

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
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A Bill

HOUSE BILL 1100

By: Representatives Wardlaw, Shepherd, Beaty Jr., Beck, M. Berry, S. Berry, Bragg, Brown, C. Cooper, Crawford, Dalby, M. Davis, Dotson, Ennett, Eubanks, K. Ferguson, C. Fite, D. Garner, Godfrey, Hawks, M. Hodges, Hollowell, Hudson, Jett, Love, Maddox, McCullough, S. Meeks, Nicks, Perry, Scott, S. Smith, Speaks, Vaught, Warren, D. Whitaker, Wing, Wooten

By: Senators Hickey, Irvin, Beckham, L. Chesterfield, J. Dismang, Elliott, J. English, Flippo, Gilmore, Hill, K. Ingram, B. Johnson, G. Leding, Rice, B. Sample, D. Sullivan

For An Act To Be Entitled

AN ACT TO ESTABLISH A GOVERNING BODY FOR THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO CREATE ADVISORY COMMISSIONS FOR HEALTH BENEFITS FOR STATE EMPLOYEES AND PUBLIC SCHOOL EMPLOYEES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A GOVERNING BODY FOR THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO CREATE ADVISORY COMMISSIONS FOR HEALTH BENEFITS FOR STATE EMPLOYEES AND PUBLIC SCHOOL EMPLOYEES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative findings – Public School Employee Health Benefit Advisory Commission – State Employee Health Benefit Advisory Commission.

The General Assembly finds that:

(1) The State and Public School Life and Health Insurance Program needs proper governance and oversight to ensure solvency of the State



and Public School Life and Health Insurance Program and state and public school employee benefits;

(2) The State and Public School Life and Health Insurance Program needs to remain viable to provide continued benefits to state employees and public school employees;

(3) State employees and public school employees need to be able to provide input and recommendations for decisions concerning the health benefit options available under the State and Public School Life and Health Insurance Program;

(4) The State Board of Finance has managed the State and Public School Life and Health Insurance Program and is established as the permanent governing entity to manage the health benefits of state employees and public school employees with input and recommendations from state employees and public school employees through an advisory commission; and

(5) The State Board of Finance is the appropriate entity to make decisions and policy for the State and Public School Life and Health Insurance Program.

SECTION 2. Arkansas Code § 19-3-701(b), concerning the creation of the State Board of Finance, is amended to add an additional subdivision to read as follows:

(11)(A) The Insurance Commissioner.

(B) The Insurance Commissioner shall be a voting member only for the purpose of voting on health benefit plans.

SECTION 3. Arkansas Code Title 21, Chapter 5, Subchapter 4, is amended to add additional sections to read as follows:

21-5-419. Public School Employee Health Benefit Advisory Commission – Creation – Members – Expense reimbursement.

(a)(1) The Public School Employee Health Benefit Advisory Commission is created, to be composed of the following voting members:

(A)(i) Three (3) members appointed by the Governor and subject to confirmation by the Senate, who have a minimum of five (5) years of professional experience or fiscal expertise in the industry of health insurance, actuarial services, or financial or banking services.

(ii) Members appointed by the Governor shall serve

at the pleasure of the Governor;

(B)(i) One (1) member who shall:

(a) Be employed by a public school; and

(b) Have five (5) years of consecutive participation in the State and Public School Life and Health Insurance Program.

(ii) A member under subdivision (a)(1)(B)(i) of this section may be:

(a) Selected from a list of three (3) names submitted by the Executive Director of the Arkansas Education Association to the appointing authority under subdivision (a)(1)(B)(iii) of this section; or

(b) An individual not on the list submitted under subdivision (a)(1)(B)(ii)(a) of this section who otherwise meets the qualifications under subdivision (a)(1)(B)(i) of this section.

(iii) The Speaker of the House of Representatives shall make the initial appointment under this subdivision (a)(1)(B), and every three (3) years the authority to make the appointment shall alternate between the Speaker of the House of Representatives and the President Pro Tempore of the Senate; and

(C)(i) One (1) member who:

(a) Is a retired public school employee; and

(b) Has participated in the program for:

(1) Five (5) consecutive years as an active public school employee; and

(2) Two (2) years as a retired public school employee.

(ii) The President Pro Tempore of the Senate shall make the initial appointment under this subdivision (a)(1)(C), and every three (3) years the authority to make the appointment shall alternate between the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(2) An appointee under this section who has a conflict of interest as described in § 19-11-718 is disqualified from serving on the commission.

