

An act to amend Sections 22864, 22885, 22901, 22910, and 22911 of the Government Code, relating to public employees' health benefits.



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

SECTION 1. Section 22864 of the Government Code is amended to read:

22864. (a) Premiums charged for enrollment in a health benefit plan shall reasonably reflect the cost of the benefits provided.

(b) This part does not limit the board’s authority to do any of the following:

(1) Enter into contracts with carriers providing compensation based on carrier performance.

(2) Credit premiums to an employer for expenditures that the board determines are likely to improve the health status of employees and annuitants or otherwise reduce health care costs.

(3) Adjust the premiums charged under any health benefit plan or contract to reflect regional variations in the cost of health care services and other relevant factors. Any adjustment of these premiums shall be at the sole discretion of the board and shall only apply to the premiums charged to employees and annuitants of contracting agencies. The board may require a contracting agency and its employees and annuitants to pay the premium rate established pursuant to this paragraph, which may be different than the health benefit plan or contract premium rate that would otherwise be applicable to that agency.

(4) Adjust premiums as part of programs for health promotion and disease prevention.

(5) Develop procedures for risk adjustment of premiums across plans that encourage plans to offer benefits based upon medical and administrative efficiency and quality of care rather than on the employee’s or annuitant’s health status or service



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areas with low-risk populations. Any risk adjustment program or procedure shall be at the sole discretion of the board.

(A) Notwithstanding any other law, or any agreement between the board and a carrier for a health benefit plan, the board shall disclose the unadjusted single party plan premium for each health plan, including each self-funded health benefit plan, as if the risk adjustment process described in this paragraph had not occurred. The board shall make this disclosure to the Joint Legislative Budget Committee, the chairpersons of the committees and subcommittees in each house of the Legislature that consider the Public Employees' Retirement System's budget and activities, the Controller, the Trustees of the California State University, the Department of Human Resources, the Director of Finance, and the Legislative Analyst not later than 30 days prior to the approval of benefits and premium readjustments. The board shall also include this disclosure in written board materials made available to the public upon final approval of benefits and premium adjustments.

(B) The board shall not prohibit disclosure of information provided for in this paragraph in any manner, including by board actions, rules, regulations, contracts, or agreements.

SEC. 2. Section 22885 of the Government Code is amended to read:

22885. (a) The state shall, in addition to the contributions required by Section 22870, contribute additional amounts necessary to provide funds for the administration of this part and for the establishment and continuation of the Public Employees' Contingency Reserve Fund.



(b) The additional contributions shall be in amounts reasonably adequate to pay the administrative expenses and to establish and maintain the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, as determined by the board and as adopted by the Legislature in an appropriate control section of the annual Budget Act, but ~~may~~ shall not exceed, for each employee or annuitant, the following amounts:

(1) For administrative expenses, 2 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

(2) For the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, 4 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

(c) The contributions required by this section shall not exceed the expenses incurred by the board on behalf of state employees or state annuitants enrolled in a health benefit plan.

SEC. 3. Section 22901 of the Government Code is amended to read:

22901. Each contracting agency shall contribute to the Public Employees' Contingency Reserve Fund, an amount sufficient to bear all of the administrative costs incurred by the board in providing to the employees and annuitants of that agency the health benefits provided by this part. The amount of the contributions required by this section shall be determined by the board and ~~may~~ shall include an appropriate share of overhead costs of the ~~program.~~ program based on contracted service levels for each



employer or contracting agency. A contracting agency shall, in addition, contribute amounts reasonably adequate to establish and maintain the account within the fund for each of its employees and annuitants the same amount as is required of the state under paragraph (2) of subdivision (b) of Section 22885, provided by subdivision (b) of Section 22910, as determined by the board and as adopted by the Legislature in an appropriate control section of the annual Budget Act.

SEC. 4. Section 22910 of the Government Code is amended to read:

22910. (a) There shall be maintained in the State Treasury the Public Employees' Contingency Reserve Fund. The board may invest funds in the Public Employees' Contingency Reserve Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) (1) An account shall be maintained within the Public Employees' Contingency Reserve Fund with respect to the health benefit plans the board has approved or that have entered into a contract with the board. The account shall be credited, from time to time and in amounts as determined by the board, with moneys contributed under Section 22885 or 22901 to provide an adequate contingency reserve. The income derived from any dividends, rate adjustments, or other funds received from a health benefit plan shall be credited to the account. The board may deposit, in the same manner as provided in paragraph (4), up to one-half of 1 percent of premiums in the account for purposes of cost containment programs, subject to approval as provided in paragraph (2) of subdivision (c).

