

BILL ANALYSIS

Senate Research Center
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S.B. 562
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, the Employees Retirement System of Texas offers several types of health insurance options to employees.

As proposed, S.B. 562 provides state employees the option of participating in another type of health plan, thereby increasing consumer choice. The health savings account may be used to fund health care costs incurred by individuals and their families. Contributions and interest earned on these accounts are not taxed, and funds in the account may be carried over from year to year or used to pay for qualified medical expenses. S.B. 562 provides that the accounts are individually owned by the employee, and may be taken when the employee changes jobs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of trustees administering the Employees' Retirement System of Texas in SECTION 17 (Section 1551.452, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1551.002, Insurance Code, as follows:

Sec. 1551.002. PURPOSES. Provides that the purposes of the chapter include providing consumer choice and control in life, accident, and health benefit coverages for all state officers and employees and their dependents.

SECTION 2. Amends Section 1551.011, Insurance Code, as follows:

Sec. 1551.011. EXEMPTION FROM EXECUTION. Provides that all benefit payments, state contributions, contributions of employees and annuitants, and optional benefit payments, any rights, benefits, or payments accruing to a person under this chapter, and all money in a fund created by this chapter have specific exemptions and exclusions.

SECTION 3. Amends Section 1551.055, Insurance Code, as follows:

Sec. 1551.055. GENERAL POWERS OF BOARD OF TRUSTEES REGARDING COVERAGE PLANS. Authorizes the board of trustees administering the Employees Retirement System of Texas (board of trustees) to design, implement, and monitor, as a benefit under the group benefits program, the health savings account program (program) established and operated under Subchapter J. Deletes existing text referring to ensuring participants a fair choice among health benefit plans in developing a funding strategy that efficiently uses employer contributions to achieve the purposes of the chapter.

SECTION 4. Amends Section 1551.201, Insurance Code, by adding Subsection (d), as follows:

(d) Requires the group coverage plans to give an employee or annuitant the option of choosing a high deductible health plan to be used in conjunction with a health savings account. Provides that "high deductible health plan," for purposes of this subsection, has the meaning assigned by Section 1551.451.

SECTION 5. Amends Section 1551.205, Insurance Code, as follows:

Sec. 1551.205. LIMITATIONS. Provides an exception as provided by Subchapter J.

SECTION 6. Amends 1551.301, Insurance Code, as follows:

Sec. 1551.301. FUNDING OF BASIC COVERAGE. Requires the board of trustees to use the amount appropriated for employer contributions in the manner provided by this subchapter to fund, as applicable, the basic coverage or participation in the health savings account program under Subchapter J.

SECTION 7. Amends Section 1551.303, Insurance Code, to make a conforming change.

SECTION 8. Amends Section 1551.305, Insurance Code, as follows:

Sec. 1551.305. New heading: COST OF BASIC COVERAGE AND CERTAIN OTHER BENEFITS EXCEEDING EMPLOYER CONTRIBUTIONS. Makes conforming changes.

SECTION 9. Amends Section 1551.306, Insurance Code, as follows:

Sec. 1551.306. New heading: PAYMENT OF CERTAIN EXCESS COST. Requires the board of trustees to apply the amount of any employer contribution for optional coverages to the excess of the cost of participation in the health savings account program under Subchapter J and optional coverages which a participant selects over the amount of the state contribution under Section 1551.462. Makes conforming changes.

SECTION 10. Amends Section 1551.310, Insurance Code, to make conforming changes.

SECTION 11. Amends Section 1551.311(a), Insurance Code, to make a conforming change.

SECTION 12. Amends Section 1551.314, Insurance Code, to make a conforming change.

SECTION 13. Amends Section 1551.315(a), Insurance Code, to make conforming changes.

SECTION 14. Amends Section 1551.318(a), Insurance Code, to make conforming changes.

SECTION 15. Amends Section 1551.319(a), Insurance Code, to make a conforming change.

SECTION 16. Amends Section 1551.401(d), Insurance Code, to make conforming changes.

SECTION 17. Amends Chapter 1551, Insurance Code, by adding Subchapter J, as follows:

SUBCHAPTER J. STATE EMPLOYEE HEALTH SAVINGS ACCOUNT PROGRAM

Sec. 1551.451. DEFINITIONS. Defines "high deductible health plan," "participant," "program," and "qualified medical expense."

Sec. 1551.452. ESTABLISHMENT OF HEALTH SAVINGS ACCOUNT PROGRAM.

(a) Provides that the state employee's health savings account program (program) is established for the benefit of state employees, annuitants, and their dependents.

(b) Requires the board of trustees, after final rules, plans, and procedures are adopted and qualified by the Internal Revenue Service (IRS), to administer or solicit bids for the administration of the health savings accounts, fund or purchase at least one high deductible health plan, and provide information to participating employees and annuitants regarding the operation of the accounts and high deductible health plans established.

(c) Requires the board of trustees to adopt rules, plans, and procedures as necessary to administer this subchapter.

Sec. 1551.453. **QUALIFICATION OF HEALTH SAVINGS ACCOUNTS.** Requires the board of trustees to request in writing, a ruling or opinion from the IRS as to whether the program established and the rules adopted under this subchapter qualify the programs established for federal tax treatment as health savings accounts under Section 223(e), Internal Revenue Code of 1986, and its subsequent amendments, and any other appropriate federal tax exemptions. Requires the board of trustees, based on the response of the IRS, to modify the rules, plans, and procedures adopted as necessary to ensure the qualification of the accounts established for appropriate federal tax exemptions and certify the information regarding federal tax qualifications to the comptroller.

