

Source Law

(a) If the policyholder is not a trustee or the trustees of a fund established or maintained in whole or in part by the employer, the policy shall provide that the employee's individual contribution shall be the rate in the policy, on the date cessation of work occurs, applicable to an individual in the class to which the employee belongs as set forth in the policy. If the policy does not provide for a rate applicable to individuals, the policy shall provide that the employee's individual contribution shall be an amount equal to the amount determined by dividing (1) the total monthly premium in effect under the policy at the date of cessation of work by (2) the total number of persons insured under the policy at such date.

(c) The policy may provide that the continuation of insurance is contingent upon the collection of individual contributions by the union or unions representing the employees for policies referred to in Subdivision (a) above and . . . .

Revised Law

Sec. 1131.855. PAYMENT OF CONTRIBUTION AND PREMIUM. A policy may provide that continuation of coverage for an employee under the policy is contingent on timely payment of:

- (1) contributions by the employee; and
- (2) the premium by the entity responsible for collecting the individual employee contributions. (V.T.I.C. Art. 3.51-8, Subdiv. (d).)

Source Law

(d) The policy may provide that the continuation of insurance on each employee is contingent upon timely payment of contributions by the individual and timely payment of the premium by the entity responsible for collecting the individual contributions.

Revised Law

Sec. 1131.856. PAST DUE PREMIUM. (a) A policy may provide that the continuation of coverage is contingent on payment of any premium that:

(1) is unpaid on the date the work stoppage begins;  
and

(2) became due before the date the work stoppage begins.

(b) A premium described by Subsection (a) must be paid before the date the next premium becomes due under the policy. (V.T.I.C. Art. 3.51-8, Subdiv. (h).)

Source Law

(h) The policy may provide that, if a premium is unpaid at the date of cessation of work and such premium became due prior to such cessation of work, the continuation of insurance is contingent upon payment of such premium prior to the date the next premium becomes due under the terms of the policy.

Revised Law

Sec. 1131.857. INDIVIDUAL PREMIUM RATE INCREASE. (a) A policy may provide that, during the period of a work stoppage, an individual premium rate may be increased by an amount not to exceed 20 percent of the amount shown in the policy, or a greater percentage as approved by the commissioner, to provide sufficient compensation to the insurer to cover increased:

- (1) administrative costs; and
- (2) mortality and morbidity.

(b) If a policy provides for a premium rate increase in accordance with this section, the amount of an employee's contribution must be increased by the same percentage. (V.T.I.C. Art. 3.51-8, Subdiv. (e).)

Source Law

(e) The policy may provide that each individual premium rate shall be increased by any amount up to 20 percent, or any higher percent which may be approved by the commissioner, of that otherwise shown in the policy during the period of cessation of work in order to provide sufficient compensation to the insurer to cover increased administrative costs and increased mortality and morbidity. If the policy does provide for such an increase, this shall have

the effect of increasing the employee's contribution by a like percent.

Revised Law

Sec. 1131.858. PREMIUM RATE CHANGE NOT LIMITED. (a) This subchapter does not limit any right of the insurer under a policy to increase or decrease a premium rate before, during, or after a work stoppage if the insurer would be entitled to increase the premium rate had a work stoppage not occurred.

(b) A change in a premium rate made in accordance with this section takes effect on a date that is determined by the insurer in accordance with the terms of the policy. (V.T.I.C. Art. 3.51-8, Subdiv. (f).)

Source Law

(f) Nothing in this article shall be deemed to limit any right which the insurer may have in accordance with the terms of the policy to increase or decrease the premium rates before, during, or after such cessation of work if in fact the insurer would have had the right to increase the premium rate had the cessation of work not occurred. If such a premium rate change is made, it shall be effective, notwithstanding any other provisions of this article, on such date as the insurer shall determine in accordance with the terms of the policy.

Revised Law

Sec. 1131.859. LIMITATIONS ON CONTINUATION OF COVERAGE. This subchapter does not require the continuation of coverage under a policy for a period:

- (1) longer than six months after a work stoppage occurs;
- (2) beyond the time that 75 percent of the covered employees continue the coverage; or
- (3) as to an individual covered employee, beyond the time that the employee takes a full-time job with another employer. (V.T.I.C. Art. 3.51-8, Subdiv. (i).)

Source Law

(i) Nothing herein shall be deemed to require the continuation of any loss of time payments included in any such group accident and health insurance policy, nor of any other coverages beyond the time that 75 percent of the employees continue such

coverage or as to any individual employee beyond the time that he takes full-time employment with another employer; nor shall anything herein be deemed to require continuation of coverage more than six months after the cessation of work.

Revisor's Note

Subdivision (i), V.T.I.C. Article 3.51-8, provides that Article 3.51-8 does not require "the continuation of any loss of time payments included in any such group accident and health insurance policy." The quoted language is omitted from the revised law because as it applies to group accident and health insurance, Article 3.51-8 is not revised in this chapter.

Revised Law

Sec. 1131.860. OTHER PROVISIONS; COMMISSIONER APPROVAL REQUIRED. A policy may contain any other provision relating to continuation of policy coverage during a work stoppage that the commissioner approves. (V.T.I.C. Art. 3.51-8, Subdiv. (g).)

Source Law

(g) The policy may contain such other provisions with respect to such continuation of insurance as the Commissioner of Insurance may approve.

CHAPTER 1132. NOTICE OF RATE INCREASE FOR GROUP LIFE INSURANCE

Sec. 1132.001. NOTICE OF RATE INCREASE 1605

CHAPTER 1132. NOTICE OF RATE INCREASE FOR GROUP LIFE INSURANCE

Revised Law

Sec. 1132.001. NOTICE OF RATE INCREASE. (a) In this section, "insurer" means:

- (1) a life insurance company;
- (2) an accident insurance company;
- (3) a general casualty insurance company;
- (4) a mutual life insurance company;
- (5) a mutual or natural premium life insurance company;
- (6) a fraternal benefit society; or
- (7) a local mutual aid association.

(b) Not later than the 31st day before the date on which a premium rate increase takes effect on a group policy of life insurance delivered or issued for delivery in this state by an

insurer, the insurer shall give written notice to the policyholder of:

- (1) the amount of the increase; and
- (2) the date on which the increase is to take effect.

(c) An insurer that issues a group policy described by Subsection (b) to a multiple employer trust shall give the notice required by that subsection to the trustee or group policyholder.

(d) The notice required by this section must be based on coverage in effect on the date of the notice.

(e) This section may not be construed to prevent an insurer, at the request of a policyholder, from negotiating a change in benefits or rates after delivery of the notice required by this section. (V.T.I.C. Art. 3.51-10.)

Source Law

Art. 3.51-10. Not less than 30 days before the date on which a premium rate increase takes effect on a group policy of life, health, and accident and health or a group policy of life, health, and accident insurance delivered or issued for delivery in this state by a life, accident, health or casualty insurance company, mutual life insurance company, mutual insurance company other than life, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or interinsurance exchange, fraternal benefit society, group hospitalization service insurer, or local mutual aid association, the insurer shall give written notice of the premium rate increase to the policyholder or in the instance of a multiple employer trust to the trustee or group policyholder of the amount of such increase and the date on which the increase is to take effect. Such notice is also required for increases in subscriber charges and service fees under group policies or contracts or coverage provided by health maintenance organizations. Notice shall be based upon coverages in effect on the date of the notice and nothing contained herein shall be construed to prevent the insurer or health maintenance organization from negotiating changes in benefits and/or rates at the request of the policyholder after the required notice has been delivered.

Revisor's Note

(1) V.T.I.C. Article 3.51-10 applies to a premium rate increase on "a group policy of life, health, and accident and health or a group policy of life, health, and accident insurance delivered or issued for delivery in this state by a life, accident, health or casualty insurance company, mutual life insurance company, mutual insurance company other than life, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or interinsurance exchange, fraternal benefit society, group hospitalization service insurer, or local mutual aid association." The revised law omits the references to a group policy of health insurance, accident and health insurance, and life, health, and accident insurance because as Article 3.51-10 applies to group health and accident insurance, the article is not revised in this chapter. The revised law omits the references to several of the listed entities because they do not issue life insurance policies. Under Section 3, V.T.I.C. Article 3.01, revised in pertinent part as Section 841.001, a health insurance company provides insurance against "loss by reason of disability due to sickness or ill-health." Under V.T.I.C. Article 18.03, revised in pertinent part as Section 941.002, a Lloyd's plan insurer may not provide life insurance. Under V.T.I.C. Article 19.01, revised in pertinent part as part of Section 942.002, a reciprocal or interinsurance exchange may not provide life insurance. Under V.T.I.C. Articles 20.01 and 20.12, revised as part of Sections 842.001 and 842.259, a group hospital service corporation is formed to provide hospital care and may also provide indemnity benefits for medical and surgical care.

(2) V.T.I.C. Article 3.51-10, in the second sentence, requires a health maintenance organization to provide notice of increases in subscriber charges and service fees under group contracts. V.T.I.C. Article 3.51-10, in the third sentence, refers to negotiation of changes in benefits and rates

by an "insurer or health maintenance organization." The revised law omits the references to a health maintenance organization because as Article 3.51-10 applies to coverage under a health maintenance organization contract, the article is not revised in this chapter.

[Chapters 1133-1150 reserved for expansion]

SUBTITLE C. SPECIALIZED COVERAGES

CHAPTER 1151. INDUSTRIAL LIFE INSURANCE

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CHAPTER 1151. INDUSTRIAL LIFE INSURANCE  
SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1151.001. DEFINITION. In this chapter, "industrial life insurance" means life insurance under which the premiums are payable:

- (1) weekly; or
- (2) less often than weekly but at least monthly, if the face amount of insurance coverage provided by the policy is \$1,000 or less. (V.T.I.C. Art. 3.52, Sec. 1 (part).)

Source Law

Art. 3.52

Sec. 1. For the purposes of this article, industrial life insurance shall mean that form of life insurance either

- (a) under which the premiums are payable weekly, or
- (b) under which the premiums are payable monthly or oftener, but less often than weekly, if the face amount of insurance provided in the policy is not more than One Thousand (\$1,000.00) Dollars; provided that

. . . .

Revised Law

Sec. 1151.002. GENERAL APPLICABILITY OF CHAPTER. (a) Except as provided by other law, this chapter controls the form and content of an industrial life insurance policy delivered or issued for delivery in this state by an insurance company.

(b) This chapter does not control an industrial life insurance policy delivered or issued for delivery in this state by an association described by Section 1151.004. (V.T.I.C. Art. 3.52, Sec. 7 (part).)

Source Law

Sec. 7. . . . this article and no other

shall apply to and govern the form and content of industrial life insurance policies as they are defined herein, issued by all other insurance companies.

Revisor's Note

(1) Section 7, V.T.I.C. Article 3.52, is derived from, and substantively identical to, Chapter 89, Acts of the 47th Legislature, Regular Session, 1941, and provides that Article 3.52 "and no other" applies to and governs the form and content of industrial life insurance policies. It is a well-accepted principle of constitutional law that a legislature may not, through statutory law, limit the authority of a future legislature, and laws enacted after 1941 have repealed this limitation in part. For example, Chapter 501, Acts of the 55th Legislature, Regular Session, 1957, amended V.T.I.C. Article 3.42 to expressly apply to industrial life insurance policies. The revised law is drafted accordingly.

(2) Section 7, V.T.I.C. Article 3.52, provides that only V.T.I.C. Article 3.52 "shall apply to and govern" the form and content of certain industrial life insurance policies. The reference to "apply" is omitted from the revised law as unnecessary because, in context, "apply" is included within the meaning of "govern." The revised law substitutes "control" for "govern" because, in context, the terms are synonymous and "control" is more commonly used.

(3) The phrase "delivered or issued for delivery in this state" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the phrase throughout this chapter. Sections 2 through 6, V.T.I.C. Article 3.52, limit the application of this chapter to an industrial life insurance policy "delivered or issued for delivery in this state."

Revised Law

Sec. 1151.003. APPLICABILITY OF CHAPTER TO POLICY PROVIDING ACCIDENT AND HEALTH BENEFITS. Except as otherwise provided by this chapter, if an industrial life insurance policy provides accident and health benefits in addition to natural death

benefits, this chapter applies only to the life insurance benefits provided by that policy. (V.T.I.C. Art. 3.52, Sec. 1 (part).)

Source Law

Sec. 1. . . .

. . . .

(b) . . . When an industrial life insurance policy is issued providing for accident and health benefits, in addition to natural death benefits, the provisions of this article shall apply only to the life insurance benefits provided in the policy, except as hereinafter otherwise specifically provided.

Revised Law

Sec. 1151.004. CERTAIN ASSOCIATIONS EXCEPTED. This chapter does not apply to any of the following associations operating under Chapter 886:

- (1) a local mutual aid association;
- (2) a statewide mutual life, health, and accident association; or
- (3) a burial association. (V.T.I.C. Art. 3.52, Sec. 7 (part).)

Source Law

Sec. 7. This article shall not apply to local mutual aid associations or state-wide mutual life, health, and accident companies and burial associations operating under Chapter 14 of this code, but . . . .

Revisor's Note

Section 7, V.T.I.C. Article 3.52, refers to "state-wide mutual life, health, and accident companies." The revised law substitutes "associations" for "companies" because that is the correct terminology for those entities under V.T.I.C. Chapter 14, revised in pertinent part as Chapter 887 of this code.

Revised Law

Sec. 1151.005. CERTAIN NONPROFIT ORGANIZATIONS EXCEPTED. This chapter does not apply to:

- (1) an order, society, association, or labor organization that:
  - (A) admits to membership only persons engaged in

one or more crafts or hazardous occupations in the same or similar lines of business; and

(B) does not operate for profit;

(2) a ladies auxiliary to an order, society, association, or labor organization described by Subdivision (1); or

(3) a fraternal order, association, or society.

(V.T.I.C. Art. 3.52, Sec. 8.)

Source Law

Sec. 8. Nothing contained in this article shall be so construed as to affect or apply to orders, societies, associations, or labor organizations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business, and who do not operate for profit; nor shall this article apply to the ladies societies or ladies auxiliaries to such orders, societies, associations, or labor organizations, nor to fraternal orders, associations, and societies.

Revisor's Note

(1) Section 8, V.T.I.C. Article 3.52, states that V.T.I.C. Article 3.52 does not "affect or apply to" certain organizations. The reference to "affect" is omitted from the revised law as unnecessary because, in context, "affect" is included within the meaning of "apply to."

(2) Section 8, V.T.I.C. Article 3.52, refers to "ladies societies or ladies auxiliaries." The reference to "ladies societies" is omitted from the revised law as unnecessary because, in context, "ladies societies" is included within the meaning of "ladies auxiliaries."

[Sections 1151.006-1151.050 reserved for expansion]

SUBCHAPTER B. REQUIRED POLICY PROVISIONS

Revised Law

Sec. 1151.051. POLICY TITLE. An industrial life insurance policy must contain a title on the face of the policy that:

(1) briefly describes the form of the policy; and

(2) includes the printed words "Industrial Policy."

(V.T.I.C. Art. 3.52, Secs. 1 (part), 2 (part).)

Source Law

Sec. 1. . . .

. . . .

(b) . . . in either case the words "Industrial Policy" are printed on the face of the policy as part of the descriptive matter thereof. . . .

Sec. 2. No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

. . . .

(j) A title on the face of the policy briefly describing its form. . . .

Revised Law

Sec. 1151.052. ENTIRE CONTRACT. (a) An industrial life insurance policy must provide that the policy is the entire contract between the parties, except that at the option of the insurer, the insurer may make the policy and the policy application the entire contract between the parties.

(b) To make the policy application a part of the contract, a copy of the application must be endorsed on or attached to the policy at the time the policy is issued. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(b) A provision that the policy shall constitute the entire contract between the parties, but if the insurer desires to make the application a part of the contract it may do so, provided a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties. . . .

Revised Law

Sec. 1151.053. AGENT UNAUTHORIZED TO WAIVE OR CHANGE TERMS.  
An industrial life insurance policy must provide that an agent may not waive or change the terms of an application or policy. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(1) A provision that no agent shall have the power or authority to waive, change, or alter any of the terms or conditions of any application or any policy delivered or issued for delivery pursuant to the terms of this Article. . . .

Revisor's Note

(1) Section 2, V.T.I.C. Article 3.52, refers to the authority to "waive, change, or alter" the terms or conditions of a policy or an application for a policy. The reference to "alter" is omitted from the revised law as unnecessary because "alter" is included within the meaning of "change."

