

## **BILL ANALYSIS**

Senate Research Center

H.B. 1766  
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State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The ever-increasing cost of health care threatens the stability and solvency of the Employees Retirement System of Texas's (ERS) employee health insurance program. One of the most effective ways to combat the increasing cost of insurance is to offer employees high-deductible health care plans combined with health savings accounts.

H.B. 1766 gives ERS the authority to create a consumer-directed health plan for eligible individuals. This bill allows state employees the option to participate in a consumer-directed health plan administered by ERS that provides a high-deductible health plan combined with a health savings account. Employees would still have the option of a traditional health plan and the option of a high-deductible plan will not adversely affect the traditional plan.

H.B. 1766 amends current law relating to the creation of a voluntary consumer-directed health plan for certain individuals eligible to participate in the insurance coverage provided under the Texas Employees Group Benefits Act and their qualified dependents.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of trustees to administer the Employees Retirement System of Texas in SECTION 1 (Sections 1551.452, 1551.455, and 1551.460, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 1551, Insurance Code, by adding Subchapter J, as follows:

#### **SUBCHAPTER J. STATE CONSUMER-DIRECTED HEALTH PLAN**

Sec. 1551.451. DEFINITIONS. Defines, in this subchapter, "high deductible health plan," "plan enrollee," and "qualified medical expense."

Sec. 1551.452. ESTABLISHMENT OF STATE CONSUMER-DIRECTED HEALTH PLAN. (a) Establishes the state consumer-directed health plan for the benefit of individuals eligible to participate in the group benefits program and those individuals' eligible dependents.

(b) Requires the board of trustees of the Employees Retirement System of Texas (board; ERS) to adopt rules necessary to administer this subchapter. Requires the board, in implementing this subchapter, to:

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

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

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

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

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

(c) Provides that, if the board purchases a high deductible health plan under this subchapter, Sections 1551.215 (Accounting by Carrier Providing Purchased Coverage), 1551.216 (Special Contingency Reserve), 1551.217 (Use of Employee's Salary in Computation of Premium or Coverage), and 1551.218 (Prior Authorization for Certain Drugs) apply to the high deductible health plan.

(d) Requires the board, in adopting rules and administering health savings accounts or selecting administrators for health savings accounts under this subchapter, to ensure that the health savings accounts are qualified for appropriate federal tax exemptions.

Sec. 1551.453. PARTICIPATION IN STATE CONSUMER-DIRECTED HEALTH PLAN; EFFECT OF PARTICIPATION. (a) Requires the board to offer individuals eligible to participate in the basic coverage plan the option of waiving participation in the basic coverage plan and instead electing participation in the state consumer-directed health plan.

(b) Provides that, for purposes of this chapter, participation in the state consumer-directed health plan is considered participation in the group benefits program, and Sections 1551.301 (Funding of Basic Coverage), 1551.303 (Funding of Optional Coverages), 1551.305 (Cost of Basic Coverage Exceeding Employer Contributions), and 1551.306 (Payment of Excess Cost over Basic Coverage Contribution) apply to participation in the state consumer-directed health plan in the same manner that those sections apply to the basic coverage plan.

Sec. 1551.454. ACCOUNT ADMINISTRATOR. (a) Requires the account administrator selected to administer a health savings account established under this subchapter to be a person:

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

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

(b) Provides that an account administrator is the fiduciary of a plan enrollee who has a health savings account established under this subchapter.

(c) Provides that Section 1551.056(b) (relating to requiring the entity to be a qualified, experienced firm of group insurance specialists or an administering firm and to assist the board in ensuring the proper administration of this chapter and the coverages, services, and benefits provided for or authorized by this chapter) does not apply to the account administrator.

Sec. 1551.455. PARTICIPATION IN PROGRAM. (a) Authorizes each individual eligible to participate in the basic coverage to choose instead to participate in the state consumer-directed health plan if the plan enrollee is an eligible individual under Section 223(c)(1), Internal Revenue Code of 1986. Authorizes the dependents of a plan enrollee to participate in the state consumer-directed health plan in accordance with Section 1551.456.

(b) Provides that a plan enrollee waives basic plan coverage and is required to be enrolled in a high deductible health plan.

(c) Provides that participation in the state consumer-directed health plan qualifies a plan enrollee to receive a contribution to a health savings account under Section 1551.458. Provides that an individual who elects not to participate in the plan is not eligible to receive a contribution under that section.

(d) Provides that a plan enrollee is subject to Subchapter H (Sanctions and Adjudication of Claims) in the same manner as an individual who participates in the basic coverage offered under the group benefits program.

(e) Provides that, under this section, the board has exclusive authority to determine an individual's eligibility to participate in the state consumer-directed health plan and is required to adopt rules regarding eligibility to participate in the plan.

