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An act to amend Sections 22850, 22852, 22866, 22885, 22901, 22910, 22911, 22913, and 22946 of, and to add Section 22759 to, the Government Code, and making an appropriation therefor, relating to public employee benefits.



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

SECTION 1. Section 22759 is added to the Government Code, immediately preceding Section 22760, to read:

22759. "Administrative expenses" means the costs incurred by the board to provide employees and annuitants of the state and contracting agencies the health benefits authorized by this part.

SEC. 2. Section 22850 of the Government Code is amended to read:

22850. (a) The board may, without compliance with any provision of law relating to competitive bidding, enter into contracts with carriers offering health benefit plans or with entities offering services relating to the administration of health benefit plans.

(b) The board may contract with carriers for health benefit plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the hospital and medical care fields prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, inpatient medical benefits, outpatient benefits, obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means.

(c) Notwithstanding any other provision of this part, the board may contract with health benefit plans offering unique or specialized health services.

(d) The board may administer ~~self-funded~~ self-funded, partially self-funded, or minimum premium health benefit plans.



(e) The board may contract for or implement employee cost containment and cost reduction incentive programs that involve the employee, the annuitant, and family members as active participants, along with the carrier and the provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing these plans, the board, in cooperation with the Department of Human Resources, may request proposals from carriers and certified public employee representatives.

(f) Notwithstanding any other provision of this part, the board may do any of the following:

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may provide health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part pursuant to Section 22922.

(3) Implement and administer risk adjustment procedures consistent with Section 22864 that require health benefit plans to adjust premiums and authorize the system to redistribute premiums based on rules and regulations established by the board for this purpose.

(g) The board shall approve any employee association health benefit plan that was approved by the board in the 1987–88 contract year or prior, provided the plan



continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees. Notwithstanding any other provision of this part, the California Correctional Peace Officer Association Health Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state.

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.

SEC. 3. Section 22852 of the Government Code is amended to read:

22852. (a) A contract for a health benefit plan shall be for a uniform term of at least one year and may be made automatically renewable in the absence of notice of termination by either party. Every contract for administrative services with respect to the operation of a ~~self-funded~~ self-funded, partially self-funded, or minimum premium health benefit plan administered by the board shall be on terms as the board deems necessary or desirable.

(b) The board shall determine the beginning and ending dates of a contract with the carrier of a health benefit plan and with an entity providing services in connection with the administration of a health benefit plan.

(c) Irrespective of an agreed upon termination date, the board may extend a contract for a reasonable period of time, subject to agreed upon terms and conditions.

SEC. 4. Section 22866 of the Government Code is amended to read:



22866. (a) The board shall report to the Legislature and the Director of Finance on or before November 1, 2016, and annually thereafter, regarding the health benefits program. The report shall include, but not be limited to the following:

(1) General overview of the health benefits program, including, but not limited to, the following:

(A) Description of health plans and benefits provided, including essential and nonessential benefits as required by state and federal law, member expected out-of-pocket expenses, and actuarial value by metal tier as defined by the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(B) Geographic coverage.

(C) Historic enrollment information by basic and Medicare plans, by state and contract agencies, by active and retired membership, and by subscriber and dependent tier.

(D) Historic expenditures by basic and Medicare plans, by state and contract agencies, by active and retired membership, and by subscriber and dependent tier.

(2) Reconciliation of premium increases or decreases from the prior plan year, and the reasons for those changes.

(A) Description of benefit design and benefit changes, including prescription drug coverage, by plan. The description shall detail whether benefit changes were required by statutory mandate, federal law, or an exercise of the board's discretion, the costs or savings of the benefit change, and the impact of how the changes fit into a broader strategy.



(B) Discussion of risk.

(C) Description of medical trend changes in aggregate service categories for each plan. The aggregate service categories used shall include the standard categories of information collected by the board, consisting of the following: inpatient, emergency room, ambulatory surgery, office, ambulatory radiology, ambulatory lab, mental health and substance abuse, other professional, prescriptions, and all other service categories.

(D) Reconciliation of past year premiums against actual enrollments, revenues, and accounts receivables.

(3) Overall member health as reflected by data on chronic conditions.

(4) The impact of federal subsidies or contributions to the health care of members, including Medicare Part A, Part B, Part C, or Part D, low-income subsidies, or other federal program.

(5) The cost of benefits beyond Medicare contained in the board's Medicare supplemental plans.

(6) A description of plan quality performance and member satisfaction, including, but not limited to, the following:

(A) The Healthcare Effectiveness Data and Information Set, referred to as HEDIS.

(B) The Medicare star rating for Medicare supplemental plans.

(C) The degree of satisfaction of members and annuitants with the health benefit plans and with the quality of the care provided, to the extent the board surveys participants.

