

## CHAPTER 336

## S.B. No. 387

An Act relating to the creation, administration, powers, duties, and financing of the Texas Public School Retired Employees Group Insurance Program; adding Article 3.50-4 to Chapter 3, Insurance Code, as amended.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Chapter 3, Insurance Code, as amended, is amended by adding Article 3.50-4 to read as follows:

**“Article 3.50-4. TEXAS PUBLIC SCHOOL RETIRED EMPLOYEES GROUP INSURANCE PROGRAM**

**“Section 1. SHORT TITLE.** *This article may be cited as the Texas Public School Retired Employees Group Insurance Act.*

**“Section 2. DEFINITIONS.** *In this article:*

**“(1) ‘Active employee’** *means an employee as defined by Subdivision (6), Section 31.001, Title 110B, Revised Statutes, who is a member of the Teacher Retirement System of Texas and who is not entitled to coverage under a plan provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon’s Texas Insurance Code), or under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon’s Texas Insurance Code).*

**“(2) ‘Carrier’** *means any insurance company or hospital service corporation authorized by the State Board of Insurance to provide any of the insurance coverages, benefits, or services provided by this article under the insurance laws of this state.*

**“(3) ‘Dependent’** *means:*

**“(A) a spouse of a retiree;**

**“(B) a retiree’s unmarried child who is younger than 25 years of age including:**

“(i) an adopted child;

“(ii) a foster child, a stepchild, or other child who is in a regular parent-child relationship; and

“(iii) a recognized natural child; and

“(C) a recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship who lives with or whose care is provided by the retiree or surviving spouse on a regular basis, regardless of the child’s age, if the child is mentally retarded or physically incapacitated to such an extent as to be dependent on the retiree or surviving spouse for care or support, as determined by the trustee.

“(4) ‘Fund’ means the Texas public school retired employees group insurance fund.

“(5) ‘Health benefit plan’ or ‘plan’ means a group insurance policy, contract, or certificate, medical or hospital service agreement, membership or subscription contract, salary continuation plan, or similar group arrangement to provide, pay for, or reimburse expenses for health care services.

“(6) ‘Medicare’ means the health insurance program for the aged and disabled that is provided by the United States government.

“(7) ‘Minimum premium contract’ means a contract entered into with the carrier by the trustee that provides that:

“(A) a minimum premium will be paid to the carrier to cover its cost of direct claims administration, cost of other administration, risk charges with stop loss provisions, and profit; and

“(B) the remainder of the premium under the program will be used by the fund to reimburse the carrier to cover claims as they are paid, to pay the administrative expenses of the program, and to provide within the fund the assets to cover all reserves necessary for the trustee to operate on a financially sound basis.

“(8) ‘Policy year’ or ‘year’ means the period beginning on September 1 of one year and ending on August 31 of the following year.

“(9) ‘Program’ means the group insurance program authorized by this article.

“(10) ‘Retiree’ means a person who has retired under the Teacher Retirement System of Texas, as provided by Subtitle D, Title 110B, Revised Statutes, and who is not eligible to be covered by a plan provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon’s Texas Insurance Code), or under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon’s Texas Insurance Code).

“(11) ‘Surviving spouse’ means the surviving spouse of a deceased retiree.

“(12) ‘Trustee’ means the Teacher Retirement System of Texas.

“Section 3. CREATION AND GENERAL AUTHORITY. (a) The Texas Public School Retired Employees Group Insurance Program is established to provide for an insurance plan or plans under this article.

“(b) The trustee shall take the actions it considers necessary to devise, administer, and implement the program.

“Section 4. EMPLOYEES. The trustee may employ persons to assist it in carrying out this article. The trustee shall determine the duties and compensation of these employees.

“Section 5. RULES, PLANS, PROCEDURES, AND ORDERS. (a) The trustee may adopt rules, plans, procedures, and orders reasonably necessary to implement this article, including:

“(1) establishment of minimum benefit and financing standards for group insurance coverage to be provided to all retirees and their dependents and surviving spouses;

“(2) establishment of basic and optional group coverage to be provided to retirees and their dependents and surviving spouses;

“(3) establishment of the procedures for contributions and deductions;

“(4) establishment of periods for enrollment and selection of optional coverage and procedures for enrolling and exercising options under the plan;

“(5) determination of methods and procedures for claims administration;

“(6) study of the operation of all insurance coverage provided under this article;

“(7) administration of the fund;

“(8) adoption of a timetable for the development of minimum benefit and financial standards for group insurance coverage, establishment of group insurance plans, and the taking of bids for and awarding of contracts for insurance plans; and

“(9) contracting with an independent and experienced group insurance consultant or actuary, who does not receive insurance commissions from any insurance company, for advice and counsel in implementing and administering this program.