(b)(1) Members shall be appointed for terms of three (3) years but may be reappointed for unlimited additional three-year terms.

(2) A vacancy in a position shall be filled in the same manner as the original appointment for the unexpired term.

(c)(1) A chair and vice chair of the commission shall be selected annually by and from the membership of the commission.

(2)(A) The first meeting of the commission shall be called by the Secretary of the Department of Education.

(B) The commission shall have an initial meeting by July 1, 2022.

(3) The commission shall meet monthly and have a minimum of twelve (12) meetings annually.

(4) The commission shall meet at a central location in Arkansas as provided by the Employee Benefits Division.

(5)(A) If a member misses two (2) consecutive meetings or four (4) meetings in a calendar year, the commission shall report the member's absence to the appointing authority for review.

(B) The appointing authority shall determine whether or not the member shall continue to serve on the commission.

(C) If the member is removed due to absences under subdivision (c)(5)(B) of this section, the appointing authority shall appoint a new member to serve the remainder of the unexpired term of the member who is removed from the commission.

(d) Each appointed member shall be paid a stipend of five hundred dollars (\$500) per month plus mileage.

(e) The duties of the commission shall include without limitation to:

(1) Review and confirm the financial information and the potential viability of funding for public school employees for purposes of the program;

(2) Review and comment on proposed policies, guidance, and directives to the program offered by the division;

(3) Provide input and recommendations to the State Board of Finance for decisions concerning the health benefit options available under the program;

(4) Review drugs for formulary management;

(5) Evaluate the financial impact of the commission's recommendations for formulary management;

(6) Review and evaluate medical management and medical

management policies;

(7) Make recommendations to the board on the evaluation of medical management and medical management policies;

(8) Review and analyze the actuarial soundness of the program in coordination with an actuary of the division;

(9) Project:

(A) Annual premium adjustments; and

(B) Annual monthly contribution adjustments for participating entities; and

(10) Make initial recommendations to the board by January 31, 2023, and by January 31 of each year thereafter.

(f) The division shall provide staff support for the activities of the commission.

21-5-420. State Employee Health Benefit Advisory Commission – Creation – Members – Expense reimbursement.

(a)(1) The State Employee Health Benefit Advisory Commission is created, to be composed of the following voting members:

(A)(i) Three (3) members appointed by the Governor and subject to confirmation by the Senate, who have a minimum of five (5) years of professional experience or fiscal expertise in the industry of health insurance, actuarial services, or financial or banking services.

(ii) Members appointed by the Governor shall serve at the pleasure of the Governor;

(B)(i) One (1) member who shall have five (5) years consecutive participation in the State and Public School Life and Health Insurance Program.

(ii) A member under subdivision (a)(1)(B)(i) of this section may be:

(a) Selected from a list of three (3) names submitted by the Executive Director of the Arkansas State Employees Association, Inc., to the appointing authority under subdivision (a)(1)(B)(iii) of this section; or

(b) An individual not on the list submitted under subdivision (a)(1)(B)(ii)(a) of this section who otherwise meets the qualifications under subdivision (a)(1)(B)(i) of this section.

(iii) The President Pro Tempore of the Senate shall make the initial appointment under this subdivision (a)(1)(B), and every three (3) years the authority to make the appointment shall alternate between the President Pro Tempore of the Senate and the Speaker of the House of Representatives; and

(C)(i) One (1) member who:

(a) Is a retired state employee; and

(b) Has participated in the program for:

(1) Five (5) consecutive years as an active employee; and

(2) Two (2) years as a retired state employee.

(ii) The Speaker of the House of Representatives shall make the initial appointment under this subdivision (a)(1)(C), and every three (3) years the authority to make the appointment shall alternate between the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

(2) An appointee under this section who has a conflict of interest as described in § 19-11-718 is disqualified from serving on the commission.

(b)(1) Members shall be appointed for terms of three (3) years but may be reappointed for unlimited additional three-year terms.

(2) A vacancy in a position shall be filled in the same manner as the original appointment for the unexpired term.

(c)(1) A chair and vice chair of the commission shall be selected annually by and from the membership of the commission.

(2)(A) The first meeting of the commission shall be called by the Director of the Employee Benefits Division.

(B) The commission shall have an initial meeting by July 1, 2022.

