

CHAPTER 612

H.B. No. 1421

AN ACT

relating to eligibility for and the operation of the Texas Public School Retired Employees Group Insurance Program.

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

SECTION 1. Section 2, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended by amending Subdivisions (3) and (11) and by adding Subdivision (13) to read as follows:

(3) "Dependent" means:

(A) a spouse of a retiree;

(B) a retiree's or a deceased active member'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 retiree's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship *and* 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, *or in the case of a deceased active member, a recognized natural child, adopted child, foster child, stepchild, or other child who was in a regular parent-child relationship and who lived with or whose care was provided by the deceased active member 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 have been dependent on the deceased active member or surviving spouse for care or support, as determined by the trustee.*

(11) "Surviving spouse" means:

(A) the surviving spouse of a deceased retiree;

*(B) the surviving spouse of a deceased active member of the Teacher Retirement System of Texas:*

*(1) for whom contributions have been made to the Texas Public School Retired Employees Group Insurance Program at the last place of employment of the deceased active member in public education in this state;*

*(2) who had 10 or more years of service credit in the Teacher Retirement System of Texas; and*

*(3) who died on or after September 1, 1986.*

*(13) "Surviving dependent child" means:*

*(A) the dependent child of a deceased retiree who has survived the deceased retiree and the deceased retiree's spouse; or*

*(B) the dependent child of a deceased active member of the Teacher Retirement System of Texas who has survived the deceased active member and the deceased member's spouse if the deceased active member:*

*(i) had contributions to the Texas Public School Retired Employees Group Insurance Program at his last place of employment within public education;*

*(ii) had 10 or more years of service credit in the Teacher Retirement System of Texas; and*

*(iii) died on or after September 1, 1986.*

SECTION 2. Subsection (a), Section 5, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended to read as follows:

(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, *and surviving dependent children;*

(2) establishment of basic and optional group coverage to be provided to retirees, ~~and their~~ dependents, ~~and~~ surviving spouses, *and surviving dependent children;*

(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.

SECTION 3. Subsection (a), Section 7, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended to read as follows:

(a) Each retiree must be enrolled in a basic plan offered in the program unless:

(1) the retiree rejects enrollment in the program in writing on a form provided by the trustee; *or*

(2) *the retiree has been found under Section 18A of this article to have defrauded or attempted to defraud the program.*

SECTION 4. Subsections (e) and (i), Section 8, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), are amended to read as follows:

(e) The trustee may contract for and make available to all retirees, ~~their~~ dependents, ~~and~~ surviving spouses, *and surviving dependent children* optional group health insur-

ance 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 *contributions* [~~premiums~~] for these optional plans shall be paid for by the retiree or surviving spouse.

(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, *or surviving dependent child* is entitled. In the event the retiree, surviving spouse, [~~or~~] dependent, *or surviving dependent child* 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 *to the extent permitted by federal law*.

SECTION 5. Section 9, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended to read as follows:

Sec. 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, *or surviving dependent child* insured under this article a certificate of insurance that:

- (1) states the benefits to which the retiree, [~~or~~] surviving spouse, *or surviving dependent child* 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, *or surviving dependent child*.

SECTION 6. Subsection (a), Section 10, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended to read as follows:

(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, *and surviving dependent children* insured under this article.

SECTION 7. Sections 11, 12, 13, and 14, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), are amended to read as follows:

Sec. 11. EXEMPTION FROM EXECUTION AND TAXATION. (a) All insurance benefit payments, active employee and state contributions, retiree, [~~and~~] surviving spouse, *and surviving dependent child* 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 *or contribution* on a policy, insurance contract, or agreement authorized as provided by this article is not subject to any state tax.

Sec. 12. DEATH CLAIMS: BENEFICIARIES. The amount of group life insurance and group accidental death and dismemberment insurance covering a retiree, surviving spouse, [~~or~~] dependent, *or surviving dependent child* 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, *or surviving dependent child* 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.