(2) Section 2, V.T.I.C. Article 3.52, refers to the authority to waive or alter the "terms or conditions" of a policy or an application for a policy. The reference to "conditions" is omitted from the revised law as unnecessary because "conditions" is included within the meaning of "terms."

Revised Law

Sec. 1151.054. STATEMENT MADE BY OR ON BEHALF OF INSURED.  
An industrial life insurance policy must provide that, in the absence of fraud, a statement made by the insured or on behalf of the insured is considered a representation and not a warranty. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(b) . . . The policy shall also contain a provision that all statements made by the insured or on his behalf shall in the absence of fraud be deemed representations and not warranties. . . .

Revised Law

Sec. 1151.055. INCONTESTABILITY OF POLICY. An industrial life insurance policy must provide that, after the policy has been in force for two years from its date of issue during the lifetime of the insured, the policy is incontestable except:

- (1) for nonpayment of a premium;
- (2) for violation of any policy condition relating to naval or military service in time of war; and
- (3) concerning a provision relating to:
  - (A) benefits in case of total or permanent disability as defined by the policy; or
  - (B) additional insurance:
    - (i) specifically against accidental death;

or

(ii) against loss of, or loss of use of, specific parts of the body. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(c) A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for two (2) years from its date, except for non-payment of premiums, and except for violation of the conditions of the policy, if any, relating to naval or military service in time of war, and except as to provisions and conditions granting or relating to benefits in the event of total or permanent disability as defined in the policy, and those granting or relating to additional insurance specifically against death by accident or by accidental means, or to additional insurance against loss of, or loss of use of, specific members of the body. . . .

Revisor's Note

(1) Section 2, V.T.I.C. Article 3.52, refers to certain "provisions and conditions." The reference to "conditions" is omitted from the revised law as unnecessary because, in context, "conditions" is included within the meaning of "provisions."

(2) Section 2, V.T.I.C. Article 3.52, refers to a provision "granting or relating to" certain benefits or additional insurance. The reference to "granting" is omitted from the revised law as unnecessary because, in context, "granting" is included within the meaning of "relating to."

(3) Section 2, V.T.I.C. Article 3.52, refers to insurance specifically against "death by accident or by accidental means." The revised law substitutes "accidental death" for the quoted language because the term "accidental death" more concisely describes "death by accident or by accidental means."

Revised Law

Sec. 1151.056. ADJUSTMENT OF AMOUNT PAYABLE IF AGE OF INSURED IS MISSTATED. An industrial life insurance policy must provide that, if the age of the insured is misstated, the amount payable under the policy is the amount of insurance that the premium paid would have purchased if the insured's age had been stated correctly. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(d) A provision that if the age of the insured has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age. . . .

Revised Law

Sec. 1151.057. GRACE PERIOD. (a) An industrial life insurance policy must provide that the insured is entitled to a grace period stated in the policy within which any premium after

the first premium may be paid. The grace period must be at least a four-week period.

(b) During the grace period the policy continues in effect, but if an event under which the insurer may be liable under the policy occurs during the grace period and before the overdue premiums are paid, the amount of the overdue premiums may be deducted in a settlement made under the policy. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

(a) A provision that the insured is entitled to a stated period of grace of at least four (4) weeks within which the payment of any premium after the first may be made. During such period of grace the policy shall continue in full force, but in case the policy becomes a claim during the grace period, before the overdue premiums are paid, the amount of overdue premiums may be deducted in any settlement under the policy. . . .

Revised Law

Sec. 1151.058. NONFORFEITURE BENEFITS AND CASH SURRENDER VALUES IN GENERAL. An industrial life insurance policy must provide, in case of default in payment of premiums, nonforfeiture benefits and cash surrender values in accordance with:

- (1) Sections 1151.152-1151.154; or
- (2) Chapter 1105, for a policy issued on or after the date determined under Section 1105.002(a) or (b), as applicable. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(e) Provisions for non-forfeiture benefits in event of default in premium payments and for cash surrender values in accordance with the provisions of subsections

(e), (f) and (g) of this Section in the case of policies issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law), and in accordance with provisions of Article 3.44a in the case of policies issued on or after said date. . . .

Revisor's Note

Section 2, V.T.I.C. Article 3.52, provides that certain provisions must be included in policies issued "prior to the operative date of [V.T.I.C.] Article 3.44a." Section 13, V.T.I.C. Article 3.44a, which defines the "operative date" of that article, is revised as Section 1105.002. The revised law omits the reference to "the operative date" of the law and substitutes a clear statement of the law's applicability to certain life insurance policies. Accordingly, the revised law in this section omits the quoted language and substitutes language consistent with Section 1105.002. Comparable changes have been made throughout this chapter.

Revised Law

Sec. 1151.059. SURPLUS. An industrial life insurance policy that is a participating policy must provide that the insurer shall annually determine and apportion any divisible surplus accruing on the policy. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(k) In the case of an insurer issuing participating policies in this State, a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy. . . .

Revised Law

Sec. 1151.060. CLAIM BASED ON DEATH OF INSURED. An industrial life insurance policy must provide that if a claim arises as the result of the death of the insured, the insurer shall settle the claim not later than two months after the date

the insurer receives at the insurer's home office:

- (1) proof of death satisfactory to the insurer; and
- (2) proof of the right of the claimant to the insurance proceeds. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

- (i) A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of, at the insurer's home office, or not later than two (2) months after such receipt of, proof of death satisfactory to the insurer and the right of the claimant to the proceeds. . . .

Revised Law

Sec. 1151.061. REINSTATEMENT OF POLICY. (a) An industrial life insurance policy must provide that unless the cash surrender value has been paid or the term of extended insurance has expired, the policy may be reinstated not later than the first anniversary of or, at the option of the insurer, not later than the 52nd week after the date of default in payment of premiums if the insured:

- (1) pays all overdue premiums;
- (2) pays or reinstates any other debt owed to the insurer on the policy; and
- (3) presents evidence of insurability satisfactory to the insurer.

(b) The insurer may impose on the overdue premiums interest at an annual rate specified in the policy, not to exceed six percent. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

- (h) A provision that the policy may be reinstated within one (1) year, or, at the option of the insurer, within fifty-two

(52) weeks from the date of default in payment of premiums, unless the cash surrender value has been paid or the period of extended insurance has expired, upon payment of all overdue premiums, the payment or reinstatement of any other indebtedness due to the insurer upon said policy, and upon the presentation of evidence of insurability satisfactory to the insurer. The overdue premiums may, at the option of the insurer, be subject to interest at a rate not exceeding six (6%) per cent per annum as may be specified in the policy. . . .

Revisor's Note

Section 2, V.T.I.C. Article 3.52, refers to a "period of extended insurance." Throughout the revised law, the word "term" is used in connection with the phrase "extended insurance" because that is the correct way to describe the period of coverage.

Revised Law

Sec. 1151.062. EXCEPTION FOR POLICIES ISSUED OR GRANTED UNDER CERTAIN NONFORFEITURE PROVISIONS. This subchapter does not apply to a policy issued or granted under a nonforfeiture provision prescribed by Section 1151.058. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

. . .

(1) . . . The provisions of Section 2 shall not apply to policies issued or granted pursuant to the nonforfeiture provisions prescribed in clause (e) of said Section . . . .

[Sections 1151.063-1151.100 reserved for expansion]

SUBCHAPTER C. AUTHORIZED OR PROHIBITED POLICY PROVISIONS

Revised Law

Sec. 1151.101. AUTHORIZED PROVISIONS. In addition to the provisions required by Subchapter B and Section 1151.152, an

industrial life insurance policy may:

(1) exclude liability or promise a benefit that is less than the full amount payable as a death benefit if the insured:

(A) dies by the insured's own hand, regardless of whether the insured is sane or insane; or

(B) dies as a result of engaging in a stated hazardous occupation;

(2) promise a benefit that is less than the full amount payable if the insured dies as a result of an aviation activity under a condition specified in the policy approved by the department as provided by Article 3.42;

(3) limit the maximum amount payable on the death of a child younger than 15 years of age; and

(4) include any other provision not otherwise prohibited by this chapter. (V.T.I.C. Art. 3.52, Secs. 4, 5 (part).)

Source Law

Sec. 4. In addition to the provisions required by Section 2, any policy of industrial life insurance delivered or issued for delivery in this State may contain, in substance, the following provisions, in addition to any other provision or provisions not elsewhere prohibited by this Article:

(a) A provision excluding liability or promising a benefit less than the full amount payable as a death benefit in case of the death of the insured by his own hand while sane or insane, or by following stated hazardous occupations.

(b) A provision limiting the maximum amount payable on the death of an infant under fifteen (15) years of age.

Sec. 5. . . . any company may issue a policy promising a benefit less than the full benefit in case of the death of the insured by his own hand while sane or insane or by following stated hazardous occupations or in the event the death of the insured should result from aviation activities under the conditions specified in the policy to be approved by the Board of Insurance Commissioners as provided in Chapter 3 of this code.

Revisor's Note

(1) Section 5, V.T.I.C. Article 3.52, refers to the "Board of Insurance Commissioners." Under Chapter 499, Acts of the 55th Legislature, Regular Session, 1957, administration of the insurance laws of this state was reorganized and the powers and duties of the Board of Insurance Commissioners were transferred to the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the Board of Insurance Commissioners and the State Board of Insurance have been changed appropriately.

(2) Section 5, V.T.I.C. Article 3.52, states that policy liability may be excluded or a benefit may be reduced for a death resulting from aviation activities "under the conditions specified in the policy to be approved by the Board of Insurance Commissioners as provided in Chapter 3 of this code." The portions of Chapter 3 that govern approval of life insurance policies are contained in Article 3.42. The revised law is drafted accordingly.

Revised Law

Sec. 1151.102. PROHIBITED PROVISIONS. (a) An industrial life insurance policy may not:

(1) require a cause of action based on the policy to be initiated before the second anniversary of the date the cause of action accrues; or

(2) except as otherwise provided by this subchapter, establish a method of settlement at maturity that provides less value than the face amount of insurance coverage provided by the policy and any dividend additions to the policy, less:

(A) any debt owed to the insurer on the policy;  
and

(B) any premium that may be deducted under the terms of the policy.

(b) Subsection (a)(2) does not prevent a limitation from being imposed on payment of an additional accidental death benefit in case of accidental death resulting from certain specified causes.

(c) A nonparticipating or term policy may not incorporate any part of a provision described by Subchapter B or Section 1151.152 that does not apply to that type of policy. (V.T.I.C. Art. 3.52, Secs. 2 (part), 5 (part).)

Source Law

Sec. 2. No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

. . .

(1) . . . Any of the provisions of Section 2, or portions thereof, not applicable to nonparticipating or term policies shall, to that extent, not be incorporated therein. . . .

Sec. 5. No industrial life insurance policy delivered or issued for delivery in the State of Texas shall contain any provision which (a) limits the time within which any action at law or in equity may be commenced to less than two (2) years after the cause of action shall accrue; (b) except as otherwise provided herein, provides for any mode of settlement at maturity of less value than the amounts insured on the face of the policy, plus dividend additions thereto, if any, less any indebtedness to the insurer on the policy, and less any premium that may, by the terms of the policy, be deducted, and provided also that this provision shall not prevent an additional accidental death benefit being limited so as not to be payable in event of death from certain causes of accidents; and further providing that . . . .

Revisor's Note

Section 5, V.T.I.C. Article 3.52, refers to an "action at law or in equity." The reference to "at law or in equity" is omitted from the revised law as unnecessary because, in context, that language is included within

the meaning of "cause of action."

[Sections 1151.103-1151.150 reserved for expansion]

SUBCHAPTER D. RIGHTS OF INSURED UNDER CERTAIN OLDER POLICIES  
Revised Law

Sec. 1151.151. EXTENDED TERM OR PAID-UP INSURANCE FOR CERTAIN POLICIES. (a) This section applies only to a policy delivered or issued for delivery in this state before March 29, 1941, under former Article 3.43 of this code.

(b) An insured or a beneficiary of the insured is entitled to elect extended term or paid-up insurance under an industrial life insurance policy that does not by its terms provide a stipulated form of insurance to the insured or beneficiary on default in payment of premiums if:

(1) premiums have been paid on the policy for at least three years; and

(2) the insured or beneficiary gives written notice of the election to the insurer at the insurer's home office before the expiration of the term of extended insurance.

(c) An insured or beneficiary who does not make an election as provided by Subsection (b) is considered to have elected extended term insurance.

(d) The net value of extended term or paid-up insurance shall be determined as provided by Section 1151.153. (V.T.I.C. Art. 3.52, Sec. 3.)

Source Law

Sec. 3. Any policy of industrial life insurance delivered or issued for delivery in this State prior to March 29, 1941, and pursuant to the provisions of Article 3.43, and upon which premiums have been paid for three (3) full years, which does not by its terms secure, upon default in payments of premiums, to the insured or beneficiary thereof, a stipulated form of insurance, shall nevertheless entitle such insured or beneficiary to either extended or paid-up insurance, the net value of which shall be determined as is provided in clause (e) of Section 2 of this article, providing such insured or beneficiary elects and notifies the home office of the insurer in writing, prior to the expiration of the period of extended insurance, which of said two (2) forms he has elected to take; and any such insured or beneficiary failing to elect and notify the insurer in writing of such election within such time shall be deemed to

have elected extended insurance.

Revisor's Note

Section 3, V.T.I.C. Article 3.52, refers to "the provisions of Article 3.43." The revised law substitutes the phrase "former Article 3.43" because Article 3.43 was repealed in 1957.

Revised Law

Sec. 1151.152. PROVISIONS CONCERNING STIPULATED FORM OF INSURANCE OR SPECIFIED CASH SURRENDER VALUE IN CERTAIN POLICIES.

(a) An industrial life insurance policy issued before the date described by Section 1151.058(2) must contain a provision substantially as follows:

(1) in case of default in payment of premiums:

(A) after premiums have been paid for three years, a stipulated form of insurance is available, effective from the due date of the defaulted premium; and

(B) after premiums have been paid for five years, the stipulated form of insurance described by Paragraph (A) or a specified cash surrender value is available, at the election of the insured; and

(2) the stipulated form of insurance takes effect unless the insured applies in writing for the specified cash surrender value within the grace period following the due date of the defaulted premium.

(b) The policy must:

(1) state the amount and term of the stipulated form of insurance, computed assuming that there is no debt owed on or dividend additions to the policy;

(2) specify the mortality table, the rate of interest, and the method of valuation, if a method of valuation other than net level premium is used, adopted for computing the reserve on the policy; and

(3) provide a table showing in numbers the nonforfeiture options available under the policy at the end of each year in case of default in payment of premiums.

(c) Subsections (a), (b)(1), and (b)(3) do not apply to a term insurance policy with a term of 20 years or less.

(d) The table described by Subsection (b)(3) must begin with the year in which the numbers on the nonforfeiture options become available and must cover not more than the first 20 years of the policy. On the expiration of the period for which the numbers are shown by the policy, the insurer shall provide an extension of the table on request. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(e) . . . Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: a provision that in event of default in premium payments after premiums shall have been paid for three (3) full years there shall be available a stipulated form of insurance effective from the due date of the defaulted premium; and in event of default in premium payments after premiums shall have been paid for five (5) full years there shall be available, in lieu of the stipulated form of insurance, at the option of the insured, a specified cash surrender value. . . . The policy shall state the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions thereto. . . . In the event that application, which must be in writing, for a stipulated form of insurance or the specified cash surrender value when the same are available, is not made within the grace period, it shall be provided that a stipulated form of insurance shall automatically become effective.

(f) In the case of policies issued prior to the operative date of Article 3.44a, a provision specifying the mortality table, rate of interest, and method of valuation if other than net level premium, adopted for computing the life insurance reserves on the contract.

(g) In the case of policies issued prior to the operative date of Article 3.44a, a table showing in figures the non-forfeiture options available under the policy at the end of each year upon default in premium payments during the premium paying period, but not to exceed the first twenty (20) years of the

policy. Such table is to begin with the year in which such values become available. At the expiration of the period for which such values are shown in the policy, the insurer will furnish upon request an extension of such table.

. . .

(1) . . . nor shall clauses (e) and (g) of said Section be required in term insurances of twenty (20) years or less.