(3) The commission shall meet monthly and have a minimum of twelve (12) meetings annually.

(4) The commission shall meet at a central location in Arkansas as provided by the Employee Benefits Division.

(5)(A) If a member misses two (2) consecutive meetings or four (4) meetings in a calendar year, the commission shall report the member's

absence to the appointing authority for review.

(B) The appointing authority shall determine whether or not the member shall continue to serve on the commission.

(C) If the member is removed due to absences under subdivision (c)(5)(B) of this section, the appointing authority shall appoint a new member to serve the remainder of the unexpired term of the member who is removed from the commission.

(d) Each appointed member shall be paid a stipend of five hundred dollars (\$500) per month plus mileage.

(e) The duties of the commission shall include without limitation to:

(1) Review and confirm the financial information and the potential viability of funding for state employees for purposes of the program;

(2) Review and comment on proposed policies, guidance, and directives to the program offered by division;

(3) Provide input and recommendations to the State Board of Finance for decisions concerning the health benefit options available under the program;

(4) Review drugs for formulary management;

(5) Evaluate the financial impact of the commission's recommendations for formulary management;

(6) Review and evaluate medical management and medical management policies;

(7) Make recommendations to the board on the evaluation of medical management and medical management policies;

(8) Review and analyze the actuarial soundness of the program in coordination with an actuary of the division;

(9) Project:

(A) Annual premium adjustments; and

(B) Annual monthly contribution adjustments for participating entities; and

(10) Make initial recommendations to the board by January 31, 2023, and by January 31 of each year thereafter.

(f) The division shall provide staff support for the activities of the commission.

SECTION 4. Arkansas Code § 21-5-401(b), concerning the legislative intent for the establishment of the State and Public School Life and Health Insurance Program, is amended to read as follows:

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

(1) Direct the State Board of Finance to ~~develop~~:

(A) Develop the policies, guidance, and directives for the program and to select and offer life and health insurance plan options under the program to participants; and

(B) Allow the Insurance Commissioner to serve as a voting member of the board only for the purpose of voting on health benefit plans;

(2) Create the Public School Employee Health Benefit Advisory Commission and the State Employee Health Benefit Advisory Commission to recommend life and health insurance plan options under the program for state employees and public school employees;

(3) Develop self-funded health plan options that enhance the ability to control premiums and utilize managed care capabilities if feasible and in the best interest of participants; and

~~(3)~~(4) Enable the board to:

(A) Set and manage policies for the program;

(B) Work in a concerted effort toward a common goal of parity between public school and state employee insurance programs;

(C) Improve the quality of healthcare services under the program;

(D) Increase participants' understanding of program features by educating state employees, state employee retirees, public school employees, and public school employee retirees on the program and plan options available under the program, including the advantages and disadvantages of each available plan option; and

(E) Slow the rate of growth of healthcare expenses under the program.

SECTION 5. Arkansas Code § 21-5-404 is amended to read as follows:

21-5-404. Powers, functions, and duties of board.

The State Board of Finance has the following powers, functions, and duties:

(1)(A) To explore various cost-containment measures and funding

options for plan options offered under the State and Public School Life and Health Insurance Program for the benefit of state employees, state employee retirees, public school employees, and public school employee retirees.

(B) The board shall not adopt a health insurance plan option that has no deductible for participants.

(C) The board shall recommend that an active employee in a consumer-driven health insurance plan option offered under the program establish a health savings account if the active employee is eligible to establish a health savings account under federal law;

(2) To promote competition among vendors and create a systematic formula for measuring competitiveness of the plan options offered under the program, quality-of-care delivery, portability, and accessibility to and affordability of health care;

(3) To prepare a comprehensive analysis of the various plan options offered under the program, including cost, quality, and access differentials as well as any other comparisons of the plan options offered under the program;

(4) To undertake studies and to take any appropriate action that the board determines will promote the financial soundness and overall well-being of the program;

(5) To establish and set penalties as allowed under § 21-5-415;

(6)(A) To develop, with the assistance of the Office of State Procurement, bid specifications and requests for proposals and to evaluate bids and proposals.

