

## **BILL ANALYSIS**

Senate Research Center  
77R14708 PB/ESH/GJH-D

C.S.H.B. 3343  
By: Sadler (Bivins)  
Education  
5/2/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, each school district is required to offer an Employee Retirement System of Texas (ERS) equivalent health insurance plan. However, there is no enforcement power and the state does not dedicate any funding for health insurance. C.S.H.B. 3343 requires the Teacher Retirement System of Texas (TRS) to establish ERS equivalent group benefit plans for every public school district, regional education service center, and charter school employee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Teacher Retirement System of Texas (TRS) in SECTION 1.01 (Sections 4 and 6, Article 3.50-7, Insurance Code) and SECTION 3.01 (Section 4, Article 3.50-8, Insurance Code) of this bill.

Rulemaking authority is expressly granted to the board of trustees of TRS in SECTION 4.03 (Section 824.854, Government Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2.05 (Section 42.2513, Education Code), SECTION 2.06 (Section 42.2514, Education Code), SECTION 2.09 (Section 42.2591, Education Code), and SECTION 2.10 (Section 42.260, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### **ARTICLE 1. OPTIONAL COVERAGE PLAN FOR ACTIVE EMPLOYEES**

SECTION 1.01. Amends Chapter 3E, Insurance Code, by adding Article 3.50-7, as follows:

##### **Art. 3.50-7. TEXAS ACTIVE SCHOOL EMPLOYEES UNIFORM GROUP BENEFITS ACT**

Sec. 1. **SHORT TITLE.** Authorizes this article to be cited as the Texas Active School Employees Uniform Group Benefits Act.

Sec. 2. **DEFINITIONS.** Defines “administering firm,” “charter school,” “employee,” “health benefits plan,” “participating employee,” “participating entity,” “program,” “regional education service center,” “trustee,” and “school district.”

Sec. 3. **ADMINISTRATION BY TRUSTEE.** Requires the Teacher Retirement System of Texas (TRS), as trustee, to implement and administer the group benefits program (program).

Sec. 4. **POWERS AND DUTIES OF TRUSTEE.** Authorizes TRS to take the actions it considers necessary to devise, administer, and implement the program. Authorizes TRS to hire and compensate employees as necessary to implement the program. Authorizes TRS to contract with an independent and experienced group insurance consultant or actuary for advice and counsel in implementing and administering the program. Authorizes TRS to adopt rules

relating to the program as considered necessary by TRS. Requires competitive bidding to be required under rules adopted by TRS in contracting for any benefits under this article. Provides that TRS is not required to select the lowest bid but may consider certain criteria. Sets forth certain requirements if TRS awards a contract to an entity whose bid deviates from that advertised. Authorizes TRS to enter into interagency contracts with any agency of the state, including the Employee Retirement System of Texas (ERS) and the Texas Department of Insurance (TDI), for the purpose of assistance in implementing the program. Provides that TRS has the same powers with regard to the program that ERS has in administering the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Insurance Code), including the power to adjudicate claims and to expel participants from the program for cause.

Sec. 5. GROUP COVERAGE PLANS. Requires TRS to establish plans of group coverages for employees of participating entities and their dependents. Requires the plans of group benefits to include at least five tiers of group coverage, with benefits at different levels in each tier, ranging from the first tier basic coverage plan to the standard plan. Requires each tier to contain a health benefits plan. Requires the standard plan of group benefits to be comparable in scope and, to the greatest extent possible, in cost to the health benefit plan coverages provided under the Texas Employees Uniform Group Insurance Benefits Act. Authorizes the coverages to include, in addition to health benefit plans, certain coverages.

Sec. 6. PARTICIPATION IN PROGRAM BY ENTITY. Authorizes a school district (district), regional education service center (service center), or a charter school (school), beginning September 1, 2002, to elect to participate in the program provided by this article. Provides that a district, service center, or school that elects to participate in the program is required to participate in the program for a minimum of three years. Requires the beginning of the entity's participation in the program to coincide with the beginning of a school year in an odd-numbered year. Requires TRS by rule to establish a biennial deadline for notification of the trustee of an election to begin participation. Requires the rule to require notification by the entity to TRS at least three months before the entity discontinues participation. Authorizes a participating entity to elect to discontinue participation by notifying TRS in the manner prescribed by TRS at least three months before the entity discontinues participation. Provides that only a participating entity is eligible to receive state contribution described under Section 9 of this article.

Sec. 7. PARTICIPATION IN PROGRAM BY EMPLOYEE. (a) Defines "full-time employee" and "part-time employee."

(b) Provides that each full-time employee of a participating entity is automatically covered by the first-tier basic coverage plan unless certain conditions are met.

(c) Provides that each part-time employee of a participating entity is eligible to participate in the program on application in the manner provided by the trustee, unless the employee has been expelled from the program. Requires a participating entity to notify each of its part-time employees of the employee's eligibility to participate in the program.