Revisor's Note

Section 2, V.T.I.C. Article 3.52, refers to a "default in premium payments during the premium paying period." The revised law omits the phrase "during the premium paying period" as unnecessary. A default in payment of premiums could not occur outside of the payment period.

Revised Law

Sec. 1151.153. COMPUTATION OF NET VALUE OF STIPULATED FORM OF INSURANCE OR SPECIFIED CASH SURRENDER VALUE. (a) The net value of the stipulated form of insurance or the specified cash surrender value available under Section 1151.152 may not be less than the reserve on the policy at the end of the last completed quarter of the policy year for which premiums have been paid, less:

(1) an amount of not more than:

(A) 2-1/2 percent of the maximum amount insured under the policy and any dividend additions to the policy, if the age of the insured on the date the policy was issued is younger than 10 years; or

(B) 2-1/2 percent of the amount insured under the policy at the time the computation is made and any dividend additions to the policy, if the age of the insured on the date the policy was issued is 10 years or older; and

(2) any existing debt to the insurer on or secured under the policy.

(b) The reserve described by Subsection (a):

(1) includes:

(A) the reserve for any paid-up additions to the policy; and

(B) the amount of any dividends credited to the policy; and

(2) excludes any reserve on:

(A) total or permanent disability, as defined by the policy; and

(B) additional accidental death benefits.

(c) In computing the value of paid-up term insurance with any accompanying pure endowment, a rate of mortality may be assumed that is not more than:

(1) 130 percent of the rate of mortality according to the applicable table, if the 1941 Standard Industrial Mortality Table or the 1941 Sub-standard Industrial Mortality Table is adopted for computing the reserve; or

(2) the rate of mortality shown by:

(A) the Commissioners 1961 Industrial Extended Term Insurance Table, if the Commissioners 1961 Standard Industrial Mortality Table is adopted for computing the reserve; or

(B) any other mortality table specified by the insurer and approved by the department, if the policy is substandard. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(e) . . . The net value of the stipulated form of insurance, and the specified cash surrender value, shall not be less than the reserve on the policy at the end of the last completed quarter of the policy year for which premiums shall have been paid, including the reserve for any paid-up additions thereto and the amount of any dividends standing to the credit of the policy, and excluding any reserve on total and permanent disability, as defined in the policy, and additional accidental death benefits, less a sum of not more than:

(1) Two and one-half per cent (2 1/2%) of the maximum amount insured by the policy and dividend additions thereto, if any, when the issue age is under ten (10) years;

(2) Two and one-half per cent (2 1/2%) of the current amount insured by the policy and dividend additions thereto, if any, when the issue age is ten (10) years or older; and less any existing indebtedness to the insurer on or secured by the policy.

If the mortality table adopted for

computing such reserve is the 1941 Standard Industrial Mortality Table or the 1941 Sub-standard Industrial Mortality Table, then in calculating the value of the paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty per cent (130%) of the rate of mortality according to the table used. If the mortality table adopted for computing such reserve is the Commissioners 1961 Standard Industrial Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than that shown in the Commissioners 1961 Industrial Extended Term Insurance Table, or, in the case of sub-standard policies, such other table of mortality as may be specified by the company and approved by the State Board of Insurance. . . .

Revisor's Note

Section 2, V.T.I.C. Article 3.52, refers to a table of mortality specified by "the company." The revised law substitutes "insurer" for "company" for consistency with other references in this chapter.

Revised Law

Sec. 1151.154. SURRENDER OF POLICY FOR SPECIFIED CASH SURRENDER VALUE. (a) An industrial life insurance policy issued before the date described by Section 1151.058(2) under which the insured applies for cash surrender value must be surrendered for the specified cash surrender value to the insurer at the insurer's home office within the grace period following the due date of the defaulted premium.

(b) The insurer may defer payment for a period of not more than six months after the date of application for the specified cash surrender value. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(e) . . . The policy may be surrendered to the insurer at its home office within the period of grace after the due date of the defaulted premium for the specified cash surrender value, provided that the insurer may defer payment for not more than six (6) months after the application therefor is made. . . .

Revisor's Note

(End of Chapter)

Section 6, V.T.I.C. Article 3.52, prohibits the delivery or issuance for delivery in this state of an industrial life insurance policy or the attachment to or the printing or stamping on the policy of a rider or endorsement without the approval of the Texas Board of Insurance Commissioners. Section 6 is derived from Section 6, Chapter 89, Acts of the 47th Legislature, Regular Session, 1941, and is substantively identical to Chapter 89 as originally enacted. The revised law omits this provision as duplicative of, and partially impliedly repealed by, V.T.I.C. Article 3.42, which was extensively amended by Chapter 501, Acts of the 55th Legislature, Regular Session, 1957, to comprehensively regulate approval of life insurance policy forms. At the same time, the legislature amended Article 3.42 to expressly apply to industrial life insurance policies. The omitted law reads:

Sec. 6. No insurance company transacting business in this State shall hereafter deliver or issue for delivery in this State any policy of industrial life insurance, or any policy of industrial life insurance providing for accident and health benefits in addition to natural death benefits, or attach to, or print or stamp upon such policy, any rider, or endorsement, until the form of such policy, rider, or endorsement has been submitted to and approved by the Board of Insurance Commissioners of the State of Texas. It shall be the duty of the Board of Insurance Commissioners to disapprove any such policy, rider, or endorsement if it

violates any of the provisions of this article, and to give written notice to the insurer of such disapproval in which notice the Board shall specify the particulars in respect to which the policy, rider, or endorsement violates the provisions of this article. If the Board of Insurance Commissioners shall disapprove any such policy, rider, or endorsement, the insurer may, within ninety (90) days after the mailing of the written notice of such disapproval by the Board, institute proceedings in the District Court of Travis County, Texas, to review the action of the Board thereon.

CHAPTER 1152. SEPARATE ACCOUNTS, VARIABLE CONTRACTS, AND  
RELATED PRODUCTS

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CHAPTER 1152. SEPARATE ACCOUNTS, VARIABLE CONTRACTS, AND  
RELATED PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1152.001. APPLICABILITY OF CODE. (a) Except as provided by Subsection (b), this code applies to separate accounts described by this chapter and contracts relating to those accounts.

(b) The following sections do not apply to the separate accounts and contracts:

- (1) Sections 882.303 and 882.703;
- (2) Subchapters H and J, Chapter 882;
- (3) Sections 1101.002(b), 1101.005, 1101.009, 1101.012, 1101.052, 1101.055, and 1101.152-1101.156;
- (4) Chapter 1105; and
- (5) Section 1131.103.

(c) A separate account established under former Article 3.39 Part III, 3.72, or 3.73 is considered to be established under this chapter. A policy or other agreement issued before September 1, 1984, under one of those articles remains subject to the article, as the article existed immediately before September 1, 1984. (V.T.I.C. Art. 3.75, Sec. 9.)

#### Source Law

Sec. 9. (a) This code applies to separate accounts and contracts relating to separate accounts except for Subdivisions 2, 6, 7, 8, 9, 11, and 12, Article 3.44, as amended; Article 3.44a, as amended; Subdivision 3, Article 3.45; Subdivision 1, Section 2, Article 3.50, as amended; Article 11.12, as amended; Article 11.13; and Article 11.14, Insurance Code.

(b) Notwithstanding any other law, or any other provision of this article, after the effective date of the repeal of Articles 3.39 Part III, 3.72, and 3.73, Insurance Code, all separate accounts established under such articles are deemed and shall be construed to be established under Article 3.75; provided any policy, contract, or agreement issued before such repeal in accordance with the provisions of such articles, shall be construed under and continue to be subject to all provisions of the applicable article under which they were issued, as amended and in effect at the time of such repeal.

#### Revisor's Note

(1) Section 9(a), V.T.I.C. Article 3.75, refers to "Article 3.44, as amended; . . . Article 3.50, as amended; [and] Article 11.12, as amended." Throughout this chapter, the revised law omits the reference to "as amended" because under Section 311.027, Government Code (Code Construction Act), applicable to the revised

law, a reference to a statute applies to all reenactments, revisions, and amendments of the statute.

(2) Section 9(b), V.T.I.C. Article 3.75, refers to "the effective date of the repeal of Articles 3.39 Part III, 3.72, and 3.73." Effective September 1, 1984, Section 3, Chapter 648, Acts of the 68th Legislature, Regular Session, 1983, repealed Articles 3.39 Part III, 3.72, and 3.73. The revised law is drafted accordingly.

(3) Section 9(b), V.T.I.C. Article 3.75, states that all separate accounts established "after the effective date of the repeal of Articles 3.39 Part III, 3.72, and 3.73" are "deemed and shall be construed to be established under Article 3.75." The revised law omits this provision because it is executed.

(4) Section 9(b), V.T.I.C. Article 3.75, refers to a "policy, contract, or agreement." The revised law substitutes "policy or other agreement" for the quoted language because a contract is a type of agreement. A policy is also a type of contract (and agreement), but is retained in the revised law for clarity.

#### Revised Law

Sec. 1152.002. RULES. The commissioner may adopt rules that are fair, reasonable, and appropriate to augment and implement this chapter, including rules establishing requirements for:

- (1) agent licensing;
- (2) standard policy provisions; and
- (3) disclosure. (V.T.I.C. Art. 3.75, Sec. 8 (part).)

#### Source Law

Sec. 8. The State Board of Insurance may establish such rules, regulations, or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of this article, including but not limited to requirements for licensing agents, standard policy provisions, and disclosure requirements. . . .

#### Revisor's Note

(1) Section 8, V.T.I.C. Article 3.75, refers to the "State Board of Insurance."

Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished that board and transferred its functions to the commissioner of insurance and the Texas Department of Insurance, as appropriate. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the board have been changed appropriately.

(2) Section 8, V.T.I.C. Article 3.75, permits the State Board of Insurance to establish "rules, regulations, or limitations." The revised law omits the reference to "regulations or limitations" as unnecessary. Under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law. In addition, any "limitation" established by the State Board of Insurance could only be established by rule.

(3) Section 8, V.T.I.C. Article 3.75, refers to "including, but not limited to." Throughout this chapter, "but not limited to" and similar language is omitted as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

[Sections 1152.003-1152.050 reserved for expansion]

#### SUBCHAPTER B. SEPARATE ACCOUNTS

##### Revised Law

Sec. 1152.051. ESTABLISHMENT OF SEPARATE ACCOUNTS. A domestic life insurance company may establish separate accounts under this subchapter and may allocate to each account amounts, including proceeds applied under optional modes of settlement or under dividend options, to:

(1) provide for life insurance, an annuity, or a benefit incidental to the insurance or annuity, payable in a fixed amount, a variable amount, or both a fixed amount and a variable amount; or

(2) fund a benefit for a pension, retirement, or profit sharing plan payable in a fixed amount, a variable amount, or both a fixed amount and a variable amount. (V.T.I.C. Art. 3.75, Sec. 1(a).)

Source Law

Art. 3.75

Sec. 1. (a) A domestic life insurance company may establish one or more separate accounts and may allocate to each account amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities and benefits incidental to the insurance and annuities, payable in fixed or variable amounts or both, or to fund the benefits of a pension, retirement, or profit sharing plan payable in fixed or variable amounts or both fixed and variable amounts, subject to this section.

Revised Law

Sec. 1152.052. OWNERSHIP OF AMOUNTS IN SEPARATE ACCOUNT.

(a) An insurance company owns an amount allocated to a separate account under this subchapter.

(b) The company is not and may not represent itself as a trustee regarding an amount allocated to a separate account under this subchapter. (V.T.I.C. Art. 3.75, Sec. 1(f) (part).)

Source Law

(f) Amounts allocated to a separate account under this article are owned by the company, and the company is not and may not represent itself as a trustee with respect to these amounts. . . .

Revised Law

Sec. 1152.053. TRANSFER OF ASSETS BETWEEN SEPARATE ACCOUNTS. (a) Except as provided by Subsection (b), an insurance company may not sell, exchange, or otherwise transfer an asset between the company's separate accounts or between any other investment account and a separate account unless:

(1) in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of a contract regarding the separate account to which the transfer was made; and

(2) the transfer, whether into or from a separate

account, is made:

(A) by a transfer of cash; or

(B) by a transfer of securities if the securities have a readily determinable market value and the commissioner approves the transfer.

(b) The commissioner may approve a transfer between accounts other than a transfer described by Subsection (a) if, in the commissioner's opinion, the transfer would not be inequitable. (V.T.I.C. Art. 3.75, Secs. 1(g), (h).)

Source Law

(g) Except as provided by Subsection (h) of this section, a sale, exchange, or other transfer of assets may not be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(1) in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made; and

(2) the transfer, whether into or from a separate account, is made:

(A) by a transfer of cash; or

(B) by a transfer of securities having a readily determinable market value, provided the transfer of securities is approved by the commissioner.

(h) The commissioner may approve other transfers among accounts if in his opinion the transfers would not be inequitable.

Revised Law

Sec. 1152.054. COMPLIANCE WITH FEDERAL OR STATE LAW FOR SEPARATE ACCOUNT. (a) To comply with a federal or state law, an insurance company with respect to any separate account, including a separate account that is a management investment company or a unit investment trust, may, to the extent the company considers it necessary, provide:

(1) for appropriate voting and other rights for persons who have an interest in the account; and

(2) special rights and procedures to conduct the business of the account, including rights and procedures related to:

(A) investment policy;

(B) investment advisory services;

(C) selection of independent public accountants;  
and

(D) selection of a committee to manage the  
business of the account.

(b) The members of a committee selected under Subsection  
(a)(2)(D) are not required to be affiliated with the company.  
(V.T.I.C. Art. 3.75, Sec. 1(i).)

Source Law

(i) To the extent the company considers  
it necessary to comply with any applicable  
federal or state laws, the company with  
respect to any separate account, including  
without limitation any separate account that  
is a management investment company or a unit  
investment trust, may provide for persons  
having an interest in the account appropriate  
voting and other rights and special  
procedures for the conduct of the business of  
the account, including without limitation  
special rights and procedures relating to  
investment policy, investment advisory  
services, selection of independent public  
accountants, and selection of a committee,  
the members of which need not be affiliated  
with the company, to manage the business of  
such account.

Revised Law

Sec. 1152.055. GUARANTEED BENEFITS AND MONEY RESTRICTION  
FOR SEPARATE ACCOUNTS. An insurance company may not maintain a  
reserve for a benefit guaranteed as to dollar amount and duration  
or funds guaranteed as to principal amount or stated rate of  
interest in a separate account except with the commissioner's  
approval and under conditions for investments, and other matters,  
that recognize the guaranteed nature of the benefits provided and  
that are prescribed by the department. (V.T.I.C. Art. 3.75, Sec.  
1(d).)

Source Law

(d) Reserves for benefits guaranteed as  
to dollar amount and duration and funds  
guaranteed as to principal amount or stated  
rate of interest may not be maintained in a  
separate account except with the approval of  
the Commissioner of Insurance and under  
conditions for investments, and other  
matters, that recognize the guaranteed nature

of the benefits provided and that are prescribed by the State Board of Insurance.

Revised Law

Sec. 1152.056. INVESTMENT LIMITS NOT APPLICABLE TO SEPARATE ACCOUNT. Except as provided by Section 1152.055:

(1) an amount allocated to a separate account, including an accumulation on that amount, may be invested without regard to a law of this state governing a life insurance company investment; and

(2) an investment in a separate account may not be considered in applying an investment limit otherwise applicable to the insurance company. (V.T.I.C. Art. 3.75, Sec. 1(c).)

Source Law

(c) Except as provided by Subsection (d) of this section, amounts allocated to any separate account and accumulations on those amounts may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies, and the investments in a separate account may not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

Revisor's Note

Section 1(c), V.T.I.C. Article 3.75, states that an amount may be invested "without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies." The revised law omits the reference to "requirements or limitations" as unnecessary because the meaning of that phrase is included in the meaning of "laws." Being subject to a law is the same as being subject to that law's requirements, including any limitations contained in that law.

Revised Law

Sec. 1152.057. ALLOCATION OF INCOME, GAINS, OR LOSSES ON SEPARATE ACCOUNT. An insurance company shall credit to or charge against a separate account the income, gain, or loss, realized or unrealized, from an asset allocated to the account without regard to other income, gains, or losses of the insurance company.

(V.T.I.C. Art. 3.75, Sec. 1(b).)

Source Law

(b) The income, gains, and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains, or losses of the company.