(B) The board shall allow the office to execute all other actions relating to the purchasing procedures in contracting for consultants, third-party administrators, providers, or insurance companies on behalf of the program and all plan options offered under the program;

(7) To evaluate responses to requests for proposals, select contractors for all services, and approve the award of contracts resulting from bids for the program and all plan options offered under the program;

(8) To perform program and plan option design, and summarize plan document approval, including without limitation lifetime limitations, copayments, deductibles, and eligibility rules;

(9) To promote increased access to and participation in the program and the plan options offered under the program by educating state

employees, state employee retirees, public school employees, and public school employee retirees about the program and all plan options offered under the program, including the advantages and disadvantages of each available plan option;

(10)(A) To direct the office to contract with qualified vendors, as defined by the board, offering the plan options under the program as prescribed by the board without regard to § 19-11-228 or other statutes requiring competitive bidding.

(B) Each contract shall be for a term of at least one (1) year but may be made automatically renewable from term to term in the absence of notice of termination by either party; and

(11)(A) To obtain quality-of-care information from systems, networks, hospitals, and clinical providers to inform plan option design, plan option management, and consumer decisions.

(B) The board shall:

(i) Use accepted national standards for assessment of quality-of-care information provided by systems, networks, hospitals, and clinical providers; and

(ii) Be empowered to:

(a) Determine the appropriate use of quality-of-care information and scope of system, network, hospital, and clinical provider accountability;

(b) Request aggregate performance information for patients; and

(c) Publicly report conclusions of quality-of-care assessment; ~~and~~

~~(12) To appoint three (3) subcommittees of the board to study and research plan options offered under the program, formulary management, quality of care provided, and the financial impact of implementing the recommendations made to the board as follows:~~

~~(A)(i) The Benefits Subcommittee of the State Board of Finance shall consist of:~~

~~(a) Three (3) board members;~~

~~(b) Two (2) state employees;~~

~~(c) Three (3) public school employees, at least one (1) of whom is employed by a rural school district; and~~

~~(d) One (1) retired public school employee.~~

~~(ii) The Benefits Subcommittee of the State Board of Finance shall review, evaluate, and investigate benefits, new benefit offerings, and annual insurance rates;~~

~~(B)(i) The Drug Utilization and Evaluation Subcommittee of the State Board of Finance shall consist of:~~

~~(a) Three (3) pharmacists as follows:~~

~~(1) The Executive Director of the Arkansas State Board of Pharmacy or his or her pharmacist designee;~~

~~(2) The Dean of the College of Pharmacy of the University of Arkansas for Medical Sciences or his or her pharmacist designee; and~~

~~(3) A pharmacist selected by the Arkansas Pharmacist's Association;~~

~~(b) Four (4) physicians as follows:~~

~~(1) The Dean of the College of Medicine of the University of Arkansas for Medical Sciences or his or her physician designee;~~

~~(2) The Senior Associate Hospital Director of the University of Arkansas for Medical Sciences Medical Center or his or her physician designee;~~

~~(3) The Director of the Arkansas Poison and Drug Information Center or his or her physician designee; and~~

~~(4) A physician selected by the Arkansas Medical Society, Inc.;~~

~~(c) One (1) registered nurse who is the Dean of the College of Nursing of the University of Arkansas for Medical Sciences or his or her registered nurse designee; and~~

~~(d)(1) One (1) state employee and two (2) public school employees, appointed by the board.~~

~~(2) A member appointed under this subdivision (12)(B)(i)(d) shall have expertise in accounting, finance, auditing, or insurance.~~

~~(ii) The Drug Utilization and Evaluation Subcommittee of the State Board of Finance shall review drugs for formulary management and evaluate the financial impact of its recommendations; and~~

~~(C)(i) The Quality of Care Subcommittee of the State Board of Finance shall consist of:~~

- ~~(a) Three (3) board members;~~
- ~~(b) Two (2) state employees;~~
- ~~(c) Two (2) public school employees;~~
- ~~(d) One (1) representative from the Arkansas Foundation for Medical Care, Inc.;~~
- ~~(e) One (1) representative from the Arkansas Pharmacist's Association;~~
- ~~(f) One (1) representative from the Arkansas Center for Health Improvement;~~
- ~~(g) One (1) representative from the Arkansas Medical Association, Inc.;~~
- ~~(h) One (1) representative from the Arkansas Osteopathic Medical Association; and~~
- ~~(i) One (1) representative from the Arkansas Hospital Association, Inc.~~

~~(ii) The Quality of Care Subcommittee of the State Board of Finance may review and recommend quality performance indicators for use, recommend baseline performance goals, recommend alignment of financial incentives to improve performance, and track improvements in delivery of care.~~

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide affordable health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.