(d) Authorizes a participating employee to select coverage in any coverage plan offered by TRS under this article. Provides that the employee is required to participate in the selected coverage plan for one year. Provides that an employee who selects coverage in a coverage plan other than the first tier basic coverage plan is not required to maintain participation in that coverage plan and, after the expiration of the one-year term, is authorized to waive coverage or select coverage in a lower tier coverage plan.

(e) Provides that a participating entity is not entitled to a state contribution under Section 9 of this article as to an employee who waives coverage under Subsection

(b)(1) of this section. Authorizes an employee, after a waiver of coverage, to elect to participate in the coverage based only on a change of status or another reason approved by the trustee.

Sec. 8. FUND. Creates the Texas school employees uniform group benefits trust fund (fund) as a trust fund with the comptroller and requires the fund to be administered by TRS on behalf of the participants in the program. Requires certain contributions, payments, and appropriations to be paid into the fund. Authorizes TRS, except as otherwise provided by this section, to use amounts in the fund only to provide group coverages under this article and to pay the expenses of administering the program. Authorizes TRS to invest assets of the fund in the manner provided by Section 67(a)(3), Article XVI, Texas Constitution. Authorizes TRS, notwithstanding any other provision of this article, to use amounts in the fund to perform the comparability study required under Section 22.004(e), Education Code.

Sec. 9. STATE CONTRIBUTION. Requires the state to assist employees of participating districts in the purchase of health benefits plan coverages under this article by providing the amount specified for a covered employee in the General Appropriations Act. Requires the state contribution to be distributed through certain school finance formulas and used by districts in a certain manner. Requires the state to assist employees of participating service centers and schools in the purchase of health benefits plan coverages under this article by providing to the employing service center or school the amount specified for a covered employee in the General Appropriations Act.

Sec. 10. PARTICIPATING ENTITY CONTRIBUTION. (a) Requires a participating entity, except as otherwise provided by this section, to contribute to the fund a sum certain multiplied by the number of persons employed by the entity, effective September 1, 2002. Requires the sum certain to be set at a level that, in combination with the amount the participating entity receives from the state as provided by Section 9 of this article, is adequate to provide, at a minimum, 100 percent of the cost of employee-only coverage under the first tier basic coverage plan.

(b) Requires a participating entity, effective September 1, 2002, that paid amounts, for the 2000-2001 school year, to share with employees the cost of coverage under a group health benefits plan to contribute, for each fiscal year, an amount computed as provided by this subsection. Sets forth the manner in which the amount is to be computed.

(c) Authorizes the entity to use an excess amount, which results from a certain situation, only to provide employee benefits, which may include contribution to cover the cost of dependent and optional coverages and increased employee compensation.

Sec. 11. EMPLOYEE CONTRIBUTION. Requires each participating employee to pay 100 percent of the cost of optional coverage or dependent coverage selected by the employee unless certain conditions are met.

SECTION 1.02. Amends Article 3.50-4, Insurance Code, by adding Section 5A, as follows:

Sec. 5A. TIERS OF COVERAGE. Requires TRS to offer to each retiree participating in the program at least five tiers of group coverage. Requires the coverage plans offered under this section to be comparable to the coverage plans offered by the trustee to active employees under Section 5, Article 3.50-7, of this code.

SECTION 1.03. (a) Requires TRS to begin enrollment in the program provided under Article 3.50-7, Insurance Code, as added by this Act, to begin with the 2002-2003 school year.

(b) Requires a district, service center, or school that elects to participate in the program provided under Article 3.50-7, Insurance Code, as added by this Act, beginning with the 2002-2003 school year, to notify TRS of the election not later than March 1, 2002. Requires an employee of a participating district, service center, or school who waives coverage under the program to give notice of the waiver in the manner prescribed by Article 3.50-7, Insurance Code, as added by this Act, or rules adopted under that article not later than September 1, 2002.

(c) Requires TRS to adopt rules establishing coverage plans under Article 3.50-7, Insurance Code, as added by this Act, not later than June 1, 2002.

SECTION 1.04. Requires TRS to transfer to the fund established under Section 8, Article 3.50-7, Insurance Code, as added by this Act, any outstanding balance held by TRS as of December 31, 2001, in the school employees group insurance fund established under Section 15, Article 3.50-4, Insurance Code, that was designated for use in programs relating to active district employees.

SECTION 1.05. Effective date of this article: January 1, 2002, except as provided by Section 7.01 of this Act.

## ARTICLE 2. SCHOOL FINANCE

SECTION 2.01. Amends Section 21.402(a), Education Code, effective September 1, 2001, to redefine "FS" for a specific formula.