Revised Law

Sec. 1152.058. ASSET VALUATION IN SEPARATE ACCOUNT. An asset allocated to a separate account is valued:

- (1) at its market value on the date of valuation;
- (2) as provided under a contract, rule, or other written agreement applicable to the separate account, if a readily available market does not exist;
- (3) as provided by the rules otherwise applicable to the insurance company's assets for any portion of the assets that is equal to the company's reserve liability with regard to the guaranteed benefits and funds under Section 1152.055; or
- (4) under any other method approved by the commissioner. (V.T.I.C. Art. 3.75, Sec. 1(e).)

Source Law

(e) Unless the commissioner approves another method of valuation, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to the separate account. The portion, if any, of the assets of the separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds under Subsection (d) of this section shall be valued as provided by the rules otherwise applicable to the company's assets, unless the commissioner approves another method of valuation.

Revised Law

Sec. 1152.059. SEPARATE ACCOUNT NOT CHARGEABLE WITH OTHER LIABILITIES. To the extent provided under the applicable contracts, the portion of a separate account's assets equal to the reserves and other contract liabilities regarding that

account is not chargeable with a liability arising out of any other business of the insurance company. (V.T.I.C. Art. 3.75, Sec. 1(f) (part).)

Source Law

(f) . . . To the extent provided under the applicable contracts, the portion of the assets of a separate account equal to the reserves and other contract liabilities with respect to that account are not chargeable with liabilities arising out of any other business the company may conduct.

[Sections 1152.060-1152.100 reserved for expansion]

SUBCHAPTER C. VARIABLE CONTRACTS

Revised Law

Sec. 1152.101. SOLE AUTHORITY TO REGULATE VARIABLE CONTRACTS. The commissioner has sole authority to regulate the issuance and sale of a variable contract under:

- (1) this chapter; and
- (2) rules adopted under Section 1152.002. (V.T.I.C. Art. 3.75, Sec. 8 (part).)

Source Law

Sec. 8 . . . Notwithstanding any other law, the commissioner has sole authority to regulate the issuance and sale of variable contracts under this article and under such rules, regulations, standards, or limitations adopted by the State Board of Insurance.

Revisor's Note

Section 8, V.T.I.C. Article 3.75, refers to "rules, regulations, standards, or limitations." The revised law omits "regulations, standards, or limitations" for the reasons given in Revisor's Note (2) to Section 1152.002.

Revised Law

Sec. 1152.102. AUTHORIZATION REQUIRED FOR VARIABLE CONTRACTS. (a) An insurance company may not deliver or issue for delivery a variable contract in this state unless authorized by the commissioner under this section.

(b) If the commissioner finds, after notice and hearing, that the company is qualified to issue, deliver, and use a variable contract under this chapter and rules adopted under Section 1152.002, the commissioner shall issue an order relating

to the company's authority to issue, deliver, and use a variable contract in this state. (V.T.I.C. Art. 3.75, Sec. 3 (part).)

Source Law

Sec. 3. A company may not deliver or issue for delivery in this state variable contracts unless after notice and hearing, the commissioner shall find that the company is qualified to issue, deliver, and use variable contracts in accordance with this article and the regulations issued thereunder. The commissioner shall issue an official order of authorization relating to the company's authority to issue, deliver, and use variable contracts in this state. . . .

Revisor's Note

Section 3, V.T.I.C. Article 3.75, refers to certain "regulations." The revised law substitutes "rules" for "regulations." "Rule" is the term more commonly used and is the term used by Chapter 2001, Government Code, the administrative procedure law. Also, under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

Revised Law

Sec. 1152.103. CONSIDERATION OF COMPANY'S CONDITION OR METHOD OF OPERATION. (a) For purposes of this section, the domicile of an alien company is its state of entry.

(b) In considering a company's condition or method of operation, the factors the commissioner shall consider must include:

- (1) the company's history and financial condition;
- (2) the character, responsibility, and fitness of the company's officers and directors;
- (3) the law, including rules, under which the company is authorized to do business in the state of domicile to issue a variable contract; and
- (4) whether the condition or method of operation in connection with the issuance of a variable contract will make the company's operation hazardous to the public or the company's policyholders in this state. (V.T.I.C. Art. 3.75, Secs. 3(b), (c).)

Source Law

(b) In considering the condition or method of operation the commissioner shall consider among other things:

(1) the history and financial condition of the company;

(2) the character, responsibility, and fitness of the officers and directors of the company;

(3) the law and rules under which the company is authorized to do business in the state of domicile to issue variable contracts; and

(4) whether the condition or method of operation in connection with the issuance of these contracts will render its operation hazardous to the public or its policyholders in this state.

(c) For the purposes of Subdivision (3) of Subsection (b) of this section, the state of entry of a foreign company is its place of domicile.

Revisor's Note

Section 3(c), V.T.I.C. Article 3.75, refers to the state of entry of a "foreign company." Under the Insurance Code, a "foreign company" generally refers to a United States company that was not organized in Texas, and an "alien company" refers to a company that was not organized in the United States. See Sections 6 and 7A, V.T.I.C. Article 3.01 (revised as part of Section 982.001). A "foreign company" would not "enter" a state, but an "alien company" would. In the context of Article 3.75 and the entire code, therefore, the source law reference to a "foreign company" must mean an "alien company." Throughout this chapter, the revised law is drafted accordingly.

Revised Law

Sec. 1152.104. AUTHORIZATION FOR SUBSIDIARY OR AFFILIATE OF AUTHORIZED LIFE INSURANCE COMPANY. The commissioner may determine, after notice and hearing, that a company that is a subsidiary of or affiliated with an authorized life insurance company through common management or ownership meets the requirements of this subchapter if either the company or the

parent or affiliated company meets the requirements of this subchapter. (V.T.I.C. Art. 3.75, Sec. 3(d).)

Source Law

(d) If a company is a subsidiary of an admitted life insurance company or affiliated with an admitted life insurance company through common management or ownership, the commissioner may after notice and hearing determine the company to have met the requirements of this section if either it or the parent or the affiliated company meets the requirements of this section.

Revisor's Note

Section 3(d), V.T.I.C. Article 3.75, refers to an "admitted" insurance company. Throughout this chapter, the revised law substitutes "authorized" for "admitted" because the terms are synonymous in context and the former is more commonly used throughout this code.

Revised Law

Sec. 1152.105. WAIVER OF HEARING REQUIREMENT. (a) If a company, its parent, or a commonly controlled affiliate is an authorized life insurance company, the company may apply to the commissioner for a waiver of the hearing requirements under Section 1152.102 or 1152.104.

(b) The commissioner may waive the hearing requirement if the commissioner determines that a hearing is not necessary to find the company qualified under this subchapter. (V.T.I.C. Art. 3.75, Sec. 3(e).)

Source Law

(e) If a company, its parent, or commonly controlled affiliate is an admitted life insurance company, the commissioner may, upon application by the company, waive the requirements for hearing provided in Subsections (a) and (d) of this section if the commissioner shall determine that a hearing is not necessary to find the company to be qualified under this section.

Revisor's Note

Section 3(e), V.T.I.C. Article 3.75, refers to "the requirements for hearing provided in Subsections (a) and (d) of this

section." Section 3 does not contain a Subsection (a), but the first paragraph of Section 3, which is not designated as a subsection, does contain a requirement for a hearing. That paragraph is revised as Section 1152.102, and the revised law is drafted accordingly.

Revised Law

Sec. 1152.106. RESERVE LIABILITY FOR VARIABLE CONTRACT. The reserve liability for a variable contract must be established under actuarial procedures that recognize:

- (1) the variable nature of the benefits provided; and
- (2) any mortality guarantees. (V.T.I.C. Art. 3.75, Sec. 4.)

Source Law

Sec. 4. The reserve liability for variable contracts must be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Revised Law

Sec. 1152.107. SEPARATE ANNUAL STATEMENT REQUIRED. (a) An insurance company authorized under this subchapter to issue, deliver, or use a variable annuity contract or variable life contract shall file with the department a separate annual statement of its separate variable contract accounts.

- (b) The company shall file the statement:
  - (1) on a form prescribed or approved by the department; and
  - (2) simultaneously with the annual statement required by Sections 841.255 and 882.003.

- (c) The statement must:
  - (1) include details as to all income, disbursements, assets, and liability items associated with the separate variable contract accounts; and
  - (2) be under oath of two company officers. (V.T.I.C. Art. 3.75, Sec. 6.)

Source Law

Sec. 6. Every insurance company authorized pursuant to this article to issue, deliver, or use variable annuity contracts, variable life contracts, or both shall annually file with the State Board of Insurance a separate annual statement of its separate variable contract accounts. Such

statement shall be on a form prescribed or approved by the State Board of Insurance and shall include details as to all of the income, disbursements, assets, and liability items of and associated with the said separate variable contract accounts. Said statement shall be under oath of two officers of the company and shall be filed simultaneously with the annual statement required by Articles 3.07 and 11.06 of this code.

Revised Law

Sec. 1152.108. GRACE, REINSTATEMENT, AND NONFORFEITURE PROVISIONS REQUIRED. (a) An individual variable life insurance or individual variable annuity contract delivered or issued for delivery in this state must contain grace, reinstatement, and nonforfeiture provisions appropriate to the contract.

(b) A group variable contract delivered or issued for delivery in this state must contain a grace period provision appropriate to the contract. (V.T.I.C. Art. 3.75, Sec. 5.)

Source Law

Sec. 5. Each individual variable life insurance or individual variable annuity contract delivered or issued for delivery in this state must contain grace, reinstatement, and nonforfeiture provisions appropriate to the contract. Any group variable contract delivered or issued for delivery in this state shall contain a grace period appropriate to such contract.

Revised Law

Sec. 1152.109. VARIABLE BENEFITS PROVISIONS. (a) A contract providing benefits payable in variable amounts that is delivered or issued for delivery in this state must state the essential features of the procedures the insurance company will follow in determining the dollar amount of the variable benefits.

(b) A contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued under that group contract, must state:

(1) on its first page, that the benefits under the contract are on a variable basis; and

(2) that the dollar amount will vary. (V.T.I.C. Art. 3.75, Sec. 2.)

Source Law

Sec. 2. A contract providing benefits payable in variable amounts delivered or issued for delivery in this state must contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of the variable benefits. A contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued under that contract, must state that the dollar amount will vary and must contain on its first page a statement that the benefits under the contract are on a variable basis.

[Sections 1152.110-1152.150 reserved for expansion]

SUBCHAPTER D. VARIABLE CONTRACT AGENT'S LICENSE

Revised Law

Sec. 1152.151. VARIABLE CONTRACT AGENT'S LICENSE REQUIRED; CRITERIA FOR ISSUANCE. (a) A person may not sell or offer for sale in this state a variable contract, or act to negotiate, make, or consummate a variable contract for another, unless the department has licensed the person as a variable contract agent.

(b) The department may not issue the license unless the department is satisfied, after examination, that the person is qualified to act as a variable contract agent because of the person's training, knowledge, ability, and character. (V.T.I.C. Art. 3.75, Sec. 7(a) (part).)

Source Law

Sec. 7. (a) Notwithstanding any other law of this state, no person shall sell or offer for sale within this state a variable contract or do or perform any act or thing in the sale, negotiation, making, or consummating of any variable contract other than for himself, unless such person shall have a valid and current certificate from the State Board of Insurance authorizing such person to act within this state as a variable agent. No such certificate shall be issued unless and until said board is satisfied, after examination, that such person is by training, knowledge, ability, and character

qualified to act as such agent. . . .

Revisor's Note

(1) Section 7(a), V.T.I.C. Article 3.75, refers to the "sale, negotiation, making, or consummating of any variable contract." The revised law omits "sale" because its meaning is included in the meaning of the other quoted language.

(2) Section 7(a), V.T.I.C. Article 3.75, refers to a "valid and current certificate" issued to an agent. The remainder of Section 7 refers to a "license." The revised law refers to "license" throughout this subchapter for consistency. In addition, the revised law omits the reference to "valid and current" as unnecessary because the words do not add to the clear meaning of the law. For example, a document purporting to be a license is no longer a license if it is expired and is not a license if it is a forgery.

Revised Law

Sec. 1152.152. LICENSE AND EXAMINATION FEES. (a) Before issuing a license under Section 1152.151, the commissioner must receive from an applicant:

(1) a nonrefundable license fee in an amount not to exceed \$50; and

(2) unless the department accepts under Article 21.01-1 a qualifying examination administered by a testing service, an examination fee in an amount not to exceed \$20.

(b) The commissioner shall set the amount of the fees.

(c) A new examination fee must be paid for each examination.

(d) An examination fee may not be refunded unless the applicant:

(1) not later than 24 hours before the time the examination begins, notifies the commissioner that an emergency situation exists;

(2) receives the commissioner's permission to not take the examination; and

(3) does not appear to take the examination.

(V.T.I.C. Art. 3.75, Sec. 7(b) (part).)

Source Law

(b) The Commissioner of Insurance shall collect in advance from variable agent applicants a nonrefundable license fee in an

amount not to exceed \$50. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall collect in advance from variable agent applicants an examination fee in an amount not to exceed \$20. The State Board of Insurance shall determine the amount of the fees. A new examination fee shall be paid for each and every examination. The examination fee shall not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the Commissioner's approval. . . .

Revised Law

Sec. 1152.153. EXPIRATION. A license issued to a variable contract agent expires on the second anniversary of the date the license is issued, unless it is suspended or revoked by the commissioner before that date. (V.T.I.C. Art. 3.75, Sec. 7(c).)

Source Law

(c) Each license issued to a variable contract agent shall expire two years following the date of issue, unless prior thereto it is suspended or revoked by the Commissioner of Insurance.

Revised Law

Sec. 1152.154. RENEWAL; FEE. (a) A person may renew a license issued under this subchapter in the manner provided by Article 21.01-2.

(b) The commissioner shall set the renewal fee in an amount not to exceed \$50.

(c) A person may not renew a license that has been suspended or revoked. (V.T.I.C. Art. 3.75, Sec. 7(f) (part).)

Source Law

(f) Licenses . . . which have not been suspended or revoked may be renewed by . . . [paying the nonrefundable renewal fee] set by the board in an amount not to exceed \$50 . . . in accordance with Article 21.01-2 of this code.

Revisor's Note

Section 7(f), V.T.I.C. Article 3.75, states that a license may be renewed under Article 21.01-2, and repeats some of the requirements contained in Article 21.01-2. The revised law omits this redundant language as unnecessary. The omitted law reads:  
[Licenses] which have not expired or . . .  
[may be renewed by] filing with the State Board of Insurance a completed renewal application and paying the nonrefundable renewal fee . . . on or before the expiration date of the license . . . .

Revised Law

Sec. 1152.155. REVOCATION. After notice and a hearing, the commissioner may revoke a variable contract agent's license if the commissioner finds that the license holder does not have the qualifications required for the issuance of the license.  
(V.T.I.C. Art. 3.75, Sec. 7(a) (part).)

Source Law

(a) . . . Any such certificate may be withdrawn and cancelled by said board, after notice and hearing, if it shall find that the holder thereof does not then have the qualifications required for issue of such certificate.

Revisor's Note

Section 7(a), V.T.I.C. Article 3.75, states that the department may "withdraw and cancel" a variable contract agent's license. Subsequent provisions of Section 7 refer to a license that is "revoked." For consistency throughout this chapter, the revised law substitutes "revoke" for "withdraw and cancel."

Revised Law

Sec. 1152.156. SUSPENSION. The commissioner shall suspend a variable contract agent's license if the agent is not operating under an appointment from an insurance company. The commissioner shall terminate the suspension when the department receives acceptable notice that an appointment exists. (V.T.I.C. Art. 3.75, Sec. 7(d).)

Source Law

(d) The Commissioner of Insurance shall

suspend the license of a variable agent during any period in which the agent does not have an outstanding valid appointment. The Commissioner of Insurance shall lift the suspension on receipt by the State Board of Insurance of acceptable notice of a valid appointment.

Revisor's Note

Section 7(d), V.T.I.C. Article 3.75, refers to an "outstanding valid appointment." The revised law omits "outstanding" and "valid" as unnecessary because in this context, the meaning of those terms is included in the meaning of an appointment. If an appointment is not "outstanding," then no appointment exists, and if an appointment was invalid, then no appointment was made. In addition, the revised law adds "from an insurance company" after "appointment." Section 7(g), V.T.I.C. Article 3.75, revised as Section 1152.158, provides that an insurance carrier appoints an agent for the purpose of Section 7; for consistency throughout this chapter, the revised law substitutes "insurance company" for "insurance carrier."