(D) The level of accessibility to preferred providers for rural members who do not have access to health maintenance organizations.



(E) Other applicable quality measurements collected by the board as part of the board's health plan contracts.

(7) A description of risk assessment and risk mitigation policy related to the board's self-funded and ~~flex-funded~~ partially self-funded plan offerings, including, but not limited ~~to~~ to, the following:

- (A) Reserve levels and their adequacy to mitigate plan risk.
- (B) The expected change in reserve levels and the factors leading to this change.
- (C) Policies to reduce excess reserves or rebuild inadequate reserves.
- (D) Decisions to lower premiums with excess reserves.
- (E) The use of reinsurance and other alternatives to maintaining reserves.

(8) Description and reconciliation of administrative expenditures, including, but not limited to, the following:

- (A) Organization and staffing levels, including salaries, wages, and benefits.
- (B) Operating expenses and equipment expenditure items, including, but not limited to, internal and external consulting and intradepartmental transfers.
- (C) Funding sources.
- (D) Investment strategies, historic investment performance, and expected investment returns of the Public Employees' Contingency Reserve Fund and the Public Employees' Health Care Fund.

(9) Changes in strategic direction and major policy initiatives.

(b) A report submitted pursuant to subdivision (a) shall be provided in compliance with Section 9795.

SEC. 5. Section 22885 of the Government Code is amended to read:



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

(b) The additional contributions specified in subdivision (a) shall be in amounts reasonably adequate to pay the administrative ~~expenses~~ expenses and to ~~establish and maintain the account within the Public Employees' Contingency Reserve Fund provided by specified in~~ specified in 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 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 specified in~~ specified in 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.

SEC. 6. Section 22901 of the Government Code is amended to read:

22901. ~~Each~~ (a) In addition to the contributions required by Section 22890, 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 Fund amounts reasonably adequate to pay for administrative expenses and for the continuation of the Public Employees' Contingency Reserve Fund.

(b) The amount of the contributions required by this section shall be determined by the board and may include an appropriate share of overhead costs of the program. A contracting agency shall, in addition, contribute to 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. additional contributions specified in subdivision (a) shall be determined by applying the same percentages required for the state under subdivision (b) of Section 22885 to the total of the contributions made by the employee or annuitant and by the contracting agency on behalf of the employee or annuitant for enrollment in a health benefit plan.

(c) A contracting agency shall contribute additional funds to pay for administrative expenses, as defined in subdivision (c) of Section 22910, that the board incurs for providing specific or exclusive services to the contracting agency. The amounts of these contributions shall be determined by the board.

SEC. 7. 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 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 premium~~ 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, premiums~~, 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 premium~~ set by the board pursuant to Section 22864 and the applicable health benefit plan contract ~~rates, premiums~~.

(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, expenses provided that the expenditure is approved in the annual Budget Act.

(3) For purposes of this subdivision, administrative expenses do not include items specified in subdivision (d) of Section 22911. These items shall be included in the premiums of self-funded, partially self-funded, and minimum premium health benefit plans.

(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 deposit of premiums for self-funded, partially self-funded, or minimum premium health benefit plans into



the Public Employees' Health Care Fund. This subdivision shall not apply to state administrative ~~costs, expenses,~~ 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 deposit of premiums for self-funded, partially self-funded, or minimum premium health benefit plans into 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 deposit of premiums for self-funded, partially self-funded, or minimum premium health benefit plans into 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. 8. 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~~ self-funded, partially 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 for the following:

(1) Benefits and claims costs for self-funded, self-funded, partially self-funded, or minimum premium health benefit plans, and refunds plans.

(2) Fees to carriers or third-party administrators of self-funded, partially self-funded, or minimum premium health benefit plans or benefits provided by a self-funded, partially self-funded, or minimum premium health benefit plan.

(3) Fees to the Controller for services relating to claims costs.



(4) Fees required by federal law.

(5) Refunds to those who made direct premium 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) The Public Employees' Health Care Fund may be used to pay fees for actuarial services relating to self-funded, partially self-funded, and minimum premium health benefit plans, but only to the extent that the fund is needed to pay the fees that have not been otherwise included in administrative expenses and approved in the annual Budget Act. The Public Employees' Health Care Fund shall not pay for administrative expenses.

~~(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, and family members, the self-funded plan administrator, and those contracting to provide medical and hospital care services. members.~~

(g) Notwithstanding subdivisions (d) and (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.

