

State of Arkansas
89th General Assembly
First Extraordinary Session, 2013

A Bill

Call Item 5
HOUSE BILL 1001

By: Representative Nickels

For An Act To Be Entitled

AN ACT TO ESTABLISH A UNIFIED HEALTH CARE BENEFIT PROGRAM FOR ALL PUBLICLY FUNDED EMPLOYEES AND RETIRED EMPLOYEES; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A UNIFIED HEALTH CARE BENEFIT PROGRAM FOR ALL PUBLICLY FUNDED EMPLOYEES AND RETIRED EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 21-5-401 is amended to read as follows:

21-5-401. Public Officer and Employee Life and Health Insurance Program established – Legislative intent.

(a) The Public Officer and Employee Life and Health Insurance Program is established to manage life and health insurance plan options for the benefit of publicly funded employees and retirees.

(b) It is the purpose of this subchapter to:

(1) Create a single board to select health insurance and life insurance plan coverages for ~~state and public school~~ publicly funded employees and retirees;

(2) Develop self-funded health ~~programs~~ plan options to enhance the ability to control premiums and utilize managed care capabilities if feasible and in the best interest of plan members; and

(3) Enable a single board to:

(A) Set and manage policies for the ~~health insurance and life insurance programs of state and public school employees~~ program;



(B) Work in a concerted effort toward a common goal of parity between ~~public school and state~~ publicly funded employee and retiree insurance ~~programs~~ plan options;

(C) Improve the quality of health care services under the ~~programs~~ program;

(D) Increase participants' understanding of program features; and

(E) Slow the rate of growth in health care expenses under the ~~programs~~ program.

SECTION 2. Arkansas Code § 21-5-403 is amended to read as follows:

21-5-403. Policy-making body only – Reports.

(a) The State and Public School Life and Health Insurance Board ~~shall~~ be is a policy-making body only.

(b) The ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall report upon request to the House ~~Interim~~ Committee on Insurance and Commerce and the Senate ~~Interim~~ Committee on Insurance and Commerce regarding the ~~state and public school employees and retirees insurance program~~ State and Public School Employee Life and Health Insurance Program.

SECTION 3. Arkansas Code § 21-5-404(3), concerning the powers, duties, and functions of the State and Public School Life and Health Insurance Board, is amended to read as follows:

(3) To prepare a comprehensive analysis of the various health benefit plan options approved by the board to provide coverage to ~~state and public school~~ publicly funded employees and retirees, including cost, quality, and access differentials among the various plans as well as any other comparisons of the plans;

SECTION 4. Arkansas Code § 21-5-405(a), concerning the duties of the State and Public School Life and Health Insurance Board, is amended to read as follows:

(a)(1) The State and Public School Life and Health Insurance Board and the ~~executive director~~ Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall take a risk management

approach in designing the ~~state and public school~~ publicly funded employees and retirees benefit programs.

(2) The board shall ensure that the ~~state and public school employees~~ publicly funded employee and ~~retirees~~ retiree benefit programs are maintained on an actuarially sound basis as determined by actuarial standards established by the board.

SECTION 5. Arkansas Code § 21-5-405(b)(4), concerning the duties of the State and Public School Life and Health Insurance Board, is amended to read as follows:

(4)(A) Utilize the combined purchasing power of the ~~state employee and public school~~ employee, retiree, participating entity, and participating institution personnel programs to foster competition among vendors and providers for the programs.

(B) Any ~~state agency or school district~~ employee, retiree, participating entity, and participating institution that accepts state funds intended to partially defray the cost of health and life insurance for ~~the employees of the state and public schools~~ an employee, retiree, participating entity, or participating institution shall:

(i) Use those funds only for the ~~state and public school employees~~ health benefit plans sponsored by the board; and

(ii) Agree to rules of participation as stated in the policies adopted by the board and as defined in the regulations and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration, including, ~~but not limited to,~~ without limitation timely eligibility reporting, prepayment of insurance premiums, actuarial adjustment for new enrollees, and any other requirements deemed necessary by the board;

SECTION 6. Arkansas Code § 21-5-406(e)(3)(A), concerning the implementation of benefit programs, is amended to read as follows:

(3)(A) The executive director ~~shall have~~ has the authority to supervise the implementation and day-to-day management of the health insurance programs and other employee benefit programs, plans, and individual and group policies made available to ~~state and public school~~ employees, if applicable.