Revised Law

Sec. 1152.157. APPLICATION FOR LICENSE AFTER DENIAL OR REVOCATION. (a) A license applicant or holder whose application or license has been denied or revoked under this subchapter may not apply for a license as an insurance agent before the first anniversary of:

(1) the effective date of the denial or revocation; or  
(2) the date of the final court order affirming that action, if the applicant or license holder seeks judicial review of the denial or revocation.

(b) The commissioner may deny a timely filed application if the applicant does not show good cause why the denial or revocation of the previous license application or license should not bar the issuance of a new license. (V.T.I.C. Art. 3.75, Sec. 7(e).)

Source Law

(e) A license applicant or licensee whose license application or license has been denied, refused, or revoked under this section may not apply for any license as an

insurance agent before the first anniversary of the effective date of the denial, refusal, or revocation, or, if the applicant or licensee seeks judicial review of the denial, refusal, or revocation, before the first anniversary of the date of the final court order or decree affirming that action. The Commissioner of Insurance may deny an application timely filed if the applicant does not show good cause why the denial, refusal, or revocation of the previous license application or license should not be considered a bar to the issuance of a new license.

Revisor's Note

(1) Section 7(e), V.T.I.C. Article 3.75, refers to a license that has been "denied, refused, or revoked." The revised law omits the references to "refused" because its meaning is included in the meaning of "denied."

(2) Section 7(e), V.T.I.C. Article 3.75, refers to a judicial "order or decree." The revised law omits "decree" because the terms are synonymous in context and because "order" is the more commonly used, modern drafting term.

Revised Law

Sec. 1152.158. MULTIPLE REPRESENTATION; APPLICATION; FEES.

(a) A variable contract agent may apply to act as an agent for more than one insurance company.

(b) The agent and the insurance company must give notice to the department of any additional appointment authorizing the agent to act as an agent for that company. The notice must be accompanied by:

(1) a certificate from the company that the company desires to appoint the applicant as its agent;

(2) a nonrefundable fee; and

(3) any other information that the department requires.

(c) The commissioner shall set the fee in an amount not to exceed \$16.

(d) The agent may act for the company if:

(1) the department approves the application for an additional appointment; or

(2) notice of disapproval is not received before the eighth day after the date on which the department received the

completed application and fee. (V.T.I.C. Art. 3.75, Sec. 7(g) (part).)

Source Law

(g) Any agent licensed under this article may represent and act as an agent for more than one insurance carrier any time while the license is in force, if the agent so desires. Any such agent and the insurance carrier involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing the agent to act as agent for an additional insurance carrier or carriers. Such notice shall be accompanied by a certificate from each insurance carrier to be named in each additional appointment that said insurance carrier desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent or company shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice. If approval of the additional appointment is not received from the board before the eighth day after the date on which the completed application and fee were received by the board, the agent and the insurance carrier, in the absence of notice of disapproval, may assume that the board approves the application, and the agent may act for the insurance carrier. . . .

Revised Law

Sec. 1152.159. DUPLICATE LICENSE. (a) A variable contract agent may request a duplicate for a license issued under this subchapter.

(b) The commissioner must collect a duplicate license fee from the agent before providing the duplicate to the agent. The commissioner shall set the fee in an amount not to exceed \$20. (V.T.I.C. Art. 3.75, Sec. 7(h).)

Source Law

(h) Duplicate License; Fee. The Commissioner of Insurance shall collect in advance from agents requesting duplicate

licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

Revised Law

Sec. 1152.160. USE OF FEES. The department shall deposit a fee collected under this subchapter to the credit of the Texas Department of Insurance operating account, to be used to administer this subchapter and Article 21.07-1. (V.T.I.C. Art. 3.75, Secs. 7(b) (part), (g) (part).)

Source Law

(b) . . . All fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this section and Article 21.07-1, Insurance Code, as amended.

(g) . . . All fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this article and Article 21.07-1, Insurance Code, as amended.

Revisor's Note

Sections 7(b) and (g), V.T.I.C. Article 3.75, state that fees "shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund." Under Chapter 4, Acts of the 72nd Legislature, 1st Called Session, 1991, the Texas Department of Insurance operating fund (the later name of the State Board of Insurance operating fund) was converted to an account in the general revenue fund. The revised law has been drafted accordingly.

[Sections 1152.161-1152.200 reserved for expansion]

SUBCHAPTER E. MODIFIED GUARANTEED CONTRACTS

Revised Law

Sec. 1152.201. DEFINITION. In this subchapter, "modified guaranteed contract" means an individual life insurance policy or deferred annuity contract as to which:

(1) the underlying assets are held in a separate account; and

(2) the values are guaranteed if the policy or contract is held for a specified period. (V.T.I.C. Art. 3.75, Sec. 10(a) (part).)

Source Law

Sec. 10. (a) For purposes of this section, "modified guaranteed contracts" means individual policies of life insurance and deferred annuity contracts, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods. . . .

Revised Law

Sec. 1152.202. APPLICABILITY OF LAWS GOVERNING LIFE INSURANCE COMPANIES. Unless otherwise approved by the commissioner, the laws of this state governing the investments of life insurance companies apply to an asset held in a separate account that relates to a modified guaranteed contract that provides for nonforfeiture values that may vary based on a market-value adjustment formula. (V.T.I.C. Art. 3.75, Sec. 10(b) (part).)

Source Law

(b) Notwithstanding any provision of this article to the contrary, the following requirements shall apply to modified guaranteed contracts:

(1) Unless otherwise approved by the Commissioner, assets held in separate accounts, relating to modified guaranteed contracts providing nonforfeiture values which may vary based on a market-value adjustment formula, shall be subject to the requirements and limitations prescribed by the laws of this state governing the investments of life insurance companies. . . .

Revisor's Note

Section 10(b)(1), V.T.I.C. Article 3.75, states that a modified guaranteed contract is subject to the "requirements and limitations prescribed by the laws of this state." The revised law omits the reference to "requirements and limitations" for the reason stated in the revisor's note to Section

1152.056.

Revised Law

Sec. 1152.203. RULES. In addition to any rules adopted under Section 1152.002, the commissioner may adopt reasonable rules that apply only to a modified guaranteed contract, to appropriately regulate:

(1) a modified guaranteed contract under this chapter; and

(2) the separate account maintained in relation to a modified guaranteed contract. (V.T.I.C. Art. 3.75, Sec. 10(c).)

Source Law

(c) The State Board of Insurance may promulgate reasonable rules, which are separate from any rules adopted under Section 8 of this article and applicable to modified guaranteed contracts only, as are appropriate for the regulation of modified guaranteed contracts under this article and the separate accounts maintained with respect to the same.

Revised Law

Sec. 1152.204. NONFORFEITURE VALUES. (a) A modified guaranteed contract must contain nonforfeiture values that are based on a market-value adjustment formula if the contract is held for a period shorter than the period specified in the contract. The formula may or may not reflect the value of assets held in the separate account.

(b) A modified guaranteed contract must prominently state on its first page that the nonforfeiture values may increase or decrease based on the market-value formula specified in the contract. (V.T.I.C. Art. 3.75, Secs. 10(a) (part), (b) (part).)

Source Law

Sec. 10. (a) . . . They contain nonforfeiture values that are based upon a market-value adjustment formula if held for shorter periods. This formula may or may not reflect the value of assets held in the separate account.

(b) . . . [the following requirements shall apply to modified guaranteed contracts:]

. . .

(3) Any modified guaranteed contract shall contain, on its first page, a prominent statement that the nonforfeiture values may increase or decrease, based on the

market-value formula specified in the contract.

Revised Law

Sec. 1152.205. SEPARATE ACCOUNT STATEMENT. An insurance company that files a separate account statement under Section 1152.107 shall include in that statement a statement for each separate account that relates to a modified guaranteed contract. (V.T.I.C. Art. 3.75, Sec. 10(b) (part).)

Source Law

(b) . . . [the following requirements shall apply to modified guaranteed contracts:]

. . .

(2) Separate accounts, relating to modified guaranteed contracts, shall be included in the separate account annual statement filed by the insurance company pursuant to Section 6 of this article. . . .

CHAPTER 1153. CREDIT LIFE INSURANCE AND CREDIT  
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CHAPTER 1153. CREDIT LIFE INSURANCE AND CREDIT  
ACCIDENT AND HEALTH INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1153.001. SHORT TITLE. This chapter may be cited as the Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance. (V.T.I.C. Art. 3.53, Sec. 2, Subsec. A(1).)

Source Law

Sec. 2. A. (1) This Act may be

cited as "The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance."

Revisor's Note

Subsection A(1), Section 2, V.T.I.C. Article 3.53, provides that Article 3.53 may be cited as "The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance." Because Article 3.53, revised as this chapter, has been enacted by the legislature and is law, the revised law omits "Model."

Revised Law

Sec. 1153.002. PURPOSE; LEGISLATIVE INTENT; CONSTRUCTION.

(a) The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit accident and health insurance.

(b) This chapter is not intended to prohibit or discourage reasonable competition.

(c) This chapter shall be liberally construed. (V.T.I.C. Art. 3.53, Sec. 1.)

Source Law

Art. 3.53

Sec. 1. The purpose of this Act is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in this Act is intended to prohibit or discourage reasonable competition. The provisions of this Act shall be liberally construed.

Revised Law

Sec. 1153.003. DEFINITIONS. In this chapter:

(1) "Credit accident and health insurance" means insurance to provide indemnity for payments that become due on a specific credit transaction of a debtor when the debtor is disabled, as defined in the insurance policy.

(2) "Credit life insurance" means insurance on the life of a debtor in connection with a specific credit transaction.

(3) "Credit transaction" includes the lending of money.

(4) "Creditor" means:

(A) a person who lends money or who sells or leases goods, services, property, rights, or privileges, for which the payment is arranged through a credit transaction;

(B) a successor to the right, title, or interest of a person described by Paragraph (A); or

(C) a person who is in any way associated with a person described by Paragraph (A) or (B), including a director, officer, employee, affiliate, associate, or subsidiary of the person described by Paragraph (A) or (B).

(5) "Debtor" means a person who borrows money or who purchases or leases goods, services, property, rights, or privileges, the payment for which is arranged through a credit transaction. (V.T.I.C. Art. 3.53, Sec. 2, Subsec. B (part).)

Source Law

B. For the purpose of this Act:

(1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

(2) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;

(3) "Creditor" means the lender of money or vendor or lessor of goods, services, or property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate, or subsidiary of any of them or any director, officer or employee of any of them or any other person in anyway associated with any of them;

(4) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction; . . . .

Revisor's Note

(1) Subsection B(5), Section 2, V.T.I.C. Article 3.53, defines "indebtedness." The article generally uses the term to refer to the debt that is the foundation of a credit transaction. Throughout this chapter, the revised law substitutes for that term the more commonly

used term "debt." The omitted law reads:

(3) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction;

(2) Subsection B(6), Section 2, V.T.I.C. Article 3.53, defines "commissioner." The revised law omits the definition as unnecessary. Chapter 31 of this code defines "commissioner" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance. That definition applies to this chapter. The omitted law reads:

(6) "Commissioner" means The Commissioner of Insurance;

(3) Subsection B(7), Section 2, V.T.I.C. Article 3.53, defines "State Board of Insurance." The revised law omits the definition. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "department" for purposes of this code and the other insurance laws of this state to mean the Texas Department of Insurance. Throughout this chapter, references to the State Board of Insurance have been changed appropriately. The omitted law reads:

(7) "State Board of Insurance" means the three (3) member State Board of Insurance.

(4) V.T.I.C. Article 3.53 contains several references to the phrase "loan or other credit transaction." The definition of "credit transaction" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition. Throughout this chapter, references to that phrase have been changed as appropriate.

Revised Law

Sec. 1153.004. APPLICABILITY OF CHAPTER. (a) This chapter

applies to life insurance and accident and health insurance that is sold in connection with a credit transaction that is charged to or paid for by, in whole or part, the debtor, except insurance that is issued or sold:

- (1) in connection with a credit transaction of more than 10 years' duration;
  - (2) in connection with a credit transaction that is:
    - (A) secured by a first mortgage or deed of trust;
- and

- (B) made to:
  - (i) finance the purchase of commercial real property or the construction of or improvement to a building, other than a single-family dwelling, on the real property if the purchase, construction, or improvement is secured by a lien on the real property; or
  - (ii) refinance a credit transaction made for a purpose described by Subparagraph (i); or
- (3) as an isolated transaction on the part of the insurer that is not related to an agreement or a plan for insuring debtors of the creditor.

(b) This chapter applies to insurance described by Subsection (a) regardless of the nature, kind, or plan of the credit insurance coverage or premium payment system and regardless of whether the credit insurance is charged to or paid for by the debtor directly or indirectly. (V.T.I.C. Art. 3.53, Sec. 2, Subsec. A(2).)

#### Source Law

(2) All life insurance and all accident and health insurance sold in connection with loans or other credit transactions, the premium for which is charged to or paid for in whole or in part either directly or indirectly by the debtor, shall be subject to the provisions of this Act, regardless of the nature, type or plan of the credit insurance coverage or premium payment system, except:

- (a) insurance issued or sold in connection with a loan or other credit transaction of more than 10 years' duration;

- (b) insurance issued or sold in connection with a credit transaction that is:

- (i) secured by a first mortgage or deed of trust; and

- (ii) made to finance the purchase of commercial real property or the

construction of or improvement to a building other than a single family dwelling on the real property if the purchase, construction, or improvement is secured by a lien on the real property, or to refinance a credit transaction made for those purposes; or

(c) insurance issued or sold as an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

Revised Law

Sec. 1153.005. RULES. After notice and a hearing, the commissioner may adopt rules to implement this chapter. (V.T.I.C. Art. 3.53, Sec. 12 (part).)

Source Law

Sec. 12. The State Board of Insurance may, after notice and hearing, issue such rules and regulations as it deems appropriate for the supervision of this Act. . . .

Revisor's Note

Section 12, V.T.I.C. Article 3.53, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

Revised Law

Sec. 1153.006. FILING FEE. (a) The department shall set and collect a fee for a form or schedule filed under this chapter in an amount not to exceed \$200.

(b) Fees collected under this section shall be deposited in the Texas Department of Insurance operating account. (V.T.I.C. Art. 3.53, Sec. 7, Subsec. H.)

Source Law

H. The department shall charge a fee, in an amount to be determined by the department but not to exceed \$200, for a form or schedule filed under this article. Fees collected shall be deposited in the state treasury to the credit of the department operating fund.

Revisor's Note

Subsection H, Section 7, V.T.I.C. Article 3.53, states that fees "shall be deposited in the state treasury to the credit of the department operating fund." Under Chapter 4, Acts of the 72nd Legislature, 1st Called Session, 1991, the Texas Department of Insurance operating fund was converted to an account in the general revenue fund. The revised law has been drafted accordingly.

Revised Law

Sec. 1153.007. GAIN OR ADVANTAGE FROM INSURANCE NOT PROHIBITED CHARGE. (a) The premium or cost of credit life insurance or credit accident and health insurance authorized under this chapter is not considered to be interest, a charge, consideration, or an amount in excess of permitted charges in connection with the underlying credit transaction.

(b) Any benefit, return, or other gain or advantage to the creditor arising out of the sale or provision of the insurance under this chapter is not a violation of any law of this state. (V.T.I.C. Art. 3.53, Sec. 9 (part).)

Source Law

Sec. 9. . . . The premium or cost of such insurance allowed herein shall not be deemed interest, or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any benefit or return or other gain or advantage to the creditor arising out of the sale or provision of such insurance shall not be deemed a violation of any law, General or Special, of the State of Texas.

[Sections 1153.008-1153.050 reserved for expansion]

SUBCHAPTER B. FORMS

Revised Law

Sec. 1153.051. FILING OF FORM. (a) An insurer shall file with the commissioner the form of each policy, certificate of insurance, notice of proposed insurance, application for insurance, endorsement, and rider to which this chapter applies that is delivered or issued for delivery in this state.

(b) If a group policy of credit life insurance or credit accident and health insurance is delivered in another state, the insurer is required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this

state, as specified in Section 1153.052.

