants, thus increasing overall risk and expenses.

The basic level of coverage would be more than adequate. The state's sum-certain contribution of $75 per employee per month, added to the district's contribution of $150 per employee per month, would give TRS $225 per month with which to buy basic coverage for each employee. The current cost of UGIP, the so-called "Cadillac plan" for state employees, is only about $250 per month. Employees easily could opt up to this level of coverage with their passthrough money. Establishing a base level of coverage similar to the TRS-Care 2 catastrophic plan would be a fail-safe measure. With the resources available to school employees under CSHB 3343, most employees would have adequate resources with which to choose from several choices that exceeded TRS-Care 2 coverage.

This plan would expand choice for districts and employees. Many smaller and rural school districts have no choice with regard to health-insurance coverage. Some districts cannot get even one insurance company to bid on health insurance for their district employees. Employees who now either have no choice or who opt out of their districts' plans because of the expense would receive affordable options under CSHB 3343. Districts and employees not only would have the peace of mind of a basic, guaranteed level of care, they also could opt up to a higher level of coverage using district resources or the employee passthrough.

A sum-certain contribution would control costs for the state. CSHB 3343 would create a substantial benefit for smaller school districts, regional service centers, and charter schools without breaking the state's budget. Spiraling health-care costs are a fact of life, and in the current fiscal environment, the state cannot commit to funding a program whose costs could increase by 10 to 20 percent a year. Setting a sum-certain contribution would protect the fiscal integrity of the plan while making a good first step toward a long-term commitment to help public-school employees. The amount of the sum-certain contribution could be revisited each legislative session and adjusted upward or downward, depending upon budgetary flexibility.

CSHB 3343's health-plan proposal would not require a constitutional amendment. Unlike the Senate proposal, CSHB 3343 would not rely on voter approval of two constitutional amendments to take effect. State lawmakers should not make this benefit contingent on tapping into two dedicated trust funds, nor should they ask the public to make this choice.

CSHB 3343 would be the simplest approach to providing health-care coverage within the concept of school-finance equity. School finance promises to be a major issue in the 2003 legislative session and will be the subject of a major study during the interim. CSHB 3343 would provide a simple, targeted solution for the neediest districts while keeping the funding mechanism out of the equity debate. Because all money would go through a trust fund designed specifically for the health-insurance program, no revisions to the school finance formulas would be necessary.

Retirees should not be included. The state does not have the financial resources to upgrade retirees' benefits, let alone to provide health-care coverage for all active school employees. Because TRS does not have a steady revenue stream, there would be no benefit to shifting retirees into a statewide plan with active employees. Retirees already are covered by an adequate health-care plan through TRS-Care, which offers a variety of options, and nothing in CSHB 3343 would preclude them from being added to the statewide plan in a later session when the budget may be more flexible. Retirees should keep their own benefit program separate and safe until the state can find another way to finance it.

While a statewide program would average the cost of health benefits across all districts by pooling the risk, local school districts should not have to shoulder the burden of retirees' health care. Adding retirees to the mix could increase the average risk and therefore the costs of the entire group.

Uninsured school employees already cost taxpayers money. The public sector already picks up the costs of uninsured public-school employees. The uninsured often seek care at public clinics or in county hospital emergency rooms, where the costs of charity care are shifted back to county taxpayers. An uninsured employee can run up bills with local hospitals and providers that are high enough to force the employee into personal bankruptcy. The state ultimately would save on health-care costs by providing insurance to school employees in the first place.

CSHB 3343 would not authorize coverage of questionable procedures. The current benefit package for state employees does not cover abortions or plastic surgery, and neither would the public-school employees' benefit plan.

OPPONENTS SAY:

A state-mandated health plan would erode local control. All school districts should be allowed to retain local control over the cost and design of their health-benefit packages. Some districts that already provide attractive packages want to preserve their competitive advantage in hiring and retaining teachers. Also, because a statewide plan would average the cost of health benefits across all districts, there is no guarantee that every district would experience lower costs than they now incur. By mandating participation by certain districts while paying only a portion of the costs, the state would burden local property taxpayers with an unfunded mandate.