SECTION 2.02. Amends Section 41.002(a), Education Code, effective September 1, 2001, to prohibit a school district from having a wealth per student that exceeds a certain amount.

SECTION 2.03. Amends Section 41.002(a), Education Code, effective September 1, 2002, to prohibit a school district, subject to Section 41.0021, from having a wealth per student that exceeds a certain amount.

SECTION 2.04. Amends Chapter 41A, Education Code, by adding Section 41.0021, as follows:

Sec. 41.0021. EQUALIZED WEALTH LEVEL FOR SCHOOL DISTRICTS NOT PARTICIPATING IN GROUP BENEFITS PROGRAM. Provides that, for a district that does not participate in the group benefits program established under Article 3.50-7 (Texas Active School Employees Uniform Group Benefits Act), Insurance Code, notwithstanding Section 41.002, the wealth per student to which the district is entitled is the wealth per student to which the district was entitled for the 2000-2001 school year or a greater amount for any year provided by appropriation.

SECTION 2.05. Amends Chapter 42E, Education Code, effective September 1, 2001, by adding Section 42.2513, as follows:

Sec. 42.2513. ADDITIONAL STATE AID FOR CERTAIN SCHOOL DISTRICTS. (a) Provides that this section applies only to certain districts.

(a-1) Provides that a district, for the 2001-2002 school year, is eligible for state aid under this section, notwithstanding Subsection (a). Provides that this subsection expires September 1, 2002.

(b) Sets forth the formula by which the amount of aid for a district to which this section applies is determined. Defines the terms in the formula.

(c) Provides that, for the purposes of Subsection (b), additional state aid allocated to a

school district because of increases in funding elements does not include additional state aid allocated to the district under Section 42.2514.

(d) Provides that a determination by the commissioner of education (commissioner) under this section is final and not appealable.

(e) Authorizes the commissioner to adopt rules to implement this section.

SECTION 2.06. Amends Chapter 42E, Education Code, by adding Section 42.2514, as follows:

Sec. 42.2514. **ADDITIONAL STATE AID FOR SCHOOL EMPLOYEE BENEFITS.** Provides that for each school year, a district, including a district that is otherwise ineligible for state aid under this chapter, that participates in the group benefits program established under Article 3.50-7, Insurance Code, is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between certain amounts. Authorizes a district to use state aid received under this section only to pay contributions as required by Article 3.50-7, Insurance Code. Provides that a determination by the commissioner under this section is final and not appealable. Authorizes the commissioner to adopt rules to implement this section.

SECTION 2.07. Amends Section 42.253(a), Education Code, to provide that this section is subject to Section 42.2531.

SECTION 2.08. Amends Chapter 42E, Education Code, by adding Section 42.2531, as follows:

Sec. 42.2531. **FUNDING FOR SCHOOL DISTRICTS NOT PARTICIPATING IN GROUP BENEFITS PROGRAM.** Provides that for a district that does not participate in the group benefits program established under Article 3.50-7, Insurance Code, notwithstanding Section 42.253, the amount of money to which the district is entitled under Subchapter F is computed using the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302 for the 2000-2001 school year or a greater amount for any year provided by appropriation.

SECTION 2.09. Amends Chapter 42E, Education Code, effective September 1, 2001, by adding Section 42.2591, as follows:

Sec. 42.2591. **USE OF CERTAIN FUNDS.** Requires the commissioner, for the 2001-2002 school year, to certify to each district the amount of additional funds to which the district is entitled due to a specific increase and additional state aid to which the district is entitled under Section 42.2513. Authorizes a district, notwithstanding any other provision of this code, to use an amount of funds equal to 80 percent of the amount certified for the district under this section only to pay certain items. Provides that a determination by the commissioner under this section is final and not appealable. Authorizes the commissioner to adopt rules to implement this section. Provides that this section expires September 1, 2002.

SECTION 2.10. Amends Chapter 42E, Education Code, by adding Section 42.260, as follows:

Sec. 42.260. **USE OF CERTAIN FUNDS.** Requires the commissioner, for each year, to certify to each district that participates in the group benefits program established under Article 3.50-7, Insurance Code, the amount of additional funds to which the district is entitled due to a specific increase and additional state aid to which the district is entitled under Section 42.2513. Authorizes a district, notwithstanding any other provision of this code, to use an amount of funds equal to 80 percent of the amount certified for the district under this section only to provide coverages authorized under Article 3.50-7, Insurance Code. Provides that a determination by the commissioner under this section is final and not appealable. Authorizes the commissioner to adopt rules to implement this section.

SECTION 2.11. Amends Section 42.302(a), Education Code, effective September 1, 2001, to redefine "GL" for a specific formula.

SECTION 2.12. Amends Section 42.302(a), Education Code, effective September 1, 2001, to make a conforming change.

SECTION 2.13. Effective date of this article: September 1, 2002, except as otherwise provided by this article or as provided by Section 7.01 of this Act.