“(b) The trustee may adopt other rules relating to the program as considered necessary by the trustee.

**“Section 6. ADVISORY COMMITTEE: MEMBERSHIP, POWERS, AND DUTIES.** (a) *There is created a Retirees Advisory Committee composed of nine members appointed by the trustee. One member shall be an active school administrator. One member shall be a retired school administrator. Two members shall be active teachers. Three members shall be retired teachers. One member shall be an active member of the auxiliary personnel of a school district. One member shall be a retired member of the auxiliary personnel.*

*“(b) Members of the committee serve for staggered terms of four years. Five members’ terms, including the active school administrator, one active teacher, two retired teachers, and the retired member of the auxiliary personnel, expire February 1, 1986, and every fourth year after that date. The remaining members’ terms expire February 1, 1988, and every fourth year after that date. The trustee shall fill each vacancy on the committee with a person who meets the qualifications of the vacated position.*

*“(c) The committee shall:*

*“(1) hold public hearings on group insurance benefits;*

*“(2) recommend to the trustee minimum standards and features of the plan or plans that it considers appropriate; and*

*“(3) recommend to the trustee desirable changes in rules and legislation affecting the program.*

*“(d) The trustee shall adopt procedural rules for the committee to follow in carrying out its powers and duties under this section.*

*“(e) The advisory committee shall meet at least twice per year, and at the call of the trustee. In the event of an emergency, the advisory committee may meet at the call of a majority of the members of the committee.*

*“(f) A person is not eligible for appointment as a member of the advisory committee if the person is required to register with the secretary of state under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon’s Texas Civil Statutes).*

*“(g) A member of the advisory committee is entitled to reimbursement for actual and reasonable expenses incurred in performing functions as a member of the committee.*

**“Section 7. PARTICIPATION.** (a) *Each retiree must be enrolled in a basic plan offered in the program unless the retiree rejects enrollment in the program in writing on a form provided by the trustee.*

*“(b) For each retiree who participates in the program, the state through the trustee shall contribute from money in the fund the total cost of the premium for the basic plan covering the retiree.*

**“Section 8. PURCHASE OF GROUP INSURANCE.** (a) *The trustee shall be designated as the group policyholder for any plan or plans established in this article.*

*“(b) The group insurance coverages provided under the plan or plans may include but are not limited to life insurance, accidental death and dismemberment, hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, eye care, obstetrical benefits, prescribed drugs, medicines, and prosthetic devices, and other supplemental benefits, supplies, and services as provided by this article, protection against loss of salary, and other coverages considered advisable.*

*“(c) The trustee may provide different plans for retirees and surviving spouses covered by Medicare than the plans provided for retirees and surviving spouses who are not covered by Medicare.*

*“(d) Each basic plan must cover preexisting conditions.*

*“(e) The trustee may contract for and make available to all retirees, their dependents, and surviving spouses optional group health insurance benefit plans in addition to the basic plans. The optional coverage may include a smaller deductible, lower coinsurance, or additional categories of benefits permitted under Subsection (b) of this section to provide additional levels of coverages and benefits. Any additional premiums for these optional plans shall be paid for by the retiree or surviving spouse.*

*“(f) The trustee shall enter into a contract or contracts with a carrier or carriers for the plan or plans that will provide that the method of paying premiums, paying claims, and establishing reserves shall be under the minimum premium approach to financing; and the contract shall be referred to as a minimum premium contract.*

*“(g) New contracts for coverages under this program shall be submitted for competitive bidding at least every six years. Contracts between the trustee and carriers for the group insurance pool may provide for renegotiation.*

*“(h) Each contract shall be based on the terms and conditions agreed on between the trustee and the carrier or carriers selected to provide the insurance coverage and benefits. Any contract for group insurance awarded by the trustee must meet the minimum benefit and financial standards adopted by the trustee.*

“(i) The coverage provided by the plan or plans may be secondary to all other benefit coverage to which the retiree, surviving spouse, or dependent is entitled. In the event the retiree, surviving spouse, or dependent is entitled to receive medicare hospital insurance benefits at no charge, then the coverage provided by the plan or plans shall be secondary to medicare hospital and medical insurance.

“(j) In contracting for any insurance under this article, competitive bidding shall be required under rules adopted by the trustee. The trustee is not required to select the lowest bid but may consider also ability to service contracts, past experiences, financial stability, and other relevant criteria. If the trustee awards a contract to a carrier whose bid deviates from that advertised, the deviation shall be recorded and the reasons for the deviation shall be fully justified in the minutes of the next meeting of the trustee.