Sec. 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 *unless the retiree has been found under Section 18A of this article to have defrauded or attempted to defraud the Texas Public School Retired Employees Group Insurance Program*.

~~[(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.]~~

Sec. 14. PAYMENT OF ~~CONTRIBUTIONS~~ [PREMIUMS] ON OPTIONAL PLANS. Retirees, [and] surviving spouses, *and surviving dependent children* shall pay monthly ~~contributions~~ [premiums] to cover the cost of optional plans that they elect to receive, and the trustee shall adopt rules for the collection of additional ~~contributions~~ [premiums] from retirees, [and] surviving spouses, *and surviving dependent children* participating in the optional plans. As a condition of electing this coverage, a retiree, [or] surviving spouse, *or surviving dependent child* must authorize in writing the trustee to deduct the amount of these ~~contributions~~ [premiums] from the monthly annuity payments. *The person having custody of the surviving dependent child or the guardian of the child's estate may authorize the deduction of the contributions from monthly annuity payments.*

SECTION 8. Subsections (a), (b), and (c), Section 15, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), are amended to read as follows:

(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, ~~contributions~~ [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 ~~contributions~~ [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 *for that year* by the state, [and] the active employees, *and the covered participants in the program* [for that year]. ~~The legislature may appropriate additional amounts to the expense reserve for the initial development, establishment, and administration of the program.~~

SECTION 9. Section 16, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended by adding Subsections (h) and (i) to read as follows:

(h) *An employing district that fails to remit, before the 11th day after the last day of the month, all member deposits required by this section to be remitted by the district for the month shall pay to the Texas public school retired employees group insurance fund, in addition to the deposits, interest on the unpaid amounts at the annual rate of six percent compounded monthly.*

(i) *An employing district and its trustees hold amounts due to the Texas public school retired employees group insurance fund under this article in trust for the fund and its participants and may not divert the amounts for any other purpose.*

SECTION 10. Section 18, Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended to read as follows:

Sec. 18. COVERAGE FOR DEPENDENTS, [AND] SURVIVING SPOUSES, AND SURVIVING DEPENDENT CHILDREN. (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 ~~contribution~~ [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 contributions [premiums] in the manner established by Section 14 of this Act and by the trustee.

(c) *A surviving dependent child, the guardian of the child's estate, or the person having custody of the child may 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 Section 14 of this Act and by the trustee.*

SECTION 11. The Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code) is amended by adding Section 18A to read as follows:

*Sec. 18A. EXPULSION FROM PROGRAM FOR FRAUD. (a) After notice and hearing as provided by this section, the trustee may expel from participation in the Texas Public School Retired Employees Group Insurance Program any retiree, surviving spouse, dependent, or surviving dependent child who submits a fraudulent claim under, or has defrauded or attempted to defraud, any health benefits plan offered under the program.*

*(b) On its motion or on the receipt of a complaint, the trustee may call and hold a hearing to determine whether a retiree, surviving spouse, dependent, or surviving dependent child has submitted a fraudulent claim under, or has defrauded or attempted to defraud, any health benefits plan offered under the Texas Public School Retired Employees Group Insurance Program.*

*(c) A proceeding under this section is a contested case under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).*

*(d) If the trustee, at the conclusion of the hearing, issues a decision that finds that the accused retiree, surviving spouse, dependent, or surviving dependent child submitted a fraudulent claim or has defrauded or attempted to defraud any health benefits plan offered under the Texas Public School Retired Employees Group Insurance Program, the trustee shall expel the retiree, surviving spouse, dependent, or surviving dependent child from participation in the program.*

*(e) The substantial evidence rule shall be used on any appeal of a decision of the trustee under this section.*

*(f) A retiree, surviving spouse, dependent, or surviving dependent child expelled from the Texas Public School Retired Employees Group Insurance Program may not be insured by any health insurance plan offered by the program for a period, to be determined by the trustee, of up to five years from the date the expulsion takes effect.*

SECTION 12. 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 22, 1987, by a non-record vote. Passed by the Senate on May 22, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 19, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.