Current coverage would be adequate for most schools. CSHB 3343 is unnecessary because overall coverage in most school districts still compares favorably with the benefits offered by many private-sector employers, and many school districts offer plans that are better than UGIP.

This bill would be costly to the state, districts, and employees. According to its fiscal note, CSHB 3343 would cost the state $1.3 billion in the 2002-03 biennium and $2.5 billion in 2004-05. Administrative startup costs also would be high, as TRS would have to hire 100 new people to administer the plan. Actuaries for TRS estimate a compound growth rate of 13 percent per year in health-plan expenses, which would result in a doubling of program costs in a little less than six years. Because the bill would require a sum-certain contribution by the state and a minimum contribution by districts, any cost increase in the out-years would be shifted to public-school employees, who could least afford it.

The true costs of such a plan are impossible to estimate. Health insurance is infinitely more complex than school finance. The cost estimates for this bill are based on a series of assumptions regarding how many districts would participate, what would be their claims histories, and how much health costs would rise in the coming years. With so many unknowns, even with a sum-certain contribution, the state really has no accurate way of gauging the level of future obligation to which it would be committing itself.

In a period of fiscal constraint, the state should not spread its resources too thin. The state should use its limited buying power this session to take care of issues that clearly fall within the purview of state government, like state-employee pay raises, Medicaid, or highways. A billion dollars could go a long way toward solving these other pressing problems. Teachers are local employees, and it ultimately is the responsibility of local school districts to provide them with health insurance before it is the state's responsibility.

School employees' health insurance cannot be separated from school finance. A new $1.3 billion program for school employees' health insurance would be, like every other item in a school district's budget, a part of school finance. Sending passthrough money through TRS would not enable the state to skirt the school-finance formulas in providing health coverage. Most employees, especially low-income employees, would choose to apply their passthrough to salary supplements, not to enhanced health coverage. On average, 80 percent of a school district's budget is dedicated to employee compensation. Therefore, the employee passthrough simply would be more money toward the lion's share of a school district's budget. As soon as the money passed through to the district, it all would become part of the school finance equation. The state should wait and see what decisions come out of the interim school-finance study before making such a large commitment of state dollars.

A new health insurance program would not meet many schools' needs. Schools will need an additional $3 billion in the coming biennium simply to meet 3 percent inflation and the projected growth in student enrollment. Under CSHB 3343, the state would choose to invest $1.3 billion toward improving school employees' health insurance rather than toward helping school districts meet their basic needs. The end result would be greater pressure on the property tax and on local taxpayers.

This plan would help some districts more than others. CSHB 3343's maintenance-of-effort clause would create a greater advantage for districts that have underfunded employee health insurance in the past and a disadvantage for districts that have paid more. The bill also would create a greater gain for districts with higher ratios of workers per student, because the more people a school district employed, the more health benefits the district would receive. A "per-employee" defined benefit would create a greater benefit for districts that already provide competitive benefit packages, because these districts could redirect money freed by a state-funded plan to other areas of the teacher compensation package, such as higher salaries or dental or vision plans.

Also, the SKIP provision would favor low-income employees over others. Providing UGIP-comparable coverage for dependents of low-income public-school employees would be unfair to other employees, who would have to pay out of pocket for a plan that might not be as good as the state-comparable coverage. All dependents should be treated the same under the plan.

Some districts would have to decide whether to participate without enough information. Districts with between 501 and 1000 employees would have to decide whether to opt in by September 1, 2001. This would not give TRS enough time to develop coverage options so that districts could make an informed decision. Also, since the bill is silent on opting out, once a district chose to opt in, it might not be able to opt out later if the plan proved inadequate for the needs of the district's employees.