(c) The commissioner shall approve a certificate filed under Subsection (b) if it conforms with the requirements provided by Section 1153.052 and if the schedule of premium rates applicable to the insurance evidenced by that certificate or notice does not exceed the presumptive premium rate established by the commissioner. (V.T.I.C. Art. 3.53, Sec. 7, Subsecs. A (part), F (part).)

Source Law

Sec. 7. A. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and . . . shall be filed with the Commissioner.

F. If a group policy of credit life insurance or credit accident and health insurance

. . .

(ii) . . . is delivered in another State . . . after the effective date of this Act, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in Subsection B of Section 6 of this Act and such certificate shall be approved by the Commissioner if it conforms with the requirements specified in said Subsection and if the schedule of premium rates applicable to the insurance evidenced by such certificate or notice is not in excess of the presumptive premium rate established by the Board.

Revisor's Note

Subsection F, Section 7, V.T.I.C. Article 3.53, provides a special filing requirement for group policies delivered before the effective date of the act that added that section. That act was enacted by the 58th Legislature and took effect in 1963. The revised law omits as executed the part of the transitional provision relating to those policies. The omitted law reads:

F. . . .

(i) has been delivered in this State before the effective date of this Act, or

(ii) has been or . . . [delivered in another State] before or . . . [the effective date of this Act] . . . .

Revised Law

Sec. 1153.052. REQUIREMENTS RELATING TO INSURANCE POLICY OR CERTIFICATE. (a) A policy or certificate of credit life insurance or credit accident and health insurance must:

(1) specify:

(A) the name and home office address of the insurer;

(B) the name of each debtor;

(C) in the case of a certificate under a group policy, the identity, by name or otherwise, of each insured;

(D) the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life insurance and credit accident and health insurance; and

(E) each exception or limitation to or restriction on the coverage;

(2) describe the coverage, including the amount and term of the coverage; and

(3) state that the benefits are to be paid to the creditor to reduce or extinguish the unpaid amount of the debt and that any amount of benefits that exceeds the unpaid debt is to be paid to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.

(b) The requirements of this section are in addition to the other requirements of law. (V.T.I.C. Art. 3.53, Sec. 6, Subsec. B.)

Source Law

B. Each individual policy or group certificate of credit life insurance, and/or credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor and, in the case of a certificate under a group policy, the identity by name or otherwise of the person or persons insured, the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life insurance and credit accident and health insurance, a

description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

Revised Law

Sec. 1153.053. DISAPPROVAL OF FORM. (a) Not later than the 60th day after the date an insurer files a form under Section 1153.051, the commissioner shall disapprove the form if:

- (1) the benefits provided are not reasonable in relation to the premium charge; or
- (2) the form contains a provision that:
  - (A) is unjust, unfair, inequitable, misleading, or deceptive;
  - (B) encourages misrepresentation of the coverage; or
  - (C) is contrary to this code or a rule adopted under this code.

(b) The commissioner shall specify in the notice of disapproval of a form the reason for the disapproval and state that, if the insurer delivers to the commissioner a written request for a hearing on the disapproval of the form, the hearing will be granted not later than the 20th day after the date of the request. (V.T.I.C. Art. 3.53, Sec. 7, Subsecs. B, C (part).)

Source Law

B. The Commissioner shall within sixty (60) days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the Insurance Code or of any rule or regulation promulgated hereunder.

C. . . . In such notice, the Commissioner shall specify the reason for his

disapproval and state that a hearing will be granted within twenty (20) days after request in writing by the insurer. . . .

Revisor's Note

Subsection B, Section 7, V.T.I.C. Article 3.53, refers to "any rule or regulation." The reference to "regulation" is omitted from the revised law for the reason stated in the revisor's note under Section 1153.005.

Revised Law

Sec. 1153.054. WITHDRAWAL OF APPROVAL OF FORM. The commissioner may hold a hearing on the withdrawal of the approval of a form not earlier than the 21st day after the date written notice of the hearing is given to the insurer who submitted the form. The notice of the hearing must state the reason for the proposed withdrawal of approval. At any time after the hearing, the commissioner may withdraw approval of the form for any ground provided by Section 1153.053(a). (V.T.I.C. Art. 3.53, Sec. 7, Subsec. D.)

Source Law

D. The Commissioner may, at any time after a hearing held not less than twenty (20) days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in Subsection B above. The written notice of such hearing shall state the reason for the proposed withdrawal.

Revised Law

Sec. 1153.055. PROHIBITIONS RELATING TO ISSUANCE OR USE OF FORM. (a) A policy, certificate of insurance, notice of proposed insurance, application for insurance, endorsement, or rider to which this chapter applies may not be issued or used before the 61st day after the date the form is filed with the commissioner under Section 1153.051, unless the commissioner gives prior written approval of the issuance or use of the form.

(b) An insurer who is notified by the commissioner that a form is disapproved may not issue or use that form.

(c) After the effective date of the withdrawal of the approval of a form under Section 1153.054, the insurer may not issue or use that form. (V.T.I.C. Art. 3.53, Sec. 7, Subsecs. C (part), E.)

Source Law

C. If the Commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. . . . No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider, shall be issued or used until the expiration of sixty (60) days after it has been so filed, unless the Commissioner shall give his prior written approval thereto.

E. It shall not be lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

[Sections 1153.056-1153.100 reserved for expansion]

SUBCHAPTER C. RATES

Revised Law

Sec. 1153.101. FILING OF SCHEDULE OF RATES. An insurer shall file with the commissioner each schedule of premium rates relating to a document required to be filed under Section 1153.051. (V.T.I.C. Art. 3.53, Sec. 7, Subsec. A (part).)

Source Law

A. [All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and] the schedules of premium rates pertaining thereto shall be filed with the Commissioner.

Revised Law

Sec. 1153.102. REVISION OF SCHEDULE OF RATES. (a) An insurer may revise its schedules of premium rates for various classes of business.

(b) The insurer shall file the revised schedules and classes of business with the commissioner.

(c) An insurer may not issue a credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds the rate determined by using the appropriate schedule for that class of business that the insurer has on file with the commissioner. (V.T.I.C. Art. 3.53, Sec. 8, Subsec. A(1).)

Source Law

Sec. 8. A. (1) Any insurer may revise its schedules of premium rates for various classes of business from time to time, and shall file such revised schedules and classes of business with the Commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules and classes of business of such insurer as then on file with the Commissioner.

Revisor's Note

Subsection A(1), Section 8, V.T.I.C. Article 3.53, provides that an insurer may revise its schedules of premium rates "from time to time." The revised law omits the quoted language as unnecessary because the power to take an action includes the power to act "from time to time."

Revised Law

Sec. 1153.103. PRESUMPTIVE PREMIUM RATE. (a) After notice and a hearing, the commissioner may promulgate a presumptive premium rate for various classes of business and terms of coverage.

(b) The commissioner shall hold a hearing required under Subsection (a) in accordance with the contested case provisions of Chapter 2001, Government Code.

(c) In determining the presumptive premium rate, the commissioner shall consider any relevant data, including reasonable acquisition costs, loss ratios, administrative expenses, reserves, loss settlement expenses, the type or class of business, the duration of various credit transactions, and reasonable and adequate profits to the insurers.

(d) In determining the presumptive premium rate, the commissioner may not set or limit the amount of compensation actually paid by a company to an agent but may request from an insurer or agent any relevant data relating to the presumptive premium rate, including information relating to compensation paid for the sale of credit insurance, expenses, losses, and profits. An insurer or agent shall provide the requested information to the commissioner in a timely manner.

(e) The commissioner may not promulgate a presumptive premium rate that is unjust, unreasonable, inadequate, confiscatory, or excessive to the insureds, the insurers, or the agents.

(f) It is a rebuttable presumption that the presumptive premium rate is just, reasonable, adequate, and not excessive. (V.T.I.C. Art. 3.53, Sec. 8, Subsecs. A(2), (3).)

Source Law

(2) The State Board of Insurance may, after notice and hearing, adopt and promulgate a presumptive premium rate for various classes of business and terms of coverage which shall be presumed, subject to a rebuttal of such presumption, to be just, reasonable, adequate, and not excessive. Any hearing conducted pursuant to this section shall be held in accordance with the contested case provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(3) In determining the presumptive premium rate, the board shall consider reasonable acquisition costs, loss ratios, and administrative expenses, reserves, loss settlement expenses, the type or class of business, the duration of various credit transactions, reasonable and adequate profits to the insurers, and other relevant data. The board may not set a presumptive premium rate that is unjust, unreasonable, inadequate, confiscatory, or excessive to the insurers, the insureds, or agents. The board may not fix or limit the amount of compensation actually paid by a company to an agent. The board may request information from any insurer or agent with respect to compensation paid for the sale of credit insurance, expenses, losses, profits, and any other relevant data relating to the presumptive premium rate and it is the duty of each insurer or agent to provide such information to the board in a timely manner.

Revisor's Note

(1) Subsection A(2), Section 8, V.T.I.C. Article 3.53, authorizes the State Board of Insurance (now the Texas Department of Insurance) to "adopt and promulgate a presumptive premium rate." In the revision of insurance laws, rules are "adopted" (See

Sections 36.001 and 37.001, Insurance Code) and rates are "promulgated" (See Sections 40.051 and 40.052, Insurance Code). Thus, the revised law substitutes "promulgate" for "adopt and promulgate."

(2) Subsection A(2), Section 8, V.T.I.C. Article 3.53, refers to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The relevant portion of that article was codified in 1993 as Chapter 2001, Government Code, and the revised law is drafted accordingly.

Revised Law

Sec. 1153.104. APPEAL OF PRESUMPTIVE RATE. Any person who is aggrieved by any action of the commissioner taken in the setting of a presumptive rate may appeal the action, in accordance with Subchapter D, Chapter 36, not later than the 30th day after the date the commissioner took the action. (V.T.I.C. Art. 3.53, Sec. 8, Subsec. A(4).)

Source Law

(4) Any person aggrieved by the action of the board in the setting of a presumptive rate or any other action taken with regard to the setting of such presumptive rate may within 30 days from the date the board took the action complained of appeal in accordance with Article 1.04 of this code.

Revisor's Note

Subsection A(4), Section 8, V.T.I.C. Article 3.53, refers to Article 1.04, Insurance Code. That article was codified in 1999 as Subchapter D, Chapter 36, Insurance Code. The revised law is drafted accordingly.

[Sections 1153.105-1153.150 reserved for expansion]

SUBCHAPTER D. CREDIT INSURANCE REQUIREMENTS

Revised Law

Sec. 1153.151. FORMS OF CREDIT LIFE INSURANCE. Credit life insurance may be issued only as:

(1) an individual policy of life insurance issued to a debtor on a term plan; or

(2) a group policy of life insurance issued to a creditor on a term plan providing insurance on the lives of debtors. (V.T.I.C. Art. 3.53, Sec. 3 (part).)

Source Law

Sec. 3. Credit life insurance  
and . . . shall be issued only in the  
following forms:

- A. Individual policies of life  
insurance issued to debtors on the term plan;  
. . .
- C. Group policies of life  
insurance issued to creditors providing  
insurance upon the lives of debtors on the  
term plan; . . . .

Revised Law

Sec. 1153.152. FORMS OF CREDIT ACCIDENT AND HEALTH  
INSURANCE. Credit accident and health insurance may be issued  
only as:

- (1) an individual policy of accident and health  
insurance issued to a debtor on a term plan;
- (2) a disability benefit provision in an individual  
policy of credit life insurance;
- (3) a group policy of accident and health insurance  
issued to a creditor on a term plan insuring debtors; or
- (4) a disability benefit provision in a group policy  
of credit life insurance. (V.T.I.C. Art. 3.53, Sec. 3 (part).)

Source Law

Sec. 3. . . . credit accident and  
health insurance shall be issued only in the  
following forms:

- . . .
- B. Individual policies of accident  
and health insurance issued to debtors on a  
term plan or disability benefit provisions in  
individual policies of credit life insurance;  
. . .
- D. Group policies of accident and  
health insurance issued to creditors on a  
term plan insuring debtors or disability  
benefit provisions in group credit life  
insurance policies to provide such coverage.

Revised Law

Sec. 1153.153. EVIDENCE OF INSURANCE. Credit life  
insurance or credit accident and health insurance shall be  
evidenced by an individual policy or group certificate of  
insurance. (V.T.I.C. Art. 3.53, Sec. 6, Subsec. A (part).)

Source Law

Sec. 6. A. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, . . . .

Revised Law

Sec. 1153.154. REQUIREMENTS FOR DELIVERY OR ISSUANCE OF CREDIT INSURANCE POLICY. A policy of credit life insurance or credit accident and health insurance that is delivered or issued for delivery in this state may be delivered or issued for delivery only by an insurer authorized to engage in the business of insurance in this state and may be issued only through a holder of a license issued by the commissioner. (V.T.I.C. Art. 3.53, Sec. 9 (part).)

Source Law

Sec. 9. All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses issued by the Commissioner. . . .

Revised Law

Sec. 1153.155. LIMITS ON AMOUNT OF CREDIT LIFE INSURANCE.

(a) The initial amount of credit life insurance on a debtor may not exceed the total amount of debt repayable under the contract that evidences the credit transaction.

(b) If the debt is repayable in substantially equal installments, the amount of insurance may not at any time exceed the greater of the scheduled or actual unpaid amount of the debt under the contract. (V.T.I.C. Art. 3.53, Sec. 4, Subsec. A.)

Source Law

Sec. 4. A. (1) The initial amount of credit life insurance on any debtor shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

Revised Law

Sec. 1153.156. LIMITS ON AMOUNT OF CREDIT ACCIDENT AND HEALTH INSURANCE. (a) The total amount of indemnity payable by credit accident and health insurance may not exceed the total amount of debt repayable under the contract that evidences the credit transaction.

(b) The amount of a periodic indemnity payment may not exceed the scheduled periodic installment payment on the debt. (V.T.I.C. Art. 3.53, Sec. 4, Subsec. B.)

Source Law

B. The total amount of indemnity payable by credit accident and health insurance in the event of disability as defined in the policy on any debtor, shall not exceed the total amount repayable under the contract of indebtedness and the amount of each periodic indemnity payment shall not exceed the scheduled periodic installment payment on the indebtedness.

Revised Law

Sec. 1153.157. BEGINNING OF TERM OF CREDIT INSURANCE COVERAGE. (a) Except as otherwise provided by this section, the term of credit life insurance or credit accident and health insurance begins, subject to acceptance by the insurer, on the date that the debtor becomes obligated to the creditor.

(b) With respect to an obligation that exists when a group policy takes effect, coverage begins on the later of the effective date of the policy or the date of enrollment for coverage under the policy.

(c) If evidence of insurability is required and is provided after the 30th day after the date the debtor becomes obligated to the creditor, the term of the insurance may begin on the date the insurance company determines that the evidence is satisfactory. (V.T.I.C. Art. 3.53, Sec. 5 (part).)

Source Law

Sec. 5. The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy or the date of enrollment

for coverage under the group policy, whichever is later. Where evidence of insurability is required and such evidence is furnished more than thirty (30) days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and . . . .

Revised Law

Sec. 1153.158. DELIVERY OF EVIDENCE OF INSURANCE TO DEBTOR.

(a) At the time a debt for which credit insurance is sold is incurred:

(1) the individual policy or group certificate of insurance, as appropriate, shall be delivered to the debtor; or

(2) a copy of the application for the policy or certificate of insurance or a notice of proposed insurance that satisfies Section 1153.159 shall be delivered to the debtor.

(b) If delivery to the debtor is made under Subsection (a)(2), the insurer shall deliver the individual policy or group certificate of insurance to the debtor on acceptance of the insurance by the insurer and not later than the 45th day after the date the debt is incurred.

(c) If the insurer named in the application or notice under Subsection (a)(2) does not accept the risk, the debtor shall receive a policy or certificate of insurance that specifies the name and home office address of the substituted insurer and the amount of the premium to be charged for the insurance. (V.T.I.C. Art. 3.53, Sec. 6, Subsecs. A (part), C, D (part), E (part).)

Source Law

A. . . . which individual policy or group certificate of insurance shall be delivered to the debtor.

C. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

D. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, . . . shall be delivered to the debtor at the time such indebtedness is incurred. . . .

Upon acceptance of the insurance by the insurer and within forty-five (45) days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. . . .