(2) The account for health benefit plans may be utilized to defray increases in future rates, to reduce the contributions of employees and annuitants and employers,



to implement cost containment programs, or to increase the benefits provided by a health benefit plan, as determined by the board. The board may use penalties and interest deposited pursuant to subdivision (c) of Section 22899 to pay any difference between the adjusted rate set by the board pursuant to Section 22864 and the applicable health benefit plan contract rates.

(3) The total credited to the account for health benefit plans at any time shall be limited, in the manner and to the extent the board may find to be most practical, to a maximum of 10 percent of the total of the contributions of the employers and employees and annuitants in any fiscal year. The board may undertake any action to ensure that the maximum amount prescribed for the fund is approximately maintained.

(4) Board rules and regulations adopted pursuant to Section 22831 to minimize the impact of adverse selection or contracts entered into pursuant to Section 22864 to implement health benefit plan performance incentives may provide for deposit in and disbursement to carriers or to Medicare from the account the portion of the contributions otherwise payable directly to the carriers by the Controller under Section 22913 as may be required for that purpose. The deposits shall not be included in applying the limitations, prescribed in paragraph (3), on total amounts that may be deposited in or credited to the fund.

(5) Notwithstanding Section 13340, all moneys in the account for health benefit plans are continuously appropriated without regard to fiscal year for the purposes provided in this subdivision.



(c) (1) An account shall also be maintained in the Public Employees' Contingency Reserve Fund for administrative expenses consisting of funds deposited for this purpose pursuant to Sections 22885 and 22901.

(2) The moneys deposited pursuant to Sections 22885 and 22901 in the Public Employees' Contingency Reserve Fund may be expended by the board for administrative purposes, provided that the expenditure is approved ~~by~~ in the Department of Finance and the Joint Legislative Budget Committee ~~in the manner provided in the Budget Act for obtaining authorization to expend at rates requiring a deficiency appropriation, regardless of whether the expenses were anticipated.~~ annual Budget Act.

(d) An account shall be maintained in the Public Employees' Contingency Reserve Fund for the contributions required pursuant to Section 22870. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. This subdivision shall not apply to state administrative costs, which shall continue to be subject to Section 13340.

(e) An account shall be maintained in the Public Employees' Contingency Reserve Fund for the contributions required pursuant to Section 22890 and for payments made pursuant to subdivision (f) of Section 22850. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. Penalties and interest paid pursuant to subdivision (c) of Section 22899 shall be deposited in the account pursuant to paragraphs (1) and (2) of subdivision (b).



(f) Accounts shall be maintained in the Public Employees' Contingency Reserve Fund for complementary annuitant premiums and related administrative expenses paid by annuitants pursuant to Section 22802. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, to reimburse the Public Employees' Retirement Fund, the Judges' Retirement Fund, the Judges' Retirement Fund II, and the Legislators' Retirement Fund, as applicable, for payment of annuitant health premiums, and for the payment of premiums and other charges to carriers or to the Public Employees' Health Care Fund. Administrative expenses deposited in this account shall be credited to the account provided by subdivision (c).

(g) Amounts received by the board for retiree drug subsidy payments that are attributed to contracting agencies and their annuitants and employees pursuant to subdivision (c) of Section 22910.5 shall be deposited in the Public Employees' Contingency Reserve Fund. Notwithstanding Section 13340, these amounts are continuously appropriated, without regard to fiscal year, for the payment of premiums, costs, contributions, or other benefits related to contracting agencies and their employees and annuitants, and as consistent with the Medicare Prescription Drug Improvement and Modernization Act, as amended.

(h) The Account for Retiree Drug Subsidy Payments is hereby established in the Public Employees' Contingency Reserve Fund and funds in that account shall, upon appropriation by the Legislature, be used for the purposes described in Section 22910.5.

(i) Notwithstanding any other law, the Controller may use the moneys in the Public Employees' Contingency Reserve Fund for loans to the General Fund as provided in Sections 16310 and 16381. However, interest shall be paid on all moneys loaned to



the General Fund from the Public Employees' Contingency Reserve Fund. Interest payable shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which loaned. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the Public Employees' Contingency Reserve Fund was created.