SECTION 7. Arkansas Code § 21-5-406(e)(3)(E), concerning the exemption of the Arkansas State Police Employee Health Plan from mandatory participation, is repealed.

~~(E) The Arkansas State Police Employee Health Plan shall be exempt from any mandatory participation required by this section.~~

SECTION 8. Arkansas Code § 21-5-407 is amended to read as follows:
21-5-407. Definitions.

As used in this subchapter:

(1) "Aggregate performance information" means a report or other means of communication about the measurement of accomplishment of the execution of certain tasks, achievement of certain results, or occurrence of certain events related to all patients or to a class or group of patients identifiable by certain criteria;

(2)(A) "Alternate retirement plan retiree" means a retiree in an alternate retirement plan as defined in § 24-7-801 of a certain institution whose employer does not contribute to the State or Public School Health Insurance Plan during his or her active employment.

(B) Further, an "alternate retirement plan", for the purposes of this section, is a defined contribution plan allowed under the Internal Revenue Service regulations and allowed but not created by Arkansas state law;

(3) "Dependent" means any member of an employee's or retiree's family who meets the eligibility for coverage under the health benefit plans approved by the State and Public School Life and Health Insurance Board;

(4) "Dual eligibility" means simultaneous participation as an employee, dependent, or retiree in the multiple programs offered by the Employee Benefits Division of the Department of Finance and Administration;

(5) "Eligible inactive retiree" means a former member of the General Assembly or a state-elected constitutional officer who has served a sufficient number of years of credited service to be eligible for retirement benefits but who has not yet reached retirement age. Eligible inactive retirees who enroll in the plan must pay the entire premium cost as set by the board;

(6) "Employee" means ~~a state employee or a public school~~

~~district employee;~~ an employee who is paid all or part of his or her salary by public funds, including without limitation an employee of:

- (A) The State of Arkansas;
- (B) A public school district;
- (C) A county;
- (D) A municipality;
- (E) An incorporated or unincorporated town;
- (F) A constitutional branch of government, office,

officer, agency, department, commission, or institution;

- (G) An institution of higher education; and
- (H) An agency, instrumentality, board, commission, or

political subdivision of:

- (i) The State of Arkansas;
- (ii) A public school district;
- (iii) A county;
- (iv) A municipality;
- (v) An incorporated or unincorporated town;
- (vi) A constitutional branch of government, office,

officer, agency, department, commission, or institution; or

- (vii) An institution of higher education;

(7) "Health insurance representative" means an individual appointed by a participating entity to act as an agent for the ~~Employee Benefits Division~~ division;

(8) "Ineligible inactive retiree" means a terminated employee who has worked a sufficient number of years to be considered vested but who has not yet reached the age to qualify to receive a retirement benefit;

(9) "Internal Revenue Service" means the United States government agency responsible for tax collection and tax law enforcement;

(10) "Member" means any enrolled ~~state or public school~~ employee, retiree, or covered dependent;

(11) "Participating entity" means an organization authorized to participate in a plan offered under this subchapter;

(12) "Participating institution" means any two-year, ~~or~~ four-year, or graduate college or university that is participating in a plan offered under this subchapter;

(13) "Prepayment" means collection of medical or life insurance

premiums or both medical and life insurance premiums from the employee and employer one (1) month in advance;

(14) “Publicly funded” means at least partially paid for by federal, state, county, municipal, or other funds received from any taxing unit or government entity;

~~(14)~~(15) “Qualifying event” means a change in an employee’s personal life that may impact his or her eligibility or a dependent’s eligibility for benefits, as defined by Internal Revenue Service guidelines;

