

An act to amend Sections 22775, 22781, 22844, 22850.5, 22865, 22866, 22901, and 22940 of, to add Sections 22843.1 and 22941 to, and to add Chapter 8.7 (commencing with Section 19999.4) to Part 2.6 of Division 5 of Title 2 of, the Government Code, relating to public employee benefits.



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 8.7 (commencing with Section 19999.4) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 8.7. HEALTH SAVINGS ACCOUNT PLANS

19999.4. (a) In order to encourage savings for future health care expenses and to mitigate the healthcare expenses of state officers and employees, the Department of Human Resources may establish and administer or make available tax-advantaged health savings account plans in accordance with Section 223 of the Internal Revenue Code.

(b) The department may develop specifications and contracts for the administration of the health savings account plans to the extent necessary to carry out this chapter. These plans shall be provided in addition to the retirement, deferred compensation, and health care benefit programs currently authorized and may provide for employer as well as employee contributions.

(c) Participation in a health savings account plan shall be by written agreement between a state officer or employee and the state. Participating officers and employees may authorize deductions to be made from their wages for this purpose.

(d) Employer and employee contributions to health savings account plans shall be made pursuant to the state's employee benefit plan offered pursuant to Section 125 of the Internal Revenue Code.



(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except as follows:

(1) If the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(2) The department may amend the health savings account plan as necessary to ensure its continued qualification under the Internal Revenue Code.

SEC. 2. Section 22775 of the Government Code is amended to read:

22775. "Family member" means an employee's or annuitant's spouse or domestic partner and any child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to children. "Family member" does not include a former spouse or former domestic partner of an employee or annuitant.

SEC. 3. Section 22781 of the Government Code is amended to read:

22781. "Prefunding" means the making of periodic payments by an employer or employee to partially or completely fund or amortize the actuarially determined normal costs or unfunded actuarial obligation of the employer for health postemployment health care benefits provided to annuitants and their family members.

SEC. 4. Section 22843.1 is added to the Government Code, to read:

22843.1. (a) Pursuant to standards established by the Department of Human Resources, the employing office of a state employee or state annuitant shall possess



documentation verifying eligibility of an employee's family member prior to the enrollment of a family member in a health benefit plan. The employing office shall maintain the verifying documentation in the employee or annuitant's official personnel or member file.

(b) The employing office of the state employee or state annuitant shall obtain verifying documentation to substantiate the continued eligibility of family members as follows:

(1) At least once every three years for the following family members:

(A) Spouses.

(B) Domestic partners.

(C) Stepchildren.

(D) Domestic partner children.

(2) At least once annually for other children for whom the state employee or state annuitant has assumed a parent-child relationship.

(c) For purposes of this section, the Public Employees' Retirement System is the employing office of a state annuitant.

SEC. 5. Section 22844 of the Government Code is amended to read:

22844. (a) Employees, annuitants, and family members who become eligible to enroll on or after January 1, 1985, in Part A and Part B of Medicare ~~may~~ shall not be enrolled in a basic health benefit plan. If the employee, annuitant, or family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a Medicare health benefit plan.



(b) Employees, annuitants, and family members enrolled in a prescription drug plan under Part D of Medicare ~~may~~ shall not be enrolled in a board-approved health benefit plan. This subdivision does not apply to an individual enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.

(c) This section does not apply to employees and family members that are specifically excluded from enrollment in a Medicare health benefit plan by federal law or federal regulation.

(d) The board shall not grant any further exemptions to this section after July 1, 2015.

SEC. 6. Section 22850.5 of the Government Code is amended to read:

22850.5. (a) (1) In performing the duties prescribed by Section 22850, the board shall negotiate with carriers providing health benefit plans to add ~~a core~~ one or more high deductible health plan option options to the existing portfolio of health plans ~~or to implement other measures to achieve ongoing cost savings beginning in the 2012-13 fiscal year, or both~~ The plans.

(2) The board shall make the high deductible health plan options available for enrollment during the 2015 open enrollment period for the 2016 plan year so that the majority of state employees and annuitants throughout the state have an opportunity to enroll.

(b) For purposes of this section, a ~~core~~ “high deductible health plan” means a qualified plan that includes all of the following: under Section 223(c)(2)(A) of the



Internal Revenue Code in the Silver level health plan as determined under the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

~~(1) A plan that provides coverage for essential benefits at lower premiums, for both the state and the employee, than existing benefit plan options:~~

~~(2) A plan that may include fewer benefits and higher employee cost sharing than those provided in existing health benefit plan options:~~

~~(3) A plan option that is available for participants beginning in the 2012 open enrollment period for the 2013 calendar year.~~

(c) The board shall annually adjust for inflation the high deductible health plan's minimum annual deductibles and maximum annual out-of-pocket expense amounts for each calendar year in a manner consistent with Internal Revenue Service guidelines.

(d) The board shall provide a low-cost Medicare supplemental health plan consisting only of benefits federally mandated for Medicare Part A, Part B, and Part D.