E. If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and . . . .

Revised Law

Sec. 1153.159. REQUIREMENTS RELATING TO APPLICATION FOR INSURANCE OR NOTICE OF PROPOSED INSURANCE. A copy of an application for insurance or a notice of proposed insurance delivered under Section 1153.158 must:

- (1) be signed by the debtor;
  - (2) specify:
    - (A) the name and home office address of the insurer;
    - (B) the name of each debtor;
    - (C) the full amount of the premium or the total identifiable insurance charge, if any, to be paid by the debtor, separately for credit life insurance and credit accident and health insurance; and
    - (D) the amount, term, and a brief description of the coverage to be provided;
  - (3) refer exclusively to insurance coverage;
  - (4) be separate from the instrument or agreement for the loan or sale or other credit statement of account, unless the information required by this section is prominently set forth in that instrument, agreement, or statement; and
  - (5) provide that on acceptance by the insurer, the insurance becomes effective as provided by Section 1153.157.
- (V.T.I.C. Art. 3.53, Sec. 6, Subsec. D (part).)

Source Law

D. . . . a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the full amount of premium or the total identifiable insurance charge, if any, to the

debtor, separately for credit life insurance and credit accident and health insurance, the amount, term and a brief description of the coverage provided, . . . . The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this Subsection is prominently set forth therein. . . . Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in Section 5.

Revised Law

Sec. 1153.160. TERMINATION OF CREDIT INSURANCE. (a) The term of credit life insurance or credit accident and health insurance must end not later than the 15th day after the scheduled maturity date of the debt unless the coverage after that date is without additional cost to the debtor.

(b) If the debt is discharged by renewing or refinancing the debt before the scheduled maturity date, the insurance in force must terminate before new insurance may be issued in connection with the renewed or refinanced debt. (V.T.I.C. Art. 3.53, Sec. 5 (part).)

Source Law

Sec. 5. . . . The term of such insurance shall not extend more than fifteen (15) days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. . . .

Revised Law

Sec. 1153.161. INSURANCE MAY BE PROVIDED BY DEBTOR. If credit life insurance or credit accident and health insurance is required as additional security for a debt, the debtor, on request to the creditor, may provide the required amount of insurance through:

(1) an existing insurance policy owned or controlled by the debtor; or

(2) an insurance policy obtained from an insurer authorized to engage in the business of insurance in this state. (V.T.I.C. Art. 3.53, Sec. 11.)

Source Law

Sec. 11. When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State.

[Sections 1153.162-1153.200 reserved for expansion]

SUBCHAPTER E. CHARGES, REFUNDS, ADJUSTMENTS, AND CLAIMS

Revised Law

Sec. 1153.201. MAXIMUM AMOUNT OF INSURANCE CHARGE TO DEBTOR. A creditor may not charge a debtor for credit life or credit accident and health insurance issued to the debtor an amount that exceeds the amount of the premium that the insurer charges the creditor for that insurance, as computed at the time the charge to the debtor is determined. (V.T.I.C. Art. 3.53, Sec. 8, Subsec. D.)

Source Law

D. The amount charged to a debtor by the creditor for any credit life or credit accident and health insurance issued to the debtor shall not exceed the actual premium charged the creditor by the insurer for such insurance, as computed at the time the charge to the debtor is determined.

Revised Law

Sec. 1153.202. REFUND OF INSURANCE CHARGE ON TERMINATION OF DEBT OR INSURANCE; FILING OF FORMULA. (a) Each individual policy or group policy and group certificate shall provide that if the underlying debt or the insurance terminates before the scheduled maturity date of the debt, including the termination of a debt by renewing or refinancing the debt, the refund of any amount paid by or charged to the debtor for insurance shall be

paid or credited promptly to the person entitled to the refund.

(b) A refund is not required if the amount of the refund is less than \$3.

(c) The formula to be used in computing the refund of the amount paid by or charged to the debtor for insurance if the underlying debt or the insurance terminates before the scheduled maturity date of the debt must be filed with and approved by the commissioner. (V.T.I.C. Art. 3.53, Secs. 5 (part), 8, Subsec. B, as amended Acts 67th Leg., R.S., Chs. 493, 849.)

Source Law

Sec. 5. . . . [If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness.] In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in Section 8.

[Sec. 8]

B. [as amended Acts 67th Leg., R.S., Ch. 493] Each individual policy, or group policy and group certificate shall provide that in the event of termination of the indebtedness or the insurance prior to the schedule [sic] maturity date of the indebtedness, any refund of an amount paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, no refund need be made if the amount thereof is less than Five Dollars (\$5). The formula to be used in computing such refund shall be filed with and approved by the Commissioner.

B. [as amended Acts 67th Leg., R.S., Ch. 849] Each individual policy, or group policy and group certificate shall provide that in the event of termination of the indebtedness or the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, no refund need be made if the amount thereof is less than Three Dollars (\$3). The formula to be used in

computing such refund shall be filed with and approved by the Commissioner.

Revisor's Note

The text of Subsection B, Section 8, V.T.I.C. Article 3.53, was amended by Chapters 493 and 849, Acts of the 67th Legislature, Regular Session, 1981. Those amendments contain an irreconcilable conflict relating to the maximum amount for which a refund is not required under that section. The later-enacted amendment sets the ceiling at \$3, and that amount is used by the commissioner in the rule that corresponds to this section. (See 28 TAC Section 3.5905.) The revised law is drafted accordingly.

Revised Law

Sec. 1153.203. CERTAIN REFUNDS OR ADJUSTMENTS REQUIRED.

(a) If the beginning of the term of insurance is delayed under Section 1153.157(c), the charge to the debtor for insurance shall be adjusted or the appropriate amount shall be refunded to the debtor.

(b) If insurance is substituted under Section 1153.158(c) and the amount of premium for the substituted insurance is less than the amount specified in the application or notice of proposed insurance, the appropriate amount shall be refunded to the debtor.

(c) If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall:

- (1) immediately give written notice to the debtor; and
- (2) promptly make an appropriate credit to the debtor's account. (V.T.I.C. Art. 3.53, Sec. 5 (part); Sec. 6, Subsec. E (part); Sec. 8, Subsec. C.)

Source Law

Sec. 5. . . . [Where evidence of insurability is required and such evidence is furnished more than thirty (30) days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and] in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. . . .

[Sec. 6]

E. [If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and] if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.

[Sec. 8]

C. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

#### Revised Law

Sec. 1153.204. CLAIM UNDER POLICY. (a) A claim for recovery under a policy to which this chapter applies shall be reported promptly to the insurer or the insurer's designated claim representative.

(b) An insurer shall maintain adequate claim files.

(c) A claim shall be settled as soon as possible and in accordance with the insurance contract.

(d) A claim shall be paid by a draft drawn on the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due under the policy or on direction of the claimant to the person specified.

(e) A plan or arrangement may not be used to authorize an individual, firm, or corporation, other than the insurer or the insurer's designated claim representative, to settle or adjust a claim. The creditor may not be designated as claim representative for the insurer in settling or adjusting a claim. Notwithstanding this subsection, a group policyholder, under an arrangement with the group insurer, may draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer. (V.T.I.C. Art. 3.53, Sec. 10.)

#### Source Law

Sec. 10. A. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files.

All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

B. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

C. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in settling or adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

[Sections 1153.205-1153.700 reserved for expansion]

SUBCHAPTER O. ENFORCEMENT OF CHAPTER; PENALTY

Revised Law

Sec. 1153.701. COMPLIANCE ORDER. (a) If, after written notice to an insurer or other person who holds a license or other authorization issued by the commissioner and a hearing, the commissioner determines that a violation of this chapter or a rule adopted under this chapter has occurred, the commissioner shall issue the details of that determination and an order for compliance by a specified date.

(b) An order issued under this section is binding on the insurer or other person to whom it is issued on the date specified in the order unless:

(1) the order is withdrawn by the commissioner before that date; or

(2) the order is appealed under Subchapter D, Chapter 36. (V.T.I.C. Art. 3.53, Sec. 12 (part).)

Source Law

Sec. 12. . . . Whenever the Commissioner finds that there has been a violation of this Act or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person

authorized or licensed by the Commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the Commissioner on the date specified unless sooner withdrawn by the Commissioner or a review thereof and appeal therefrom has been taken to the State Board of Insurance or the Courts under Article 1.04, Insurance Code of Texas. . . .

Revisor's Note

(1) Section 12, V.T.I.C. Article 3.53, refers to "any rules or regulations." The reference to "regulations" is omitted from the revised law for the reason stated in the revisor's note under Section 1153.005.

(2) Section 12, V.T.I.C. Article 3.53, refers to Article 1.04, Insurance Code. That article was codified in 1999 as Subchapter D, Chapter 36, Insurance Code. The revised law is drafted accordingly.

(3) Section 12, V.T.I.C. Article 3.53, provides a transition for the application of certain provisions of that article. The revised law omits that provision as executed. The omitted law reads:

Sec. 12. . . . The provisions of Sections 5, 6, 7 and 8 of this Act shall not be operative until ninety (90) days after the effective date of this Act, and the Commissioner in his discretion may extend by not more than an additional ninety (90) days the initial period within which the provisions of said Sections shall not be operative.

Revised Law

Sec. 1153.702. PENALTY. (a) An individual, firm, or corporation who violates a final order issued under this chapter is liable to the state in a civil action for a penalty of not more than:

- (1) \$250; or
- (2) \$1,000, if the court finds the violation to be

wilful.

- (b) The penalty provided by this section is in addition to

any other penalty provided by law. (V.T.I.C. Art. 3.53, Sec. 14 (part).)

Source Law

Sec. 14. In addition to any other penalty provided by law, any person, firm or corporation which violates an order of the Commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of Texas a sum not to exceed Two Hundred and Fifty Dollars (\$250) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed One Thousand Dollars (\$1,000). . . .

Revisor's Note

Section 14, V.T.I.C. Article 3.53, provides a civil penalty for violating a final order "while such order is in effect." The revised law omits the quoted language as unnecessary because a person cannot violate an order that is not in effect.

Revised Law

Sec. 1153.703. REVOCATION OR SUSPENSION OF AUTHORITY ON VIOLATION OF ORDER. After notice and a hearing, the commissioner may revoke or suspend the license or certificate of authority of an individual, firm, or corporation that violates an order issued under this chapter. (V.T.I.C. Art. 3.53, Sec. 14 (part).)

Source Law

Sec. 14. . . . The Commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and . . . .

Revisor's Note

Section 14, V.T.I.C. Article 3.53, refers to judicial review as provided by Section 13 of that article. Section 13 is omitted from the revised law for the reason stated in the revisor's note at the end of this chapter. Accordingly, the revised law

omits that part of Section 14 that contains the reference to omitted Section 13. The omitted law reads:

Sec. 14. . . . shall be subject to judicial review as provided in Section 13 of this Act.

Revisor's Note  
(End of Chapter)

Subsection G, Section 7, and Section 13, V.T.I.C. Article 3.53, provide authority for the judicial review of an order or final determination of the commissioner. The revised law omits those provisions because they are redundant of the authority provided under Subchapter D, Chapter 36, Insurance Code, which was formerly V.T.I.C. Article 1.04. The omitted law reads:

[Sec. 7]

G. Any order or final determination of the Commissioner under the provisions of this Section shall be subject to the appeal and review provisions of Article 1.04, Insurance Code of Texas.

Sec. 13. Any party to any proceeding affected by an order of the Commissioner or the State Board of Insurance shall be entitled to judicial review by following the procedure set forth in Article 1.04, Insurance Code of Texas.

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES

[Subtitles A-G reserved]

SUBTITLE H. HEALTH BENEFITS AND OTHER COVERAGES FOR  
GOVERNMENTAL EMPLOYEES

CHAPTER 1551. TEXAS EMPLOYEES GROUP BENEFITS ACT

CHAPTER 1552. GROUP LONG-TERM CARE INSURANCE FOR STATE  
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[Chapters 1553-1574 reserved for expansion]

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SUBTITLE H. HEALTH BENEFITS AND OTHER COVERAGES FOR  
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CHAPTER 1551. TEXAS EMPLOYEES GROUP  
BENEFITS ACT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1551.001. SHORT TITLE. This chapter may be cited as  
the Texas Employees Group Benefits Act. (V.T.I.C. Art. 3.50-2,  
Sec. 1.)

Source Law

Art. 3.50-2

Sec. 1. This Act shall be known and may

be cited as the "Texas Employees Uniform Group Insurance Benefits Act."

Revised Law

Sec. 1551.002. PURPOSES. The purposes of this chapter are to:

(1) provide uniformity in life, accident, and health benefit coverages for all state officers and employees and their dependents;

(2) enable the state to attract and retain competent and able employees by providing employees and their dependents with life, accident, and health benefit coverages at least equal to those commonly provided in private industry;

(3) foster, promote, and encourage employment by and service to the state as a career profession for individuals of high standards of competence and ability;

(4) recognize and protect the state's investment in each permanent employee by promoting and preserving economic security and good health among employees and their dependents;

(5) foster and develop high standards of employer-employee relationships between the state and its employees; and

(6) recognize the long and faithful service and dedication of state officers and employees and encourage them to remain in state service until eligible for retirement by providing health benefits for them and their dependents.

(V.T.I.C. Art. 3.50-2, Sec. 2.)

Source Law

Sec. 2. It is hereby declared that the purposes of this Act are:

(a) to provide uniformity in life, accident, and health benefits coverages on all employees of the State of Texas and their dependents;

(b) to enable the State of Texas to attract and retain competent and able employees by providing them and their dependents with life, accident, and health benefits coverages at least equal to those commonly provided in private industry;

(c) to foster, promote, and encourage employment by and service to the State of Texas as a career profession for persons of high standards of competence and ability;

(d) to recognize and protect the state's investment in each permanent employee

by promoting and preserving economic security and good health among state employees and their dependents;

(e) to foster and develop high standards of employer-employee relationships between the State of Texas and its employees;

(f) to recognize the service to the state by elected state officials by extending to them and their dependents the same life, accident, and health benefits coverages as are provided herein for state employees and their dependents; and

(g) to recognize the long and faithful service and dedication of employees of the State of Texas and to encourage them to remain in state service until eligible for retirement by providing health benefits for such employees and their dependents.

#### Revised Law

Sec. 1551.003. GENERAL DEFINITIONS. In this chapter:

(1) "Administering firm" means a firm designated by the board of trustees to administer coverages, services, benefits, or requirements in accordance with this chapter and the rules adopted by the board of trustees under this chapter.

(2) "Annuitant" means an individual eligible to participate in the group benefits program under Section 1551.102.

(3) "Basic coverage" means the group coverage plans determined by the board of trustees in which each full-time employee and annuitant participates automatically unless participation is specifically waived.

(4) "Board of trustees" means the board of trustees established under Chapter 815, Government Code, to administer the Employees Retirement System of Texas.

(5) "Cafeteria plan" means a plan defined and authorized by Section 125, Internal Revenue Code of 1986.

(6) "Employee" means an individual eligible to participate in the group benefits program under Section 1551.101.

(7) "Employer" means this state and its agencies.

(8) "Executive director" means the executive director of the Employees Retirement System of Texas.

(9) "Full-time employee" means an employee designated by the employer as working 20 or more hours a week.

(10) "Group benefits program" means the state employees group benefits program provided by this chapter.

(11) "Part-time employee" means an employee designated by the employer as working less than 20 hours a week.

(12) "Serious mental illness" has the meaning assigned

by Section 1, Article 3.51-14.

(13) "Service" means personal service to the state creditable in accordance with rules adopted by the board of trustees.

(14) "State agency" means a commission, board, department, division, institution of higher education, or other agency of this state created by the constitution or statutes of this state. The term also includes the Texas Municipal Retirement System and the Texas County and District Retirement System. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(1), (4), (6), (10), (11), (14) (part), (15) (part), (16), (17), (23); 3A(a) (part); New.)

Source Law

(1) "Administering firm" shall mean any firm designated by the trustee to administer any coverages, services, benefits, or requirements in accordance with this Act and the trustee's regulations promulgated pursuant thereto.

(4) "Department" shall mean commission, board, agency, division, institution of higher education, or department of the State of Texas created as such by the constitution or statutes of this state.

(6) "Employer" shall mean the State of Texas and all its departments.

(10) "Service" shall mean any personal service of an employee creditable in accordance with rules and regulations promulgated by the trustee.

(11) "Trustee" shall mean the Board of Trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas.

(14) "Part-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working less than 20 hours per week. . . .

(15) "Full-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working 20 or more hours per week. . . .