~~(15)~~(16) “Quality-of-care information” means the contents of medical records, member claims, patient surveys, pharmacy data, lab data, and other records of or reports about systems, networks, hospitals, and clinical providers to be gathered for assessment of the quality and costs of health care provided by systems, networks, hospitals, and clinical providers;

~~(16)~~(17) “Quality performance indicator” means a specific inquiry or standard that, when applied to quality-of-care information, reveals a quantifiable measure of success or failure in system, network, hospital, or clinical provider care;

~~(17)~~(18) “Retiree” means a retired employee who is eligible under ~~the provisions of § 21-5-411~~ or any other publicly funded retirement system;

~~(18)~~(19) “State” means the State of Arkansas; and

~~(19)~~(20) “Vendor” means a corporation, partnership, or other organization:

(A) ~~A corporation, partnership, or other organization licensed~~ Licensed to do business and in good standing with the State of Arkansas; and

(B) ~~A corporation, partnership, or other organization licensed to do business and in good standing with the State of Arkansas that is lawfully~~ Lawfully engaged in administering ~~employer-~~ employer-funded or employee-funded benefit plans for employer groups in consideration of an administration fee payable to the vendor.

SECTION 9. Arkansas Code § 21-5-410 is amended to read as follows:

21-5-410. Employees – Eligibility.

(a) Eligible employees ~~shall~~ include:

(1) All actively employed, ~~eligible~~ employees ~~of participating~~

~~agencies, boards, commissions, institutions, and constitutional offices whose actual performance of duty requires one thousand (1,000) or more working hours per year;~~

~~(2) Members of the General Assembly;~~

~~(3) Elected constitutional officers;~~

~~(4) Appointed or elected board and commission members who are on a full-time salaried basis; and~~

~~(5)(A)(2)(A)~~ Those state contract employees hired by the Arkansas National Guard on a full-time basis in accordance with the provisions of 10 U.S.C. § 2304.

(B) Membership of the contract employees of the Arkansas National Guard is conditioned upon the United States ~~Government~~ Government's contributing the employer's share to the Employee Benefits Division of the Department of Finance and Administration.

(b) Membership of a state employee is conditioned upon the ~~employee~~ employee's being in a budgeted state employee position or a position authorized by the General Assembly.

~~(c) An employee is one whose actual performance of duty requires one thousand (1,000) or more working hours per year.~~

~~(d) If a participating institution discontinues its participation in the group health and life insurance program instituted pursuant to the provisions of this subchapter, then the institution may not re-participate in the program for two (2) years after the institution's final date of participation in the program unless the executive director of the Employee Benefits Division of the Department of Finance and Administration gives his or her consent to an earlier date.~~

~~(e)(c)~~ Members are not allowed dual eligibility in either the state insurance plan or the public school an insurance plan offered under this subchapter.

~~(f) The Arkansas State Police Employee Health Plan shall be exempt from any mandatory participation required by this section.~~

SECTION 10. Arkansas Code § 21-5-411 is amended to read as follows:

21-5-411. Eligibility of ~~certain~~ retired employees.

(a)(1) ~~State and public school employees shall be allowed to~~ A retiree may continue coverage and, if qualified, ~~to~~ participate in the ~~group health~~

~~insurance program instituted pursuant to the provisions of this subchapter and other laws enacted to implement the program who are:~~

~~(A) Participating members of:~~

~~(i) The Arkansas Public Employees' Retirement System, including the members of the legislative division and the contract personnel of the Arkansas National Guard;~~

~~(ii) The Arkansas Teacher Retirement System;~~

~~(iii) The Arkansas State Highway Employees' Retirement System;~~

~~(iv) The Arkansas Judicial Retirement System; or~~

~~(v) An alternate retirement plan of a qualifying institution under § 24-7-801; and~~

~~(B) Retired State and Public School Employee Life and Health Insurance Program if the retiree is retired and drawing benefits under the systems a publicly funded retirement system.~~

(2)(A)(i) If members of these retirement systems receive retirement benefits, thereby becoming active retirees, the active retirees shall elect to enroll in the health benefit program sponsored by the State and Public School Life and Health Insurance Board.