(e) The board shall exempt the high deductible health plan options and the low-cost Medicare supplemental health plan option established by this section from risk adjustment procedures consistent with paragraph (3) of subdivision (f) of Section 22850, Section 22864, and related rules and regulations.

SEC. 7. Section 22865 of the Government Code is amended to read:

22865. ~~Prior~~ Not later than 30 days prior to the approval of proposed benefits and premium readjustments authorized under Section 22864, the board shall notify the ~~Legislature, Joint Legislative Budget Committee, the chairpersons of the committees~~



and subcommittees in each house of the Legislature that consider the Public Employees' Retirement System's budget and activities, the State Controller, the Trustees of the California State University, and the Department of Human Resources, the Director of Finance, and the Legislative Analyst of the proposed changes in writing.

SEC. 8. Section 22866 of the Government Code is amended to read:

22866. (a) The board shall report to the Legislature and the Director of Finance annually, on November 1, regarding the success or failure of each health benefit plan: benefits program. The report shall include, but not be limited to, the costs to the board and to participants, the degree of satisfaction of members and annuitants with the health benefit plans and with the quality of the care provided, as determined by a representative sampling of participants, and the level of accessibility to preferred providers for rural members who do not have access to health maintenance organizations: to the following:

(1) General overview of the health benefits program, including, but not limited to, the following:

(A) Description of health plans and benefits provided, including essential and nonessential benefits as required by state and federal law, member expected out-of-pocket expenses, and actuarial value by metal tier as defined by the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(B) Geographic coverage.

(C) Historic enrollment information by basic and medicare plans, by state and contract agencies, by active and retired membership, and by subscriber and dependent tier.



(D) Historic expenditures by basic and medicare plans, by state and contract agencies, by active and retired membership, and by subscriber and dependent tier.

(2) Reconciliation of premium increases or decreases from the prior plan year, and the reasons for those changes.

(A) Description of benefit design and benefit changes, including prescription drug coverage, by plan. The description shall detail whether benefit changes were required by statutory mandate, federal law, or an exercise of the board's discretion, the costs or savings of the benefit change, and the impact of how the changes fit into a broader strategy.

(B) Discussion of risk.

(C) Description of medical trend changes in aggregate service categories for each plan. The aggregate service categories used shall include the standard categories of information collected by the board, consisting of the following: inpatient, emergency room, ambulatory surgery, office, ambulatory radiology, ambulatory lab, mental health and substance abuse, other professional, prescriptions, and all other service categories.

(D) Reconciliation of past year premiums against actual enrollments, revenues, and accounts receivables.

(3) Overall member health as reflected by data on chronic conditions.

(4) The impact of federal subsidies or contributions to the healthcare of members, including Medicare Part A, Part B, Part C, or Part D, low-income subsidies, or other federal program.

(5) The cost of benefits beyond Medicare contained in the board's Medicare supplemental plans.





(6) A description of plan quality performance and member satisfaction, including, but not limited to, the following:

(A) The Healthcare Effectiveness Data and Information Set, referred to as HEDIS.

(B) The Medicare star rating for Medicare supplemental plans.

(C) The degree of satisfaction of members and annuitants with the health benefit plans and with the quality of the care provided, to the extent the board surveys participants.

(D) The level of accessibility to preferred providers for rural members who do not have access to health maintenance organizations.

(E) Other applicable quality measurements collected by the board as part of the board's health plan contracts.

(7) A description of risk assessment and risk mitigation policy related to the board's self-funded and flex-funded plan offerings, including, but not limited to the following:

(A) Reserve levels and their adequacy to mitigate plan risk.

(B) The expected change in reserve levels and the factors leading to this change.

(C) Policies to reduce excess reserves or rebuild inadequate reserves.

(D) Decisions to lower premiums with excess reserves.

(E) The use of reinsurance and other alternatives to maintaining reserves.

(8) Description and reconciliation of administrative expenditures, including, but not limited to the following:

(A) Organization and staffing levels, including salaries, wages, and benefits.



(B) Operating expenses and equipment expenditure items, including, but not limited to, internal and external consulting and intra-department transfers.

(C) Funding sources.

(D) Investment strategies, historic investment performance, and expected investment returns of the Public Employees' Contingency Reserve Fund and the Public Employees' Health Care Fund.

(9) Changes in strategic direction and major policy initiatives.

(b) A report submitted pursuant to subdivision (a) shall be provided in compliance with Section 9795.

SEC. 9. Section 22901 of the Government Code is amended to read:

22901. Each contracting agency shall contribute to the Public Employees' Contingency Reserve Fund, an amount sufficient to bear all of the administrative costs incurred by the board in providing to the employees and annuitants of that agency the health benefits provided by this part. The amount of the contributions required by this section shall be determined by the board and may include an appropriate share of overhead costs of the program. ~~A contracting agency shall, in addition, contribute to the fund for each of its employees and annuitants the same amount as is required of the state under paragraph (2) of subdivision (b) of Section 22885.~~

SEC. 10. Section 22940 of the Government Code is amended to read:

22940. (a) There is in the State Treasury the Annuitants' Health Care Coverage Fund that is a trust fund and a retirement fund, within the meaning of Section 17 of Article XVI of the California Constitution. Notwithstanding Subject to the limitation provided in subdivision (b), notwithstanding Section 13340, all moneys in the fund



are continuously appropriated without regard to fiscal years to the board for expenditure for the prefunding of health care coverage for annuitants pursuant to this part, including administrative costs. The board has sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund and shall make investments pursuant to Part 3 (commencing with Section 20000).