“Section 9. **BENEFIT CERTIFICATES.** At such times, or upon such events, as designated by the trustee, each insurance carrier shall issue to each retiree or surviving spouse insured under this article a certificate of insurance that:

“(1) states the benefits to which the retiree or surviving spouse is entitled;

“(2) states to whom the benefits are payable;

“(3) states to whom the claims must be submitted; and

“(4) summarizes the provisions of the policy principally affecting the retiree or surviving spouse.

“Section 10. **ANNUAL REPORT AND ACCOUNTING.** (a) Not later than the 180th day after the end of each state fiscal year, the trustee shall make a written report to the State Board of Insurance concerning the insurance coverages provided and the benefits and services being received by retirees, surviving spouses, and dependents insured under this article.

“(b) Insurance coverage purchased under this article shall provide for an accounting to the trustee by each carrier providing coverage not later than the 180th day after the end of each policy year. The accounting shall be on a form approved by the trustee. Other reports shall be prepared by each carrier if considered necessary by the trustee. An extra charge may not be assessed by the carrier for the accounting reports.

“(c) All reports required by this article shall be made available for public inspection in a form that protects the identity of individual claimants.

“Section 11. **EXEMPTION FROM EXECUTION AND TAXATION.** (a) All insurance benefit payments, active employee and state contributions, retiree and surviving spouse contributions, and optional benefits payments and any rights, benefits, or payments accruing to any person under this article, as well as all money in the fund created by this article, are exempt from execution, attachment, garnishment, or any other process and may not be assigned except as specifically provided by this article.

“(b) A premium on a policy, insurance contract, or agreement authorized as provided by this article is not subject to any state tax.

“Section 12. **DEATH CLAIMS: BENEFICIARIES.** The amount of group life insurance and group accidental death and dismemberment insurance covering a retiree, surviving spouse, or dependent at the date of death shall be paid, on the establishment of a valid claim, only:

“(1) to the beneficiary or beneficiaries designated by the retiree, surviving spouse, or dependent in a signed and witnessed written document received before death in the trustee's office; or

“(2) if no beneficiary is properly designated or in existence, to persons in accordance with the trustee's death benefit provisions in Subsection (b), Section 34.103, Title 110B, Revised Statutes.

“Section 13. **AUTOMATIC COVERAGE; EFFECT OF PREEXISTING CONDITIONS.** (a) A retiree who applies during an enrollment period may not be denied any of the group insurance basic coverage provided under this article.

“(b) A retiree or surviving spouse who applies for optional coverage under the program after the first offering of that coverage to the retiree, surviving spouse, or dependent is not entitled to coverage for preexisting conditions existing during the six-month period immediately preceding the date on which optional coverage takes effect.

“Section 14. **PAYMENT OF PREMIUMS ON OPTIONAL PLANS.** Retirees and surviving spouses shall pay monthly premiums to cover the cost of optional plans that they elect to receive, and the trustee shall adopt rules for the collection of additional premiums from retirees and surviving spouses participating in the optional plans. As a condition of electing this coverage, a retiree or surviving spouse must authorize in writing the trustee to deduct the amount of these premiums from the monthly annuity payments.

“Section 15. **RETIRED SCHOOL EMPLOYEES GROUP INSURANCE FUND.** (a) The retired school employees group insurance fund is created. The State Treasurer is the custodian of the fund, and the trustee shall administer the fund. All contributions from active employees, retirees, and the state, premiums for optional coverages, investment income, appropriations for implementation of this program, and other money required or authorized to be paid into the fund shall be paid into the fund. From the fund shall be paid, without state fiscal year limitation, the

appropriate premiums to the carrier or carriers providing group coverage under the plan or plans under this article, claims for benefits under the group coverage, and the amounts expended by the trustee for administration of the program. The appropriate portion of the premiums to provide for incurred but unreported claim reserves and contingency reserves, as determined by the trustee, shall be retained in the fund.

“(b) The trustee shall transfer the amounts deducted from annuities for premiums into the fund.

“(c) Expenses for the development and administration of the program shall be spent as provided by a budget adopted by the trustee. Expenses in any fiscal year may not exceed one percent of the contributions to the program by the state and the active employees for that year. The legislature may appropriate additional amounts to the expense reserve for the initial development, establishment, and administration of the program.

“(d) The trustee may invest and reinvest the money in the fund as provided by Subchapter D, Chapter 35, Title 110B, Revised Statutes, for assets of the Teacher Retirement System of Texas.