(ii) The election to enroll in the retiree insurance program shall be made within thirty-one (31) days of the member's becoming an active retiree and shall be made in writing to the Employee Benefits Division of the Department of Finance and Administration on forms required by the ~~Employee Benefits Division~~ division.

(B)(i) To be eligible to continue coverage or to qualify for coverage after electing to decline participation, the member must have been eligible for coverage on the last day of the member's employment.

(ii) If a retiree declines coverage at the time of retirement due to other health insurance coverage that is not an accident only, specific disease, or other limited benefit policy, the retiree may make a one-time election to return to the retiree insurance program with proof of continued insurance coverage if the retiree experiences a qualifying event or at the time of open enrollment.

(iii) The board may allocate available subsidies to cover the retirees making an election.

(C)(i) Except as provided in subdivision (a)(2)(C)(ii) of

this section, an active retiree's failure to make an election during the thirty-one-day election period or an active retiree's election to decline participation in the health program is final.

(ii) If an active retiree declining coverage specifies in writing and provides a letter of creditable employer group coverage to show that the reason for the declination is because the active retiree has coverage through another employer group health plan and the active retiree's coverage is subsequently terminated because of a loss of eligibility, as defined by Internal Revenue Service regulations, and provides information from the former insurance company of the loss of eligibility, then the active retiree and any dependents shall qualify for coverage in the health benefit program under this subsection upon payment of the appropriate premium as established by the board, provided the active retiree applies for coverage within thirty (30) days of the loss of eligibility. Loss of coverage is defined by Internal Revenue Service and Health Insurance Portability and Accountability Act ~~(HIPPA)~~ guidelines for special enrollment periods.

(3)(A) Notwithstanding any other provision to the contrary in this section, an employee with ten (10) or more years of creditable service under the terms of a retirement plan ~~listed in this section~~ shall qualify for continuation of health insurance coverage offered by the board if that employee is separated from employment because of the expiration of a fixed period of employment.

(B)(i) An employee qualifying for continuation of coverage under this subsection shall be considered an "inactive retiree" and shall have thirty-one (31) days from the effective date of termination to elect to continue health insurance coverage under this section by notifying the ~~Employee Benefits Division~~ division.

(ii) The election shall be made in writing on forms required by the ~~Employee Benefits Division~~ division.

(C)(i) Except as provided in subdivision (a)(3)(C)(ii) of this section, an inactive retiree's failure to make an election during the thirty-one-day election period or an inactive retiree's election to decline participation in the health program is final.

(ii) If an inactive retiree as ~~defined~~ described in ~~§ 21-5-407~~ subdivision (a)(3)(B) of this section declining coverage specifies in writing that the reason for the declination is because the inactive

retiree has coverage through another group health plan and the inactive retiree's coverage is subsequently terminated because of a loss of eligibility, then the inactive retiree and any dependents shall qualify for coverage in a board-sponsored health benefit program upon payment of the appropriate premium as established by the board, provided the inactive retiree applies for coverage within thirty-one (31) days of the loss of eligibility.

(D) An eligible inactive retiree shall be reclassified as an "active retiree" upon electing to receive a retirement benefit by a retirement system listed within this section and shall be charged the premium rate appropriate for his or her rating category as an active retiree.

(4)(A) As used in this subsection, "loss of eligibility" means a loss of coverage as a result of a legal separation, divorce, death of the insured, termination of employment, or a reduction in the number of hours of employment.

(B) "Loss of eligibility" ~~shall~~ does not include a loss of coverage from a failure to pay premiums on a timely basis, voluntary termination of coverage, or a termination of coverage for cause, such as making a fraudulent claim.

(b)(1) Persons who draw retirement benefits under ~~the Arkansas Public Employees' Retirement System, the Arkansas Teacher Retirement System, or the Arkansas State Highway Employees' Retirement System,~~ a publicly funded retirement system and retired contract employees of the Arkansas National Guard who wish to participate in the group insurance program provided for in this subchapter shall pay the retiree amount of the premium or the cost of the policy issued to the retired participant.