### ARTICLE 3. COVERAGE FOR DEPENDENT CHILDREN OF CERTAIN SCHOOL DISTRICT EMPLOYEES

SECTION 3.01. Amends Chapter 3E, Insurance Code, by adding Article 3.50-8, as follows:

#### Art. 3.50-8. HEALTH BENEFIT PLAN COVERAGE FOR DEPENDENT CHILDREN OF CERTAIN SCHOOL DISTRICT EMPLOYEES

Sec. 1. DEFINITIONS. Defines "charter school," "employee," "health coverage," "regional education service center," and "trustee."

Sec. 2. CONTRIBUTIONS FOR COVERAGE. (a) Requires TRS, subject to any applicable limit in the General Appropriations Act, to use money appropriated for employer contributions to fund 80 percent of the cost of health coverage under this article for a certain child.

(b) Requires the coverage provided under this article to provide benefits equivalent to the benefits provided under the state child health plan operated under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code.

(c) Authorizes TRS, notwithstanding Subsection (a) of this section, to pay a higher percentage of the cost of coverage for a child described by Subsection (a) of this section if money becomes available for that purpose.

Sec. 3. NOTIFICATION TO EMPLOYEES. Requires TRS to notify employees of certain items.

Sec. 4. APPLICATION FOR COVERAGE. Requires an employee who desires dependent child coverage under this article to apply to the Texas Department of Human Services (TDHS) or other agency designated by the Health and Human Services Commission (HHS) to perform eligibility screening under this article. Requires the eligibility screening to be coordinated with eligibility screening for the state Medicaid program. Requires the agency that performs the eligibility screening to certify to TRS in writing whether a child is eligible for dependent child coverage under Section 2 of this article. Authorizes an employee, if the employee does not obtain dependent child coverage under this article at the time the employee is initially employed, to apply for the coverage during any open enrollment period applicable to the employee's coverage under certain state law. Authorizes TRS to take certain actions, including adopting certain rules. Authorizes TRS to require an employee to reapply for dependent child coverage under this article during each annual open enrollment period applicable to the employee's coverage. Requires TRS and TDHS or other agency designated by HHS to perform eligibility screening under this article to cooperate to develop a cost-effective method for annual reevaluation of eligibility determinations for dependent child coverage under this article.

Sec. 5. TERMINATION OF PROGRAM. Provides that if the program established under Chapter 62, Health and Safety Code, that uses federal funding under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated, state

contributions for benefits for those eligible under Section 2 of this article end on the date of that termination.

SECTION 3.02. (a) Effective date of this article: September 1, 2001, except as provided by Section 7.01 of this Act.

(b) Provides that Article 3.50-8, Insurance Code, as added by this article, does not apply to the purchase of health benefit plan coverage for a dependent child by TRS before fiscal year 2003.

#### ARTICLE 4. RETIREMENT BENEFITS AND CONTRIBUTIONS

SECTION 4.01. Amends Section 824.001, Government Code, to add retiree health care benefits permitted under Section 401(h), Internal Revenue Code of 1986, and its subsequent amendments to the list of the types of benefits payable by TRS.

SECTION 4.02. Amends Sections 824.203(a) and (e), Government Code, to increase the multiplier to compute the standard service retirement annuity from 2.2 percent to 2.25 percent. Makes a conforming change.

SECTION 4.03. Amends Chapter 824, Government Code, by adding Subchapter J, as follows:

##### SUBCHAPTER J. RETIREE HEALTH CARE BENEFITS

Sec. 824.851. DEFINITIONS. Defines “401(h) account,” “active employee,” “carrier,” “dependent,” “health benefit plan,” “medicare,” “minimum premium contract,” “policy year,” “qualified retiree,” “surviving dependent child,” and “surviving spouse.”

Sec. 824.852. APPLICABILITY OF OTHER LAWS. Provides that Article 3.51 (Group Insurance for Employees of State and Its Subdivisions and College and School Employees), Insurance Code, does not apply to insurance purchased under this subchapter.

Sec. 824.853. ACCOUNT. Provides that the 401(h) account is established to provide for medical benefits under this subchapter. Requires the board of trustees of TRS (board) to take the actions it considers necessary to devise, administer, and implement the 401(h) account. Provides that the 401(h) account is created in TRS and is part of the trust assets of TRS. Provides that the comptroller is the custodian of the 401(h) account, and requires the board to administer the 401(h) account. Requires money required to be paid into the 401(h) account, including contributions from active employees, and the state and investment income, to be paid into the 401(h) account. Authorizes the board to pay, from the 401(h) account, without state fiscal year limitation, appropriate premiums to the carrier or carriers providing group coverage under this subchapter, claims for benefits under the group coverage, and the amounts expended by the board for administration. Requires the appropriate portion of the contributions to the 401(h) account to provide for incurred but unreported claim reserves and contingency reserves, as determined by the board, to be retained in the 401(h) account. Requires expenses for the development and administration of the 401(h) account to be spent as provided by a budget adopted by the board. Authorizes the board to invest and reinvest the money in the 401(h) account as provided by Chapter 825D, for assets of TRS.