**Sec. 1551.456. COVERAGE FOR DEPENDENTS; REQUIRED CONTRIBUTIONS.**

(a) Entitles a plan enrollee, subject to Subsection (d), to obtain for the enrollee's dependents coverage in the state consumer-directed health plan in the manner determined by the board.

(b) Requires the plan enrollee to make any required additional contribution payments for the dependent coverage in the manner prescribed by the board.

(c) Authorizes amounts contributed by a plan enrollee under this section to be:

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

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

(d) Provides that a covered dependent of a plan enrollee:

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

(2) is required to be a dependent for purposes of this chapter.

**Sec. 1551.457. IDENTIFICATION CARDS FOR PLAN ENROLLEES.** (a) Requires the board or the account administrator, as applicable, to issue to each plan enrollee an identification card.

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

**Sec. 1551.458. STATE CONTRIBUTION.** (a) Requires the state, for each plan enrollee, from the state contribution that would otherwise be made for basic coverage for the enrollee, to annually contribute to a high deductible health plan provided under this subchapter the amount that is necessary to pay the cost of coverage under the high deductible health plan and does not exceed the amount the state annually contributes for a full-time or part-time employee, as applicable, who is covered by the basic coverage.

(b) Requires the state, for each plan enrollee's dependent covered under this subchapter from the state contribution that would otherwise be made for basic

coverage for the dependent, to annually contribute to a high deductible health plan provided under this subchapter the same percentage of the cost of coverage under the high deductible health plan as the state annually contributes for dependent coverage in the basic coverage.

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

(d) Prohibits the amount of any allocations made under Subsection (c) and Section 1551.456(c)(2), in the aggregate, for a calendar year, from exceeding the sum of the monthly limitations imposed by federal law for health savings accounts.

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

(b) Authorizes a plan enrollee to contribute any amount allowed under federal law to the enrollee's health savings account in addition to receiving an allocation of the state contribution under Section 1551.458.

(c) Requires a plan enrollee to make contributions under this section in the manner prescribed by the board.

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

(b) Requires the board to adopt rules regarding:

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

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

(c) Requires that the rules adopted by the board under Subsection (b) prohibit a plan enrollee from participating in any medical flexible savings account that would disqualify the enrollee's health savings account from favorable tax treatment under federal law.

Sec. 1551.461. CONFIDENTIALITY OF RECORDS. Authorizes the board or the account administrator, as applicable, to the extent allowed under federal law and subject to Section 1551.063 (Confidentiality of Certain Records), to disclose to a carrier information in an individual's records that the board or administrator determines is necessary to administer the state consumer-directed health plan.

Sec. 1551.462. EXEMPTION FROM EXECUTION; UNASSIGNABILITY. Exempts a state contribution to a health savings account or a high deductible health plan from execution and is unassignable in the same manner and to the same extent as is an amount described by Section 1551.011 (Exemption From Execution).

Sec. 1551.463. ASSISTANCE. Requires any state agency that the board considers appropriate to assist the board in implementing and administering this subchapter.

Sec. 1551.464. EXPIRATION. Provides that this subchapter expires September 1, 2017.

SECTION 2. Requires ERS to develop the state consumer-directed health plan to be implemented under Chapter 1551, Insurance Code, as amended by this Act, including enrollment requirements, during the state fiscal biennium beginning September 1, 2011, with coverage beginning September 1, 2012.

SECTION 3. Requires ERS, not later than July 31, 2012, to provide written information to individuals eligible to participate in the state consumer-directed health plan under Chapter 1551, Insurance Code, as amended by this Act, that provides a general description of the requirements for the plan as adopted under Chapter 1551, Insurance Code, as amended by this Act.

SECTION 4. Requires ERS to develop and implement the health savings account program under Chapter 1551, Insurance Code, as amended by this Act, in a manner that is as revenue neutral as is possible.

SECTION 5. (a) Requires the board, not later than January 1, 2017, to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board concerning:

(1) the manner in which, and the level at which, plan enrollees use the coverage provided under the state consumer-directed health plan established under Subchapter J, Chapter 1551, Insurance Code, as added by this Act;

(2) whether the coverage provided under the state consumer-directed health plan established under Subchapter J, Chapter 1551, Insurance Code, as added by this Act, is more or less cost-effective for plan enrollees and the state than the coverage provided under the basic coverage plan under Chapter 1551, Insurance Code; and

(3) whether continuation of the state consumer-directed health plan established under Subchapter J, Chapter 1551, Insurance Code, as added by this Act, is feasible or desirable.

(b) Authorizes the report required by this section to be submitted separately from, or included in, the annual report that is required under Section 1551.061 (Annual Report), Insurance Code, and is submitted closest to January 1, 2017.

SECTION 6. Provides that it is the intent of the legislature that in implementing an optional consumer-directed health plan, ERS shall not divide the self-funded risk pool of the state employees group benefits program provided under Chapter 1551, Insurance Code.

SECTION 7. Effective date, except as otherwise provided by this Act: September 1, 2011.