OTHER OPPONENTS SAY:

Public-school employees deserve the same benefits as state employees. The best solution to this problem would have been for the Legislature to provide a fully-funded, UGIP-comparable benefit plan for all public-school employees. CSHB 3343 would not go far enough in providing adequate, equitable health insurance coverage for public-school employees. Because the state sets teachers' salary schedule and certification standards and requires many accountability measures and teaching standards, teachers should be treated like state employees and university employees when it comes to benefits. Catastrophic care is not enough, especially for lower-income employees. Also, the state pays 50 percent of the premium for dependent care coverage for state employees, and it should do the same for the dependents of public-school employees.

The passthrough money should be dedicated to health insurance. Under CSHB 3343, public-school employees would receive passthroughs of $1,000 each to spend as they wished. It is unrealistic to expect that employees would spend all this money on health insurance. Allowing employees to choose a salary supplement would encourage them to take the cash, choose the catastrophic coverage, and gamble with their health. Underinsured employees would be discouraged from seeking preventive care, and they could end up with more serious conditions that required visits to the county hospital or public clinic, where the costs of their care would be shifted back to taxpayers. Dedicating all state assistance to health insurance would circumvent this problem and would ensure that state money was spent on the problem the bill seeks to address.

In 1999, the enactment of SB 4 by Bivins, et al. created an ironclad guarantee that every teacher, counselor, and librarian would receive a $3,000 pay raise. This language created a public promise to employees that prevented school districts from redirecting the new state money away from salaries toward other uses. Because CSHB 3343 would contain no such language to protect the supplemental passthrough, employees could be subjected to a choice of taking either a pay raise or the passthrough, but not both.

A two-tiered system would split the risk pool. The only guaranteed coverage under CSHB 3343 would be a catastrophic health-care plan comparable to TRS-Care 2. This would set an unrealistically low minimum threshold of care. Although districts and employees could buy up to a comprehensive plan, it would be risky to provide two levels of coverage that were so far apart in terms of benefits. This would set up a scenario in which older, sicker, or pregnant employees would choose the comprehensive plan, while younger, healthier employees would choose the catastrophic plan. This could lead to spiraling costs for the comprehensive plan, which would be left with the most expensive claims.

Very high deductibles would burden low-income employees. Under CSHB 3343, employees covered under the catastrophic plan would be subject to an annual out-of-pocket expense of $6,800 per person. For family coverage, the out-of-pocket maximum would be $13,600. Some cafeteria workers, bus drivers, and maintenance workers earn annual incomes that barely would exceed their total out-of-pocket expense under the proposed catastrophic plan. This plan would have a higher out-of-pocket maximum than now is allowed for plans associated with medical savings accounts.

Even if employees were to put all $1,000 of their passthroughs into the health-care reimbursement account, this still could leave them with astronomical medical bills.

Leaving out retirees would be unfair. Pooling active public-school employees with retirees not only would be the fair thing to do but also would help shore up TRS-Care's financial condition by creating a more actuarially sound risk pool. Also, because the proposed state budget for fiscal 2002-03 contains $268 million to $350 million for medical payments for TRS-Care, pooling retirees and active employees into one plan would enable this money to be redirected to a broad-based teacher health-insurance plan.

Retirees would not be too expensive to cover. Because many retirees use Medicare as their primary insurer, retirees' health-care costs are cheaper than most people think. Adding them to the plan would not cost substantially more money, because Medicare absorbs many of their costs.

Better retiree benefits would help address the teacher shortage. Many school districts are recruiting retired teachers back to the classroom to ease the current teacher shortage. However, one reason districts are recruiting retirees may be to save on benefit costs, because retirees already are covered under TRS-Care and many are part-time employees for whom the districts are not obligated to pay for benefits. This raises the question of who should pay the health-insurance costs of a reactivated teacher: the employing school district or TRS? Pooling retirees with active teachers under a statewide health-insurance plan could help ease the teacher shortage by creating continuous coverage for teachers before and after retirement, simplifying local districts' administrative issues and eliminating a barrier to full-time employment for retirees who wished to return to the classroom.