SEC. 5. Section 22911 of the Government Code is amended to read:

22911. (a) There shall be maintained in the State Treasury the Public Employees' Health Care Fund to fund the health benefit plans administered or approved by the board. The board may invest funds in the Public Employees' Health Care Fund in accordance with the provisions of law governing its investment of the retirement fund.

(b) The Public Employees' Health Care Fund shall consist of the following:

(1) Any self-funded or minimum premium plan premiums paid by contracting agencies, the state and enrolled employees, annuitants, and family members, including premiums paid directly for continuation coverage authorized under the Consolidated Omnibus Budget Reconciliation Act, and as authorized by this part.

(2) Any reserve moneys from terminated health benefit plans designated by the board.

(3) Any moneys from a health benefit plan for risk adjustment pursuant to Section 22864.

(c) Income earned on the Public Employees' Health Care Fund shall be credited to the fund.

(d) Notwithstanding Section 13340, the Public Employees' Health Care Fund is continuously appropriated, without regard to fiscal years, to pay benefits and claims



~~costs, the costs of administering costs for self-funded or minimum premium health benefit plans, and refunds to those who made direct premium payments, and other costs as the board may determine necessary, consistent with its fiduciary duty. payments.~~

(e) The moneys deposited in the Public Employees' Health Care Fund may be expended by the board for administrative purposes provided that the expenditure is approved in the annual Budget Act.

(e)

(f) The Legislature finds and declares that the Public Employees' Health Care Fund is a trust fund held for the exclusive benefit of enrolled employees, annuitants, family members, the self-funded plan administrator, and those contracting to provide medical and hospital care services.

(f)

(g) Notwithstanding subdivisions (d) and ~~(e), (f)~~, the board may use reserves generated by one or more self-funded health benefit plans for risk adjustment programs and procedures pursuant to paragraph (3) of subdivision (f) of Section 22850 and paragraph (5) of subdivision (b) of Section 22864.



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

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

General Subject: Public employees' health benefits: administration.

(1) The Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System (board), authorizes the board to contract for health benefit plans for employees and annuitants, as defined. PEMHCA requires premiums charged for enrollment in a health benefit plan to reasonably reflect the cost of the benefits provided and specifies that the board is authorized, among other things, to develop procedures for risk adjustment of premiums across plans that encourage plans to offer benefits based upon medical and administrative efficiency and quality of care rather than on the employee's or annuitant's health status or service areas with low-risk populations.

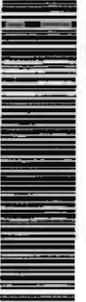
This bill would require the board, not later than 30 days prior to the approval of benefits and premium readjustments, to disclose to specified state officers and entities the unadjusted single party plan premium for each health plan as if the above-described



risk adjustment process had not occurred, and upon final approval of benefits and premium readjustments, to include this disclosure in written board materials made available to the public. The bill would also prohibit the board from prohibiting disclosure of this information in any manner.

(2) Under PEMHCA, moneys from health benefit plans for that risk adjustment, reserve moneys from terminated health benefit plans, and self-funded or minimum premium plan premiums are deposited into the Public Employees' Health Care Fund, which is continuously appropriated to pay benefits and claims costs, administrative costs, refunds, and other costs determined by the board. Under PEMHCA, the state and contracting agencies, as defined, are required to contribute amounts sufficient to cover the board's administrative costs to a specified account in the Public Employees' Contingency Reserve Fund, expenditure of which is contingent upon approval by the Department of Finance and the Joint Legislative Budget Committee, as specified, and are further required to contribute identical amounts to provide an adequate contingency reserve to a separate, continuously appropriated account in the Public Employees' Contingency Reserve Fund.

This bill would limit those state contributions to the Public Employees' Contingency Reserve Fund to expenses incurred on behalf of state employees or state annuitants, would require the contracting agency contributions for administrative costs to include an appropriate share of overhead costs, as specified, and would require the contracting agency contributions for the account for the contingency reserve to be in amounts reasonably adequate to maintain the account, as determined by the board and adopted by the Legislature in the annual Budget Act. The bill would also discontinue



the authorization for the use of moneys in the Public Employees' Health Care Fund to pay other costs determined by the board, and would condition the expenditure for administrative expenses of moneys in this fund or the account for administrative expenses in the Public Employees' Contingency Reserve Fund on approval in the annual Budget Act.

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