Sec. 824.854. BOARD POWERS AND DUTIES. Authorizes the board to adopt rules, plans, and procedures that are reasonably necessary to implement this subchapter, including rules for certain items. Authorizes the board to adopt other rules relating to the 401(h) account as are considered necessary by the board.

Sec. 824.855. EMPLOYEES. Authorizes the board to employ persons to assist the board in

carrying out this subchapter. Requires the board to determine the duties and compensation of the employees.

Sec. 824.856. PARTICIPATION. Requires each qualified retiree to be enrolled in the group insurance program authorized by Article 3.50-4, Insurance Code, to be eligible for benefits under this subchapter.

Sec. 824.857. BENEFITS. (a) Requires the board to be designated as the group policyholder for any insurance purchased under this subchapter.

(b) Authorizes the board to establish one or more health benefit plans that are self-insured.

(c) Authorizes the coverages provided under the 401(h) account to include certain benefits, treatments, and care.

(d) Provides that coverages under Subsection (c) are limited to benefits permissible under Section 213 of the Internal Revenue Code of 1986, and its subsequent amendments.

(e) Requires benefits, if any, to be paid only to the extent there are assets available in the 401(h) account, taking into consideration reserves established by the board.

(f) Requires a health care claim to be processed under the 401(h) account first, and, to the extent the claim is not covered under this subchapter or funds are not available, requires the claim to be sent to the board for processing under the group insurance program authorized under Article 3.50-4, Insurance Code.

(g) Authorizes the board to provide different benefits for retirees and surviving spouses covered by Medicare than the benefits provided for retirees and surviving spouses who are not covered by Medicare.

(h) Requires new contracts for coverages under this subchapter to be submitted for competitive bidding at least every six years.

(i) Requires any contract to be based on the terms and conditions agreed on between the board and the entity selected to provide the coverage and benefits.

(j) Requires any contract for group benefits awarded by the board to meet the minimum benefit and financial standards adopted by the board.

(k) Requires the coverage provided by this subchapter to follow the coordination of benefit rules under Article 3.50-4, Insurance Code.

(l) Requires competitive bidding to be required under rules adopted by the board for contracting for any benefits under this subchapter. Provides that the board is not required to select the lowest bid but is authorized to consider certain criteria. Sets forth certain requirements if the board awards a contract to an entity whose bid deviates from that advertised.

(m) Authorizes the board, notwithstanding any other provision of this subchapter, to take certain actions.

(n) Authorizes the board to contract directly with health care providers, including health maintenance organizations, preferred provider organizations, carriers,

administrators, and other qualified vendors, to provide benefits to participants.

Sec. 824.858. **BENEFIT CERTIFICATES.** Authorizes the board to require each insurance carrier to issue to each retiree, surviving spouse, or surviving dependent child insured under this subchapter a certificate of insurance that provides certain information.

Sec. 824.859. **ANNUAL REPORT AND ACCOUNTING.** Requires the board, not later than the 180th day after the end of each state fiscal year, to make a written report to TDI concerning the coverages provided and the benefits and services being received by persons under this subchapter. Requires insurance coverage purchased under this subchapter to provide for an accounting to the board by each carrier providing coverage not later than the 90th day after the end of each policy year. Requires the accounting to be on a form approved by the board. Requires other reports to be prepared by each carrier if considered necessary by the board. Prohibits an extra charge from being assessed by the carrier for the accounting reports. Requires all reports required by this subchapter to be made available for public inspection in a form that protects the identity of the individual claimants.

Sec. 824.860. **EXEMPTION FROM EXECUTION AND TAXATION.** Provides that certain payments and contributions are exempt from execution, attachment, garnishment, or any other process and prohibits them from being assigned except for direct payment to benefit providers as authorized by the board by contract, rule, or otherwise. Provides that a premium or contribution on a policy, insurance contract, or agreement authorized as provided by this subchapter is not subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

Sec. 824.861. **CONTRIBUTIONS.** (a) Requires each active employee, as a condition of employment, to contribute, for each state fiscal year, to the 401(h) account an amount equal to 0.25 percent of the employee's salary.

(b) Requires the employer of an active employee to deduct, each month, the contributions from the employee's salary and remit the contributions to the board as provided by any procedures that the board may require.

(c) Authorizes an employer, instead of deducting the contributions from salaries, to assume and pay the total contributions due from its active employees for any month.