Liberal benefits packages would support liberal medical agendas. This bill could create a state funding mechanism for public-school employees to obtain abortions or plastic surgery. Once an expensive new benefit is provided, the state never will be able to scale it back or take it away, even in lean years.

NOTES: The committee substitute changed the filed version of HB 3343 in many ways. The primary change is that the original bill would have provided a uniform group insurance plan for all public-school employees, while the committee substitute would phase in coverage over time, beginning with smaller districts. Under the substitute, not all school districts would be eligible to participate in the program until the 2005-06 school year. Floor amendments are expected to address the amount of the state's sum-certain contribution, how employees could use the passthrough money, and how to limit employee liability for cost increases in the out-years.

Eighteen House bills and nine Senate bills were introduced this session relating to providing health benefits for active and retired public-school employees. These bills would take various approaches, ranging from the comprehensive, UGIP-comparable plan proposed in HB 12 by Ehrhardt and SB 135 by Carona to a proposal for medical savings accounts in HB 2632 by Wohlgemuth, from a prescription drug plan in HB 1248 by Tillery to the defined-contribution plan in HB 1513 by Delisi. Various funding proposals also were filed, including proposals for constitutional amendments that would increase the motor-fuels tax (HJR 46 by Alexander) or change the investment strategy of the Permanent School Fund (HB 1020/HJR 54 by Junell and SB 490/SJR 19 by Ellis) and a proposal to allow school districts to create a new ad valorem tax to fund teacher health insurance (SB 928 by Shapleigh).

SB 10 by Bivins, et al. would create a statewide health-benefit plan for active and retired public-school employees to be administered by TRS effective with the 2002-03 school year, depending on legislative adoption and voter approval of two constitutional amendments. One amendment would allow for the distribution of capital gains from the Permanent School Fund. The other would fund retirees' health insurance through the creation of a 401(h) account and would divert a certain percent of the state contribution from the pension fund to a teacher health-insurance fund until the TRS pension fund no longer was overfunded. The following major provisions would apply under the Senate plan:

- Five tiers of group health coverage would be provided, ranging from a bottom-tier plan of catastrophic health coverage up to a top-tier plan that would be comparable to UGIP coverage available to state employees.

- School district participation would be optional, but a decision to opt in or out would remain in effect for three years. A school district would get state dollars only if it opted into the statewide plan.
- All public-school employees would be covered by the first tier of coverage and could opt up to a higher level of coverage or down to a lower level.
- The state contribution would be a sum-certain appropriation per participating employee.
- Districts would have to provide a minimum contribution that would bring the employee up to the basic first tier of coverage.
- Districts would have to maintain 80 percent of their current efforts with regard to spending on health insurance, salary, or other benefits.
- State money would flow to TEA through the FSP in a manner similar to the teacher salary increase in 1999. A hold-harmless clause would provide assistance to districts that could not meet their minimum required contribution.
- If a district chose not to participate, the dollars that would have gone to that district would be netted out of its FSP allocation. Eighty percent of the new money would be earmarked for teacher health insurance and 20 percent would be available for other discretionary spending. Hold-harmless money would be available to make up the difference if 80 percent was not sufficient.
- A 401(h) account, recognized as nontaxable by IRS, would be established as part of the TRS pension fund to fund retirees' health insurance. This would allow for tax savings on the employees' 0.25 contribution toward their health insurance. The bill also would divert a certain portion of state contributions from the pension fund to a teacher health-insurance trust fund until the pension no longer was overfunded.
- The bill would raise the state's contribution to the TRS-Care fund from 0.5 to 1 percent of each active employee's salary. It would increase the retirement multiplier from 2.2 to 2.25 and would provide for an ad-hoc increase of 6 percent in pension benefits for retirees.
- The state would establish a SKIP "look-alike" program for dependents of school-district employees who would be disqualified from CHIP coverage by the statewide plan.

SB 10 was considered in a public hearing by the Senate Education Committee on April 23 and left pending.