Sec. 1551.454. **ACCOUNT ADMINISTRATOR.** Sets forth requirements and qualifications for the account administrator of the established health savings accounts. Provides that the account administrator is the fiduciary of a participant who has an account established under this subchapter. Provides that Section 1551.056 (Independent Administrator) does not apply to the account administrator.

Sec. 1551.455. **ANNUAL REPORT OF PROGRAM ACTIVITIES.** Requires the board of trustees to include in the required report a summary of activities of the program in the calendar year preceding the year in which the report is submitted.

Sec. 1551.456. **REQUIRED PARTICIPATION; PARTICIPATION OBLIGATIONS.** Requires each state agency to participate in the program as provided by this subchapter. Sets forth guidelines which constitute participation in the program.

Sec. 1551.457. **PROVISION OF COVERAGE.** Requires the program to provide, through a high deductible health plan, health benefit plan coverage to a participant and their dependents.

Sec. 1551.458. **HIGH DEDUCTIBLE HEALTH PLANS.** Requires the program to include a high deductible health plan.

Sec. 1551.459. **PARTICIPATION BY EMPLOYEES AND ANNUITANTS.** (a) Provides that each employee and annuitant eligible to participate in the group benefits program under Section 1551.101 (Participation Eligibility: State Officers and Employees, Insurance Code) or Section 1551.102 (Participation Eligibility: Annuitants, Insurance Code) is eligible to participate in the program if the employee or annuitant is an eligible individual under Section 223(c)(1), Internal Revenue Code of 1986, and its subsequent amendments. Provides that an employee or annuitant who elects to participate in the program waives basic plan coverage and must be enrolled in a high deductible health plan.

(b) Provides that participation in the program qualifies an employee or annuitant to receive a contribution to the employee's or annuitant's account under Section 1551.462. Provides that an employee or annuitant who elects not to participate in the program is not eligible to receive a contribution under Section 1551.462.

(c) Provides that an employee or annuitant who elects to participate in the program is subject to Subchapter H (Sanctions and Adjudication of Claims, Insurance Code) in the same manner as an employee or annuitant who participates in a group coverage plan offered under the group benefits program.

Sec. 1551.460. **COVERAGE FOR DEPENDENTS; REQUIRED CONTRIBUTIONS.** (a) Provides that a participant is entitled to obtain coverage for their dependents in the high deductible health plan selected in the manner determined by the board of trustees, subject to Subsection (d).

(b) Requires the participant to make any additional contribution payments for the dependent coverage in the manner prescribed by the board of trustees.

(c) Sets forth the purposes for which amounts contributed by a participant may be used.

(d) Provides that a dependent covered by a high deductible health plan selected by the participant is subject to certain requirements for eligibility.

Sec. 1551.461. IDENTIFICATION CARDS FOR PROGRAM PARTICIPANTS. Requires the board of trustees or account administrator to issue an identification card with certain information to each participant. Requires the board of trustees or account administrator to issue a duplicate identification card to each dependent qualifying for medical expenses to be paid out of a health savings account.

Sec. 1551.462. STATE CONTRIBUTION. Requires the state to annually contribute, for each participant, a specific proportional amount to either a high deductible plan or health savings account. Requires the state to annually contribute, for each dependent covered by a high deductible plan, a specific proportional amount to the high deductible plan and the health savings account. Prohibits the amount of state contributions, within a calendar year, from exceeding the sum of the monthly limitations imposed by federal law for health savings accounts.

Sec. 1551.463. EMPLOYEE CONTRIBUTIONS. Requires each participant to contribute any amount required to cover the selected participation in the high deductible health plan that exceeds the state contribution amount under Section 1551.462. Authorizes a participating employee or annuitant to contribute any amount allowed under federal law to their health savings account or any other health savings account. Authorizes an employee or annuitant to make a contribution under this section in addition to receiving the state contribution under Section 1551.462. Requires the contributions to be made in the manner prescribed by the board of trustees.

Sec. 1551.464. CONFIDENTIALITY OF RECORDS. Authorizes the board of trustee or program administrator, to the extent allowed under federal law and subject to Section 1551.063 (Confidentiality of Certain Records, Insurance Code) to disclose to a carrier information in an individual's record that the board of trustees determines necessary to administer the program.

Sec. 1551.465. ANNUAL HEALTH SAVINGS ACCOUNT REPORT. Defines "plan year." Requires an account administrator to provide a report to the board of trustees for each contract entered into under this subchapter. Requires the report to be submitted no later than the 90th day after the last day of each plan year on a form approved by the board of trustees. Requires the account administrator to prepare any other report required by rule by the board of trustees. Prohibits a carrier from assessing an additional charge for preparation of an accounting report.

Sec. 1551.466. ASSISTANCE. Authorizes the board of trustees, in implementing and administering this subchapter, to obtain the assistance of any state agency considered appropriate.

SECTION 18. Requires the Employees Retirement System of Texas to develop the health savings account program beginning September 1, 2005, and requires them to develop enrollment requirements for the program during 2005-2006, with coverage beginning, subject to IRS qualifying the program, by September 1, 2006.

SECTION 19. Requires the Employees Retirement System of Texas, no later than July 31, 2006, and subject to approval by the IRS, to provide written information to employees and annuitants eligible to participate in the program that provides a general description of the requirements for such a program.

SECTION 20. Authorizes the Employees Retirement System of Texas, during initial implementation, and notwithstanding any bidding requirements or other requirements of Chapter 1551, Insurance Code, as that chapter existed before amendment by this Act, to amend any agreement in effect on September 1, 2006, that it has entered into as necessary to comply with Chapter 1551, Insurance Code, as amended by this Act.

SECTION 21. Effective date: September 1, 2005.