“Section 16. CONTRIBUTIONS. (a) For the state fiscal year beginning September 1, 1985, and for each subsequent state fiscal year, each active employee, as a condition of employment, shall contribute to the fund an amount equal to .25 percent of the employee's salary. Each month the employer of an active employee shall deduct the contributions from the employee's salary and shall remit the contributions to the trustee as provided by any procedures that the trustee may require. In lieu of deducting the contributions from salaries, an employer may assume and pay the total contributions due from its active employees for any month.

“(b) The state shall contribute as the state's contribution to the fund the following amounts:

“(1) for the state fiscal year beginning September 1, 1986, an amount equal to .35 percent of the salary of each active employee;

“(2) for the state fiscal year beginning September 1, 1987, an amount equal to .40 percent of the salary of each active employee;

“(3) for the state fiscal year beginning September 1, 1988, an amount equal to .45 percent of the salary of each active employee;

“(4) for the state fiscal year beginning September 1, 1989, an amount equal to .50 percent of the salary of each active employee; and

“(5) for the state fiscal year beginning September 1, 1990, and each subsequent fiscal year, an amount equal to .50 percent of the salary of each active employee.

“(c) If after the state fiscal year beginning September 1, 1990, the amount of state and active employee contributions to the fund is raised by the legislature above the percentages provided by Subsections (a) and (b) of this section to provide adequate funding for the program, the ratio between the state's contribution and the active employees' contributions must be maintained at two to one.

“(d) Contributions from active employees become the property of the fund on receipt by the trustee and may not be refunded to the active employee under any circumstances, including termination of employment.

“(e) Contributions to the fund deducted from the salary of an active employee are included in 'annual compensation' for purposes of the Teacher Retirement System of Texas.

“(f) Before the first day of November preceding each regular session of the legislature, the trustee shall certify to the Legislative Budget Board and the budget division of the governor's office the amounts necessary to pay the contributions of the state to the fund under this article for information and review. Not later than August 31 of each year, the trustee shall certify to the comptroller of public accounts the estimated amount of state contributions to be received by the fund for the next fiscal year under the appropriations authorized by this article.

“(g) Contributions allocated and appropriated under this section shall be paid from the General Revenue Fund in equal monthly installments, based on the annual estimate certified by the trustee to the comptroller of public accounts for that year, and subject to any express limitations specified in the Act making the appropriation. Variations between the certified amount and the actual amount due for the year shall be reconciled at the close of the fiscal year and proper adjustments in the annual contributions to the fund shall be made.

“Section 17. STUDIES, REPORTS, AND AUDITS. (a) The trustee shall study the operation and administration of this article, including surveys and reports on financing group insurance coverages and health benefits plans available to retirees, and the experience and projected cost of coverage and benefits. The trustee shall make a report to the legislature at each regular legislative session relating to the operation and administration of this article.

“(b) Each contract entered into under this article shall include provisions requiring carriers to:

“(1) furnish to the trustee on a timely basis reasonable reports that the trustee determines are necessary to carry out its functions under this article; and

“(2) permit the trustee and State Auditor to examine records of the carriers as may be necessary to carry out this article.

“Section 18. **COVERAGE FOR DEPENDENTS AND SURVIVING SPOUSES.** (a) Any retiree participating in the program is entitled to secure for his dependents group insurance coverages provided for the retiree under this article, as determined by the trustee. The additional premium payments for the coverages for dependents shall be deducted from the annuities of the retiree in the manner and form determined by the trustee.

“(b) A surviving spouse who is entitled to insurance benefits under this article may elect to retain or obtain the insurance coverage for himself or his dependents, at the applicable rates for retirees, provided the surviving spouse provides payment of applicable premiums in the manner established by Section 14 of this Act and by the trustee.

“Section 19. **ASSISTANCE.** In implementing and administering this article, the State Board of Insurance, as requested by the trustee, shall assist the trustee in carrying out this article.

“Section 20. **EFFECTIVE DATE OF COVERAGE.** Coverage under the plan or plans authorized by this article shall begin September 1, 1986.

“Section 21. **NONAPPLICABILITY OF ARTICLE 3.51.** Article 3.51, Insurance Code, does not apply to insurance purchased under this article.

“Section 22. **PURCHASE OF GROUP INSURANCE.** Before September 1, 1986, a state plan or plans of group insurance for retirees shall be established as provided by this article, and contracts shall be entered into with qualified carriers for the purchase of insurance to implement the plan or plans of group insurance for retirees. This section expires September 2, 1986.”

**SECTION 2.** This Act takes effect September 1, 1985.

**SECTION 3.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 2, 1985, by a viva-voce vote; Senate concurred in House amendment on May 23, 1985, by a viva-voce vote; passed the House, with amendment, on May 21, 1985, by a non-record vote.

Approved: June 10, 1985

Effective: September 1, 1985