(d) Requires the contributions under this section, whether the employer deducts the contributions from salaries or assumes and pays the total contributions, to be picked up under Section 414(h) of the Internal Revenue Code of 1986, and its subsequent amendments, by the employer and paid to the 401(h) account, subject to approval of the board of trustees and the board's receipt of a favorable private letter ruling from the Internal Revenue Service.

(e) Requires the board of trustees to establish any procedures and forms necessary or appropriate to accomplish this pickup.

(f) Requires the state, from September 1, 2002, to August 31, 2010, to contribute to the 401(h) account an amount equal to two percent of the aggregate annual compensation of each active employee. Provides that this amount is included within the total amount that the state actually appropriates to the retirement system for state contributions described by Section 825.404.

(g) Provides that contributions from active employees become the property of the 401(h) account on receipt by the board and may not be refunded to the active employee under any circumstances, including termination of employment.

(h) Provides that contributions to the 401(h) account deducted from the salary of an active employee are included in annual compensation of the employee for purposes of TRS.

(i) Requires the board, before the first day of November preceding each regular session of the legislature, to certify to the Legislative Budget Board and the budget division of the governor's office the amounts necessary to pay the state contributions to the 401(h) account under this subchapter for information and review.

(j) Requires the board, not later than August 31 of each year, to certify to the comptroller the estimated amount of state contributions to be received by the 401(h) account for the next fiscal year under the appropriations authorized by this subchapter.

(k) Requires contributions allocated under this section and appropriated to be paid from the general revenue fund in equal monthly installments, based on the annual estimate certified by the board to the comptroller for that year and subject to any express limitations specified in the Act making the appropriation. Requires variations between the certified amount and the actual amount due for the year to be reconciled at the close of the fiscal year and proper adjustments in the annual contributions to the 401(h) account to be made.

(l) Requires an employing district that fails to remit, in the period prescribed by Section 825.408, all deposits required by this subchapter to pay to the 401(h) account, in addition to the deposits, interest on the unpaid amounts at the annual rate of six percent compounded annually.

(m) Provides that an employing district and its board of trustees hold amounts due to the 401(h) account under this subchapter in trust for its participants and may not divert the amounts for any other purpose.

Sec. 824.862. **COLLECTION OF CONTRIBUTIONS FROM FEDERAL OR PRIVATE SOURCES.** Requires an employer, if the employer applies for money provided by the United States, an agency of the United States, or a privately sponsored source and if any of the money will pay part or all of an active employee's salary, to apply for any legally available money to pay state contributions required by this subchapter to be paid to the 401(h) account, using the same procedures provided by Section 825.406.

Sec. 824.863. **STUDIES, REPORTS, AND AUDITS.** Requires the board to study the operation and administration of this subchapter. Requires the board to make a report to the legislature at each regular legislative session relating to the operation and administration of this subchapter. Requires each contract entered into under this subchapter to include provisions requiring certain items of carriers.

Sec. 824.864. **COVERAGE FOR DEPENDENTS, SURVIVING SPOUSES, AND SURVIVING DEPENDENT CHILDREN.** Provides that any qualified retiree participating in the program is entitled to secure for the retiree's dependents group insurance coverages provided for the board. Requires the additional contribution payments for the coverages for dependents to be deducted from the annuities of the qualified retiree in the manner and form determined by the board. Authorizes a surviving spouse who is entitled to insurance benefits under this subchapter to elect to retain or obtain the insurance coverage for the spouse or the qualified retiree's dependents, at the applicable rates for retirees, provided the surviving spouse provides payment of applicable contributions in the manner established by the board. Authorizes a surviving dependent child, the guardian of the child's estate, or the person having custody of the child to elect to retain or obtain insurance coverage for the surviving dependent child at rates applicable for dependents if applicable contributions are made in the manner

established by the board.

Sec. 824.865. **EXPULSION FROM PROGRAM FOR FRAUD.** (a) Authorizes the board after notice and a hearing as provided by this section, to expel from participation in the 401(h) account any qualified retiree, surviving spouse, dependent, or surviving dependent child who submits a fraudulent claim under, or has defrauded or attempted to defraud, any health benefit plan offered under this subchapter.

(b) Authorizes the board, on its own motion or on the receipt of a complaint, to call and hold a hearing to determine whether a person has submitted a fraudulent claim under or has defrauded or attempted to defraud under this subchapter.

(c) Provides that a proceeding under this section is a contested case under Chapter 2001.

(d) Requires the board, if the board, at the conclusion of the hearing, issues a decision that finds that the accused submitted a fraudulent claim or has defrauded or attempted to defraud under this subchapter, to expel the person from participation in the program.

(e) Requires the substantial evidence rule to be used on any appeal of a decision of the board under this section.

(f) Prohibits a person expelled from coverage from being insured by any benefits for a period, to be determined by the board, of up to five years from the date the expulsion takes effect.