(2)(A) The retiree portion of the premium or cost shall be deducted from:

(i) The retirement benefit check of the retired participant; or

(ii) A bank account of the retired participant to be paid by a monthly bank draft on the date designated by the ~~Employee Benefits Division~~ division.

(B) If the retirement benefit is to be withheld from a retirement benefit check and the retirement benefit check is not large enough for the premium deduction, the premium shall be paid by monthly bank draft on

a designated date prescribed by the ~~Employee Benefits Division~~ division.

(c) Members of the Arkansas Public Employees' Retirement System and the Arkansas State Highway Employees' Retirement System who retire before January 2, 1988, under ~~the provisions of~~ the Incentives for Early Retirement Act, §§ 24-4-732, 24-5-122, and 24-6-102, shall not have to pay the full amount of the premium and shall pay a portion of the cost of the policy as set forth by the Incentives for Early Retirement Act, §§ 24-4-732, 24-5-122, and 24-6-102.

(d) Any future change in coverage other than cancellation shall be extended only to newly acquired dependents, except that if an active or inactive retiree declined dependent coverage at the time of election to be an active or inactive retiree and specified in writing that the reason for the declination was that the dependent had other coverage, and if subsequently the dependent involuntarily loses such coverage, except for fraud or voluntary cessation of premium payment while the active or inactive retiree is covered by the plan, then the dependent may be added within thirty-one (31) days of the involuntary termination to the active or inactive retiree's health insurance coverage for payment of the appropriate premium as established by the board.

(e) If a retiree dies and has covered dependents at the time of death, the dependents have the right to continue coverage under the plan. Dependent children may be covered until marriage or until the maximum age limit for a dependent child has been reached. A surviving spouse may continue coverage under the plan. If a surviving spouse or dependent declines coverage or cancels existing coverage, then the surviving spouse or dependent has no further privileges under the plan.

SECTION 11. Arkansas Code § 21-5-414 is amended to read as follows:

21-5-414. State contributions generally – Partial state contribution of employees' premiums.

(a) The Department of Finance and Administration shall seek the advice of the Legislative Council and the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce before additional contributions ~~can~~ may be made.

(b)(1) The State of Arkansas, on behalf of ~~agencies~~ an employee, a retiree, a participating entity, or a participating institution participating

~~in the plans adopted by the state~~ a plan adopted under this subchapter, ~~is~~ authorized to may make a monthly contribution equal to the number of budgeted ~~state~~ employee positions multiplied by the monthly contribution authorized by the Chief Fiscal Officer of the State, not to exceed four hundred twenty-five dollars (\$425) monthly for each ~~state~~ employee budgeted position into a fund designated for ~~state~~ employee health benefits, to partially defray the cost of life and health insurance for employees ~~of the state~~ participating in the plan sponsored by the State and Public School Life and Health Insurance Board.

(2) The department may make a monthly contribution to partially defray the cost of health insurance for ~~state employee~~ retirees, utilizing funds made available for that purpose, not to exceed the amount authorized by the Chief Fiscal Officer of the State.

SECTION 12. Arkansas Code § 21-5-415 is amended to read as follows:

21-5-415. Nonpayment of premiums and failure to file reports ~~by agency or school district~~.

(a)(1) If any ~~participating agency or school district~~ employee, retiree, participating entity, or participating institution does not remit insurance premiums and required monthly reports to the Employee Benefits Division of the Department of Finance and Administration by the last calendar day of each billing month, the division shall impose a penalty of two dollars (\$2.00) per insured member or one hundred dollars (\$100), whichever is greater.

(2) Penalties will be assessed and invoiced based on the actual number of members included on the monthly billing report that is past due. Invoices will be processed at the beginning of the month following the infraction.

(3) Penalties ~~shall be~~ are payable to the ~~Employee Benefits Division~~ division and ~~must~~ shall be received by the division no later than the last calendar day of the month following invoicing.