(b) (1) Moneys accumulated in the designated state subaccounts of the fund, or a successor fund, that are derived from investment income shall not be used to pay benefits for state annuitants and dependents until the earlier of:

(A) With regard to a particular designated state subaccount, the date the funded ratio of the designated state subaccount reaches at least 100 percent as determined in that employer's postemployment benefits actuarial valuation and then only for the purpose of paying benefits for state annuitants and dependents associated with that subaccount.

(B) July 1, 2046.

(2) For purposes of this subdivision, "designed state subaccount" means a separate account maintained within the fund to identify prefunding contributions and assets attributable to a specified state collective bargaining unit or other state entity for the purpose of providing benefits to state annuitants and dependents associated with a specified collective bargaining unit or other state entity.

SEC. 11. Section 22941 is added to the Government Code, to read:

22941. The equal sharing of normal costs between the state employer and state employees shall be the standard for prefunding postemployment health care benefits. The state intends to pursue this standard through collective bargaining with employee



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bargaining units. "Normal cost" means the portion of the projected value of postemployment health care benefits to be provided to the employee that is allocated to the current year, as determined in the state's postemployment health care benefits actuarial valuation, for the purpose of funding the benefits.

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## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: Public employee health benefits.

(1) Existing law authorizes the Department of Human Resources to establish and administer tax-deferred savings plans for state employees in accordance with federal tax law.

This bill would authorize the Department of Human Resources to establish and administer health savings account plans for state employees in accordance with federal tax law.

(2) The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, governs the funding and provision of postemployment health care benefits for eligible retired public employees and their families. PEMHCA defines "family member" for these purposes. PEMHCA authorizes the board to contract with carriers offering health benefit plans and prohibits employees, annuitants, and their family members



who are eligible for Medicare, as specified, from enrolling in a basic health benefit plan. PEMHCA requires the board to negotiate with health benefit plan carriers to add a core health plan, as defined, to the portfolio of health plans. PEMHCA requires the board to make certain notifications and reports to the Legislature in connection with health benefit plans offered pursuant to its provisions.

This bill would clarify the definition of family for the purposes of PEMHCA by specifically excluding former spouses and former domestic partners. The bill would require the employing office, as specified, of a state employee or state annuitant, pursuant to standards established by the Department of Human Resources, to possess documentation verifying eligibility of an employee's family member prior to the enrollment of a family member in a health benefit plan and to verify continued eligibility pursuant to a specified schedule. The bill would prohibit the board from granting further exceptions to the rule against enrolling in employees, annuitants, and their family members who are eligible for Medicare, as specified, in a basic health benefit plan. The bill would revise provisions requiring the board to negotiate with health benefit plan carriers to add a core health plan, as described above, to instead refer to one or more high deductible health plans, as defined, and would prescribe requirements in this regard. The bill would require the board to provide a low-cost Medicare supplemental plan, as specified. The bill would revise the entities to which the board is required to provide notification of approval of proposed benefit and premium readjustments to exclude the Legislature as a whole and would instead require notification to the Joint Legislative Budget Committee, the chairpersons of the committees and subcommittees in each house of the Legislature that consider the Public



Employees Retirement System's budget and activities, the State Controller, the Director of Finance, and the Legislative Analyst, and would specify the latest date that the notification may take place. The bill would require the board to provide a specified, detailed report to the Legislature and the Director of Finance annually, on November 1, regarding the health benefit plans it provides.

(3) PEMHCA establishes the Public Employees' Contingency Reserve Fund for the purpose funding health benefits and funding administrative expenses. Agencies contracting for the provision of benefits under PEMHCA are required to contribute an amount sufficient to bear administrative costs and overhead and an additional, specified amount equivalent to what the state pays. PEMHCA establishes the Annuitants' Health Care Coverage Fund for the purpose of prefunding of health care coverage for annuitants, including administrative costs. PEMHCA defines "prefunding" for these purposes.

This bill would revise provisions relating to contributions to the Public Employees' Contingency Reserve Fund for administrative costs to eliminate the requirement that a contracting agency pay the same amount that the state pays, as described above. The bill would prohibit the use of certain state funds in the Annuitants' Health Care Coverage Fund for the payment of benefits until the earlier of 2 specified dates. The bill would revise the definition of prefunding to include employee as well as employer payments and to provide that payments may fund the actuarially determined normal costs of postemployment health care benefits. The bill would declare the equal sharing of normal costs, as defined, between the state and state employees to be the standard for prefunding postemployment health care benefits and would declare the



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state's intent to pursue this standard through collective bargaining with employee bargaining units.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



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