Sec. 824.866. **CONFIDENTIALITY OF RECORDS.** Provides that Section 825.507, concerning the confidentiality and disclosure of records, applies to records that are in the custody of TRS, or in the custody of an administrator, carrier, agent, attorney, consultant, or governmental body acting in cooperation with or on behalf of TRS, regarding retirees, annuitants, or beneficiaries under the 401(h) account. Authorizes TRS to disclose to health and benefit providers information in the records of an individual that TRS determines to be necessary to administer this subchapter.

Sec. 824.867. **COORDINATED CARE NETWORK.** Authorizes the board to take action as it determines necessary to implement and administer a coordinated care network for the 401(h) account, under Section 18C, Article 3.50-4, Insurance Code.

Sec. 824.868. **ASSISTANCE.** Requires TDI, as requested by the board, to assist the board in implementing and administering this subchapter.

Sec. 824.869. **EFFECTIVE DATE OF COVERAGE.** Requires coverage under the 401(h) account authorized by this subchapter to begin on the later of September 1, 2002, or the date the board has appropriate approval from the Internal Revenue Service.

SECTION 4.04. Amends Section 825.402, Government Code, to include the percentage required under Section 824.861(a) in the list of percentages that make up the rate of contributions for each member of TRS.

SECTION 4.05. Amends Section 825.306, Government Code, to add the 401(h) account under Chapter 824J to the list of accounts to which the assets of TRS are required to be credited, according to the purpose for which they are held.

SECTION 4.06. Amends Sections 825.307(a) and (b), Government Code, to provide an exception to this section. Provides that interest on a member's contribution other than interest on the portion of

the member's contribution deposited in the 401(h) account under Chapter 824J, is earned monthly and computed at the rate of five percent a year.

SECTION 4.07. Amends Section 825.308, Government Code, to require TRS to deposit in the state contribution account state contributions to TRS required by Section 825.404 other than contributions deposited in the 401(h) account under Chapter 825J and amounts from the interest account as provided by Section 825.313(b)(2), rather than Section 825.313(b)(5).

SECTION 4.08. Amends Section 825.312(a), Government Code, to require TRS to deposit in the expense account money received from the Texas Public School Employees Group Insurance Program or another health insurance program for school employees or retirees for service performed for the program by TRS.

SECTION 4.09. Amends Section 825.404(e), Government Code, to provide an exception to this section.

SECTION 4.10. Amends Section 16, Article 3.50-4, Insurance Code, to require each active employee, for each state fiscal year in which active employee contributions are not required to be deposited in the 401(h) account under Chapter 824J (Retiree Health Care Benefits), Government Code, as a condition of employment, to contribute a certain amount to the fund. Deletes existing text pertaining to certain state fiscal years and to the amount of state and active employee contributions.

SECTION 4.11. (a) Provides that monthly payments of a death or retirement benefit annuity by TRS are increased in accordance with this section beginning with the payment due at the end of September 2001.

(b) Provides that the increase does not apply to payments under Section 824.304(a), 824.404 (Survivor Benefits), or 824.501 (Survivor Benefits), Government Code.

(c) Provides that the amount of the monthly payment, for the purpose of computing the monthly payments of annuities for retirees who retired on or before August 31, 2000, is equal to the amount of the last monthly payment made before the effective date of this Act multiplied by 1.06.

(d) Requires TRS, after making the computations required by Subsection (c) of this section, to increase the monthly payment of each annuity made by the system beginning on September 1, 2001, other than an annuity under Section 824.304(a), 824.404, or 824.501, Government Code, by 2.27 percent, which is a benefit equivalent to the benefit provided by using a 2.25-percent multiplier for computing annuities.

SECTION 4.12. Prohibits a contribution, notwithstanding Sections 824.861 and 824.862, Government Code, as added by this Act, from being made or credited to the 401(h) account established under Chapter 824J, Government Code, until the board receives appropriate approval from the Internal Revenue Service.

SECTION 4.13. Effective date of this article: September 1, 2001, except as provided by Section 7.01 of this Act.

#### ARTICLE 5. CONFORMING AMENDMENTS; REPEALER

SECTION 5.01. Amends Article 3.50-4, Insurance Code, by adding Section 3A, as follows:

Sec. 3A. TRANSFER OF RECORDS. Requires TRS to transfer from the program established under this article all records relating to that program that apply to a district, service center, or school that elects to participate in the group benefits program established under

Article 3.50-7 of this code to the group benefits program not later than the 60th day after the date on which the district, service center, or school begins participation in the group benefits program.

SECTION 5.02. Amends Section 1, Article 3.50-4, Insurance Code, to authorize this article to be cited as the Texas Public School Retired Employees Group Insurance Act.

SECTION 5.03. Amends Sections 2(3) and (4), Article 3.50-4, Insurance Code, to redefine “dependent” and “fund.”