SEC. 9. Section 22913 of the Government Code is amended to read:

22913. (a) The Controller shall suitably identify and remit the state's ~~contribution for each employee or annuitant monthly to the Public Employees' Contingency Reserve Fund, together with amounts authorized by the employees and~~



annuitants to be deducted from their salaries or retirement allowances for payment of the employee contribution, as required by subdivision (a) of Section 22870, and the amounts authorized by state employees and annuitants to be deducted from their salaries or retirement allowances for payment of their contributions, as required by subdivision (a) of Section 22870, monthly to the Public Employees' Contingency Reserve Fund.

(b) The contributions of employees and annuitants of contracting agencies and the contributions of contracting agency employers shall be suitably identified and remitted monthly to the Public Employees' Contingency Reserve Fund by warrant of the Controller upon claims filed by the board. Controller shall suitably identify and remit contracting agency employer, employee, and annuitant contributions, as required by subdivision (a) of Section 22890, monthly to the Public Employees' Contingency Reserve Fund by warrant of the Controller upon claims filed by the board.

SEC. 10. Section 22946 of the Government Code is amended to read:

22946. As used in this chapter:

(a) "Health benefits trust" means the California Association of Highway Patrolmen Health Benefits Trust, the Peace Officers Research Association of California Health Benefits Trust, the California Correctional Peace Officers Association Health Benefits Trust, or a self-funded self-funded, partially self-funded, or minimum payment plan administered by the board under this part.

(b) "Participant" means an employee, annuitant, or family member who is a member of a health benefits trust and who is injured by, or due to the actions or inactions



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of, a third person, and includes any other person to whom a claim accrues by reason of the injury or death of the employee, annuitant, or family member.

(c) "Third party" means any tortfeasor or alleged tortfeasor against whom the participant asserts a claim for injury or death.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Public Employees' Medical and Hospital Care Act.

(1) Existing law, the Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, authorizes the board to contract for health benefit plans for employees and annuitants, as defined, which may include employees and annuitants of contracting agencies. Existing law requires the state to contribute the amounts necessary for the administration of the act and prescribes a method of calculating this amount. Existing law similarly requires a contracting agency to contribute an amount sufficient to bear the administrative costs incurred by the board in providing benefits to the employees and annuitants of that agency and specifies that the amount required may include an appropriate share of overhead costs. Existing law creates the Public Employees' Contingency Reserve Fund, which is continuously appropriated, into which funds are deposited from various sources, including state and



contracting agency contributions for administrative purposes. Existing law creates the Public Employees' Health Care Fund to fund the health benefit plans administered or approved by the board, and includes self-funded and minimum premium plan premiums, as specified. Existing law continuously appropriates funds in the Public Employees' Health Care Fund for the payment of benefits, claims costs, and refunds, as specified, and administrative costs, as specified.

This bill would revise and clarify provisions relating to administrative costs, as described above. The bill would define administrative costs to mean the costs incurred by the board to provide employees and annuitants of the state and contracting agencies the health benefits authorized by PEMHCA. With respect to the Public Employees' Contingency Reserve Fund, the bill would provide that a contracting agency is obligated to contribute amounts reasonably adequate to pay for administrative expenses, amounts to pay for continuation of the fund, and additional amounts to pay for administrative expenses incurred for providing specific or exclusive services to contracting agencies. By depositing additional amounts into a continuously appropriated fund, this bill would make an appropriation. The bill would specify that funds in the Public Employees' Contingency Reserve Fund may be used for the deposit of premiums of self-funded, partially self-funded, and minimum premium health benefit plans into the Public Employees' Health Care Fund. This bill would authorize funds in the Public Employees' Health Care Fund to be used to pay claims and costs related to partially self-funded health benefit plans, fees to carriers and administrators of specified health benefit plans, fees to the Controller for services relating to claims costs, and fees required by federal law. The bill would also permit funds in the Public Employees' Health Care Fund to



be used to pay fees for actuarial services relating to self-funded, partially self-funded, and minimum premium health benefit plans to the extent that the fund is needed to pay the fees that have not been included in administrative expenses. By authorizing a continuously appropriated fund to be used for new purposes, this bill would make an appropriation. The bill would generally prohibit the use of funds in the Public Employees' Health Care Fund for paying administrative expenses. The bill would make various conforming and clarifying changes.

(2) Existing law requires the Controller to suitably identify and remit the state's contribution for employees or annuitants monthly to the Public Employees' Contingency Reserve Fund, together with amounts authorized to be deducted from their salaries or retirement allowances for payment of the contributions. Existing law requires that the contributions of employees and annuitants of contracting agencies and the contributions of contracting agency employers be suitably identified and remitted monthly to the Public Employees' Contingency Reserve Fund by warrant of the Controller upon claims filed by the board.

This bill would revise and clarify these provisions to identify the respective provisions obligating the state and contracting agencies to make contributions and make explicit the Controller's duty to identify and remit contracting agency employer, employee, and annuitant contributions.

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