(4) If payment is not received by the division by the due date, the following collection methods may be used:

(A)(i) The Chief Fiscal Officer of the State may cause the amount sought to be transferred to the division from:

(a) Funds the ~~agency or school district~~

employee, retiree, participating entity, or participating institution has on deposit with the Treasurer of State; or

(b) Any funds the ~~agency or school district~~ employee, retiree, participating entity, or participating institution is due from the state.

(ii) If a transfer must be made, a transfer penalty of twenty dollars (\$20.00) per transfer shall be assessed each ~~agency or school district~~ employee, retiree, participating entity, or participating institution fund and included in the transfer;

(B) The ~~agency director or school district superintendent~~ employee, retiree, head of the participating entity, or head of the participating institution may be required to appear before the State and Public School Life and Health Insurance Board to report the reasons for nonpayment or incorrect reporting; and

(C) The Chief Fiscal Officer of the State may use his or her powers ~~outlined in~~ under § 19-4-301 et seq. to aid in collection.

(5) Nonpayment of premiums ~~could~~ may also result in a lapse of health and life insurance coverage for ~~employees of the school district, agency, or the agency assuming responsibility for paying health and life claims for its employees~~ an employee or retiree.

(b)(1) If any ~~participating agency or school district~~ employee, retiree, participating entity, or participating institution fails to follow established policy and procedures set by the executive director, including, but not limited to, notifying the division of an insured's leave without pay, family medical leave, or military leave status or if any participating ~~agency or school district~~ employee, retiree, participating entity, or participating institution provides incorrect benefit information or processes unauthorized benefit changes, including system entries that result in unreimbursed expenses to the State Employees Benefits Trust Fund or Public School Employees Insurance Trust Fund, the division ~~shall have the right to~~ may:

(A) Require the ~~agency~~ employee, retiree, participating entity, or participating institution to pay the total amount of the insured's premium; and

(B) Impose a penalty of fifty dollars (\$50.00) per insured.

(2) Penalties ~~will~~ shall be assessed and invoiced based on the

actual number of violations. Invoices ~~will~~ shall be processed at the beginning of the month following discovery of the infraction.

(3) Penalties ~~shall be~~ are payable to the Employee Benefits Division and ~~must~~ shall be received by the last calendar day of the month following invoicing.

(4) The Chief Fiscal Officer of the State may cause the amount sought to be transferred from:

(A) Funds the ~~agency or school district~~ employee, retiree, participating entity, or participating institution has on deposit with the Treasurer of State; or

(B) Any funds the ~~agency or school district~~ employee, retiree, participating entity, or participating institution is due from the state.

(5) If a transfer is made, a transfer penalty of twenty dollars (\$20.00) per transfer shall be assessed each ~~agency or school district~~ employee, retiree, participating entity, or participating institution fund and included in the transfer.

(c) The division may correct any error regarding an insured's benefits according to existing documentation without authorization or prior notification to the ~~agency or school district~~ employee, retiree, participating entity, or participating institution.

SECTION 13. Arkansas Code § 21-5-417 is amended to read as follows:

21-5-417. State contribution for employee receiving workers' compensation.

Notwithstanding any other provisions of the law, a ~~state agency~~ participating entity or participating institution shall remit the employer's contribution to the Employee Benefits Division of the Department of Finance and Administration for ~~state~~ employees when the employee is in a leave-without-pay status because of a work-related injury and is receiving benefits from workers' compensation.

SECTION 14. Arkansas Code Title 21, chapter 5, subchapter 4 is amended to add an additional section to read as follows:

21-5-418. Unified health care program.

(a) The State and Public School Life and Health Insurance Board shall

establish and the Employee Benefits Division of the Department of Finance and Administration shall administer an expanded health care program under this subchapter to make benefits available to all eligible publicly funded employees and retirees.

(b) If an entity or institution has an employee or retiree that is eligible for benefits under this subchapter, the entity or institution shall offer health insurance benefits to its employees and retirees exclusively under this subchapter.

SECTION 15. EFFECTIVE DATE. This act is effective on and after July 1, 2015.