SECTION 5.04. Amends Section 3(a), Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 5.05. Amends Section 5(a), Article 3.50-4, Insurance Code, to delete existing text pertaining to active employees and to insurance commissions from insurance companies.

SECTION 5.06. Amends Sections 8(e) and (i), Article 3.50-4, Insurance Code, to delete existing text pertaining to rules adopted by the trustee. Makes a conforming change.

SECTION 5.07. Amends Section 9, Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 5.08. Amends Section 10(a), Article 3.50-4, Insurance Code, to require TRS, not later than the 180th day after the end of each state fiscal year, to make a written report to TDI, rather than the State Board of Insurance, concerning the insurance coverages provided and the benefits and services being received by persons insured under this article.

SECTION 5.09. Amends Section 12, Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 5.10. Amends Section 13, Article 3.50-4, Insurance Code, to make conforming changes.

SECTION 5.11. Amends Section 15, Article 3.50-4, Insurance Code, as follows:

Sec. 15. New heading: RETIRED SCHOOL EMPLOYEES GROUP INSURANCE FUND.  
Creates the retired school employees group insurance fund.

SECTION 5.12. Amends Section 18A, Article 3.50-4, Insurance Code, to provide that a proceeding under this section is a contested case under Chapter 2001 (Administrative Procedure), Government Code, rather than the Administrative Procedure and Texas Register Act (Article 6252-13a, V.T.C.S.). Makes conforming changes.

SECTION 5.13. Amends Section 18B(a), Article 3.50-4, Insurance Code, to provide that Section 825.507 (Confidentiality of Information About Members, Retirees, Annuitants, Beneficiaries, or Alternate Payees), Government Code, concerning the confidentiality and disclosure of records, applies to records that are in the custody of TRS or in the custody of an administrator, carrier, agent, attorney, consultant, or governmental body acting in cooperation with or on behalf of the retirement system regarding retirees, active employees, annuitants, or beneficiaries under the Texas Public School Retired Employees Group Insurance Program.

SECTION 5.14. Amends Sections 18C(c), (d), and (i), Article 3.50-4, Insurance Code, to make conforming changes.

SECTION 5.15. Amends Section 19, Article 3.50-4, Insurance Code, to make a conforming change.

SECTION 5.16. Amends Section 22.004, Education Code, to authorize each district to participate in the group benefits program established under Article 3.50-7, Insurance Code. Requires a district that

does not elect to participate in the program described by this section to make available to its employees group health coverage provided by a risk pool established by certain entities. Requires the cost of the coverage provided under the program described by this section to be paid by the state, the district, and the employees in the manner provided by Article 3.50-7, Insurance Code. Requires the cost of coverage provided under a plan adopted under this section to be shared by the employees and the district without contribution by the state. Requires the report, for each district that does not elect to participate in the program described by this section, to be based on the district group health coverage plan in effect during the current plan year. Makes conforming changes.

SECTION 5.17. Repealer: Sections 7A (Participation by Active Employees) and 20 (Effective Date of Coverage), Article 3.50-4, Insurance Code.

SECTION 5.18. Effective date of this article: September 1, 2002, except as provided by Section 7.01 of this Act.

#### ARTICLE 6. TRANSITION

SECTION 6.01. (a) Requires TRS, during the 2001-2002 school year, to develop the plan or plans to be implemented and administered under Article 3.50-7, Insurance Code, as added by this Act.

(b) Requires coverage under the plan or plans authorized under Article 3.50-7, Insurance Code, as added by this Act, to begin with the 2002-2003 school year, but not later than September 1, 2002.

(c) Requires coverage provided to a retiree under the plan or plans authorized under Article 3.50-4, Insurance Code, as amended by this Act, to be at least equal to the coverage provided to the retiree under that article as that article existed on August 31, 2002.

SECTION 6.02. Requires TRS to adopt rules as necessary to implement Section 4.02 of this Act not later than March 1, 2002.

SECTION 6.03. Effective date of this article: September 1, 2001, except as provided by Section 7.01 of this Act.

#### ARTICLE 7. CONTINGENT EFFECT

SECTION 7.01. (a) Provides that this Act takes effect, except as provided by this section, only if the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001, relating to the use of contributions to the pension fund of TRS to finance health care benefits for retirees of the system is approved by the voters.

(b) Provides that this Act has no effect if, except as provided by this section, the proposed constitutional amendment described by Subsection (a) of this section is not approved by the voters.

(c) Provides that Subsections (a) and (b) of this section do not apply to Sections 2.02, 2.05, 2.09, 2.11, 4.02, and 4.11 of this Act.

#### **SUMMARY OF COMMITTEE CHANGES**

Amends Engrossed H.B. 3343 by deleting all proposed text and proposed changes to existing text and replacing it with new proposed text and proposed changes to existing text.