(16) "Basic coverage" shall mean the programs of group coverages determined by the trustee in which every full-time employee and every annuitant participates automatically unless participation is specifically waived.

(17) "Cafeteria plan" means a plan as defined and authorized by Section 125, Internal Revenue Code of 1986 (26 U.S.C. Sec. 125).

(23) "Serious mental illness" has the meaning assigned by Section 1, Article 3.51-14, Insurance Code.

Sec. 3A. (a) The Texas Municipal Retirement System and the Texas County and District Retirement System shall participate in the Texas Employees Uniform Group Insurance Program administered by the Employees Retirement System of Texas under this Act. . . .

Revisor's Note

(1) Section 3(a)(1), V.T.I.C. Article 3.50-2, refers to "regulations" adopted by the board of trustees. Section 3(a)(10), V.T.I.C. Article 3.50-2, refers to "rules and regulations" adopted by the board of trustees. Throughout this chapter, "rule" is used instead of "regulation" because that is the term more commonly used and is the term used by Chapter 2001, Government Code, the administrative procedure law. In addition, "regulations" is omitted from the revised law throughout this chapter when used in conjunction with "rules" because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

(2) Sections 3(a)(2) and (5), V.T.I.C. Article 3.50-2, together with some additional provisions, describe annuitants and employees eligible to participate in the group benefits program provided under Article 3.50-2, revised as this chapter. These provisions are revised as Sections 1551.101 and

1551.102, respectively. For the convenience of the reader, the revised law defines "annuitant" and "employee" by reference to these provisions.

(3) Section 3(a)(4), V.T.I.C. Article 3.50-2, defines "department." The revised law substitutes "state agency" for "department" as the defined term to avoid confusion with the use of "department" throughout this code to mean the Texas Department of Insurance and because "state agency" more accurately reflects the substance of the definition. The revised law includes in the definition of state agency the Texas Municipal Retirement System and the Texas County and District Retirement System because under Section 3A(a), V.T.I.C. Article 3.50-2, revised in this section and in Section 1551.111, those entities participate in the program operated under this chapter in the same manner as a state agency.

(4) Section 3(a)(11), V.T.I.C. Article 3.50-2, defines "trustee" for purposes of this chapter as meaning "the Board of Trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas." For clarity and convenience, the revised law substitutes "board of trustees" for "trustee" as the defined term. The substitution of "board of trustees" for "trustee" is also made throughout this chapter to reflect the change made in this section.

(5) Section 3(a)(16), V.T.I.C. Article 3.50-2, refers to the "programs of group coverages" provided as basic coverage. V.T.I.C. Article 3.50-2 includes references to "group coverages," "group coverage plans," and "group benefits coverages," as well as other, similar terms, and to a "group life insurance program." For consistency of terminology and to avoid confusion with the Texas employees group benefits program as a whole, the revised law uses "group coverage plans" and "group coverage" throughout this chapter to refer to specific benefits and coverages included in the group benefits program.

(6) The definitions of "executive director" and "group benefits program" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions. Throughout this chapter, appropriate changes in terminology have been made to reflect those defined terms.

Revised Law

Sec. 1551.004. DEFINITION OF DEPENDENT. (a) In this chapter, "dependent" with respect to an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 means the individual's:

(1) spouse;

(2) unmarried child younger than 25 years of age;

(3) child of any age who lives with or has the child's care provided by the individual on a regular basis if the child is mentally retarded or physically incapacitated to the extent that the child is dependent on the individual for care or support, as determined by the board of trustees; and

(4) child of any age who is unmarried, for purposes of health benefit coverage under this chapter, on expiration of the child's continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272).

(b) In this section, "child" includes an adopted child and a stepchild, foster child, or other child who is in a parent-child relationship with an individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102. (V.T.I.C. Art. 3.50-2, Sec. 3(a)(8).)

Source Law

(8) "Dependent" shall mean the spouse of an employee or retired employee and:

(A) an unmarried child under 25 years of age, including an adopted child and a stepchild, foster child, or other child who is in a regular parent-child relationship;

(B) any such child, regardless of age, who lives with or whose care is provided by an employee or annuitant on a regular basis if such child is mentally retarded or physically incapacitated to such an extent as to be dependent upon the employee or retired employee for care or support, as the trustee shall determine; and

(C) any such child who is

unmarried, regardless of age, for purposes of health benefits coverage under this Act, on expiration of the child's continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272).

Revisor's Note

Section 3(a)(8), V.T.I.C. Article 3.50-2, refers to an "employee," a "retired employee," and an "annuitant." Under Section 3(a)(5), V.T.I.C. Article 3.50-2, "employee" is defined to include specified annuitants. Section 3(a)(5) is revised as Sections 1551.101 and 1551.102, which delineate participation eligibility requirements for employees and annuitants. Throughout this chapter, where appropriate, the revised law substitutes "individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102" for the quoted terms.

Revised Law

Sec. 1551.005. DEFINITION OF HEALTH BENEFIT PLAN. (a) In this chapter, "health benefit plan" means a plan that provides, pays for, or reimburses expenses for health care services, including comparable health care services for participants who rely solely on spiritual means through prayer for healing in accordance with the teaching of a well-recognized church or denomination.

(b) A health benefit plan shall be provided on a group basis through:

- (1) a policy or contract;
- (2) a medical, dental, or hospital service agreement;
- (3) a membership or subscription contract;
- (4) a salary continuation plan;
- (5) a health maintenance organization agreement;
- (6) a preferred provider arrangement; or
- (7) any other similar group arrangement or a combination of policies, plans, contracts, agreements, or arrangements described by this subsection. (V.T.I.C. Art. 3.50-2, Sec. 3(a)(7).)

Source Law

(7) "Health benefits plan" shall mean any group policy or contract, medical, dental, or hospital service agreement, membership or subscription contract, salary

continuation plan, health maintenance organization agreement, preferred provider arrangement, or any similar group arrangement or any combination of those policies, plans, contracts, agreements, or arrangements provided for the purpose of providing, paying for, or reimbursing expenses for health care services, including comparable health care services for employees who rely solely on spiritual means through prayer for healing in accordance with the teaching of a well recognized church or denomination.

Revisor's Note

Section 3(a)(7), V.T.I.C. Article 3.50-2, refers to health care services for certain "employees." The revised law substitutes "participants" for "employees" because it is clear from the context of the source law that the legislature intended to refer to all individuals participating in the group benefits program, including eligible dependents. Throughout this chapter, similar changes are made where appropriate.

Revised Law

Sec. 1551.006. DEFINITION OF INSTITUTION OF HIGHER EDUCATION. (a) In this chapter, except as provided by Subsection (b), "institution of higher education" means a public junior college, a senior college or university, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Education Code.

(b) In this chapter, "institution of higher education" does not include:

(1) an entity in The University of Texas System, as described by Section 65.02, Education Code; and

(2) an entity in The Texas A&M University System, as described by Subtitle D, Title 3, Education Code, including the Texas Veterinary Medical Diagnostic Laboratory. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(18), (19), (20).)

Source Law

(18) "Institution of higher education" means any public community/junior college or senior college or university, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Education Code, except The University of Texas System and The Texas A&M University

System.

(19) "The University of Texas System" means the entities listed or described in Section 65.02, Education Code.

(20) "The Texas A&M University System" means the entities governed under Chapters 85 through 88, Education Code, and includes the Texas Veterinary Diagnostic Laboratory.

Revisor's Note

(1) Section 3(a)(18), V.T.I.C. Article 3.50-2, refers to a "public community/junior college." Throughout this chapter, the revised law substitutes "public junior college" for "public community/junior college" because "public junior college" is the standard statutory term for those colleges. See Section 61.003, Education Code, and Chapter 130, Education Code.

(2) Section 3(a)(20), V.T.I.C. Article 3.50-2, refers to "Chapters 85 through 88, Education Code." Those chapters make up Subtitle D, Title 3, Education Code, and the revised law refers to that subtitle.

Revised Law

Sec. 1551.007. DEFINITION OF CARRIER. In this chapter, "carrier" means:

(1) an insurance company that is authorized by the department under this code to provide any of the types of insurance coverages, benefits, or services provided for in this chapter and that:

(A) has a surplus of \$1 million;

(B) has a successful operating history; and

(C) has had successful experience, as determined by the department, in providing and servicing any of the types of group coverage provided for in this chapter;

(2) a corporation operating under Chapter 842 or 843 that provides any of the types of coverage, benefits, or services provided for in this chapter and that:

(A) has a successful operating history; and

(B) has had successful experience, as determined by the department, in providing and servicing any of the types of group coverage provided for in this chapter; or

(3) any combination of carriers described by Subdivisions (1) and (2) on terms the board of trustees prescribes. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(3), (9) (part).)

Source Law

(3) "Carrier" shall mean a qualified carrier as defined in this Act.

(9) "Qualified carrier" shall mean:

(A) any insurance company authorized to do business in this state by the Texas Department of Insurance to provide any of the types of insurance coverages, benefits, or services provided for in this Act under any of the insurance laws of the State of Texas, which has a surplus of \$1 million, a successful operating history, and which has had successful experience in providing and servicing any of the types of group coverage provided for in this Act as determined by the Texas Department of Insurance;

(B) any corporation operating under Chapter 20 of the Insurance Code or under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) which provides any of the types of coverage, benefits, or services provided for in this Act, a successful operating history, and which has had successful experience in providing and servicing any of the types of group coverage provided for in this Act as determined by the Texas Department of Insurance; or

(C) any combination or carriers as herein defined, upon such terms and conditions as may be prescribed by the trustee, . . . .

Revisor's Note

(1) Section 3(a), V.T.I.C. Article 3.50-2, defines "carrier" as a "qualified carrier." Section 3(a)(9) of that article defines "qualified carrier." The revised law defines only "carrier" and omits the reference to "qualified carrier." "Carrier" is the term used throughout this chapter.

(2) Section 3(a)(9)(A), V.T.I.C. Article 3.50-2, refers to "any insurance company authorized . . . to provide any of

the [coverages] . . . under any of the insurance laws of the State of Texas." The revised law substitutes "this code" for "insurance laws of the State of Texas" because all of the laws of this state relating to the authorization of insurance companies and related entities have been codified in this code.

(3) Section 3(a)(9)(C), V.T.I.C. Article 3.50-2, refers to the "terms and conditions" the trustee may prescribe. The reference to "conditions" is omitted from the revised law because "conditions" is included within the meaning of "terms."

Revised Law

Sec. 1551.008. APPLICABILITY OF DEFINITIONS. The definition of a term defined by this subchapter and the use of the terms "employee" and "annuitant" to refer to individuals eligible to participate in the group benefits program under Sections 1551.101 and 1551.102 apply to this chapter unless a different meaning is plainly required by the context in which the term appears. (V.T.I.C. Art. 3.50-2, Sec. 3(a) (part).)

Source Law

Sec. 3. (a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this Act shall have the following meanings:

. . .

Revised Law

Sec. 1551.009. BOARD OF TRUSTEES MAY DEFINE OTHER WORDS. The board of trustees may define by rule a word in terms necessary in the administration of this chapter. (V.T.I.C. Art. 3.50-2, Sec. 3(b).)

Source Law

(b) In addition to the foregoing definitions, the trustee shall have authority to define by rule any words in terms necessary in the administration of this Act.

Revised Law

Sec. 1551.010. BOARD OF TRUSTEES APPROVAL FOR PAYROLL DEDUCTIONS OR REDUCTIONS. A state agency may not establish, continue, or authorize payroll deductions or reductions for any benefit or coverage as provided by this chapter without the express approval of the board of trustees. (V.T.I.C. Art. 3.50-2,

Sec. 5(d).)

Source Law

(d) No department shall establish, continue, or authorize payroll deductions or reductions for any benefits or coverage as provided in this Act without the express approval of the trustee.

Revised Law

Sec. 1551.011. EXEMPTION FROM EXECUTION. All benefit payments, contributions of employees and annuitants, and optional benefit payments, any rights, benefits, or payments accruing to a person under this chapter, and all money in a fund created by this chapter:

(1) are exempt from execution, attachment, garnishment, or any other process; and

(2) may not be assigned, except:

(A) for direct payment that a participant may assign to a provider of health care services; and

(B) as specifically provided by this chapter.

(V.T.I.C. Art. 3.50-2, Sec. 10(a).)

Source Law

Sec. 10. (a) Exemption from Execution. All benefit payments, employee contributions, optional benefits payments, and any and all rights, benefits, or payments accruing to any person under the provisions of this Act, as well as all money in any fund created by this Act, shall be and the same are hereby exempt from execution, attachment, garnishment, or any other process whatsoever and shall be unassigned except for direct payment which the employee may assign to providers of health care services and as specifically provided in this Act.

Revised Law

Sec. 1551.012. EXEMPTION FROM STATE TAXES AND FEES. Any coverage established under this chapter, including a policy, an insurance contract, a certificate of coverage, an evidence of coverage, and an agreement with a health maintenance organization or a plan administrator, is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. (V.T.I.C. Art. 3.50-2, Sec. 10(b).)

Source Law

(b) Policies, insurance contracts, certificates of coverage, evidence of coverage, and agreements with health maintenance organizations and plan administrators, or any other coverages established under this Act, shall not be subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

Revised Law

Sec. 1551.013. COMBINING OF CARRIERS NOT RESTRAINT OF TRADE. Carriers combining to bid, underwrite, or both bid and underwrite for the group benefits program are not in violation of Chapter 15, Business & Commerce Code. (V.T.I.C. Art. 3.50-2, Sec. 3(a)(9) (part).)

Source Law

(9) . . . providing, however, that for purposes of this Act carriers combining for the purpose of bidding and/or underwriting this program shall not be considered in violation of Sections 15.01 through 15.34, Chapter 15, Title 2, Competition and Trade Practices, Texas Business & Commerce Code.

Revisor's Note

Section 3(a)(9), V.T.I.C. Article 3.50-2, refers to "Sections 15.01 through 15.34, Chapter 15, Title 2, Competition and Trade Practices, Texas Business & Commerce Code." Because some of the sections referred to have been repealed, the revised law omits specific references to sections and refers only to Chapter 15, Business & Commerce Code.

Revisor's Note

(End of Subchapter)

Sections 3(a)(12), (13), (21), and (22), V.T.I.C. Article 3.50-2, define "active employee plan," "retired employees plan," "Texas Tech University," and "University of Houston System." The revised law omits these definitions because the defined terms are not used in the source law for this chapter or in

the revision. The omitted definitions read:

(12) "Active employee plan" shall mean a plan or program of group coverages as determined by the trustee as defined in Paragraph (11) above for the benefit of employees as defined in this Act who are not retired.

(13) "Retired employees plan" shall mean a plan or program of group coverages as determined by the trustee for all retired employees as defined in this Act. . . .

(21) "Texas Tech University" means Texas Tech University, the Texas Tech University Museum, and the Texas Tech University Health Sciences Center.

(22) "University of Houston System" means the entities governed under Section 111.20, Education Code.

[Sections 1551.014-1551.050 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATION AND IMPLEMENTATION

##### Revised Law

Sec. 1551.051. ADMINISTRATION AND IMPLEMENTATION. The administration and implementation of this chapter are vested solely in the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

##### Source Law

Sec. 4. The administration and implementation of this Act are vested solely in the trustee. . . .

##### Revised Law

Sec. 1551.052. AUTHORITY FOR RULES, PLANS, PROCEDURES, AND ORDERS. (a) The board of trustees may adopt rules consistent with this chapter as it considers necessary to implement this chapter and its purposes, including rules that provide standards for determining eligibility for participation in the group benefits program, including standards for determining disability.

(b) The board of trustees may adopt a plan, procedure, or order reasonably necessary to implement this chapter and its purposes. (V.T.I.C. Art. 3.50-2, Secs. 4 (part), 4A (part).)

##### Source Law

Sec. 4. . . . The trustee shall have

full power and authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of this Act in all its particulars, including but not limited to the following:

. . .

(h) adoption of all rules and regulations consistent with the provisions of this Act and its purpose as it deems necessary to carry out its statutory duties and responsibilities;

. . .

Sec. 4A. The trustee may adopt rules consistent with this Act that provide standards for determining eligibility for participation in the program established by this Act, including standards for determining disability. . . .

Revisor's Note

Section 4, V.T.I.C. Article 3.50-2, refers to purposes, "including but not limited to the following" purposes. "[B]ut not limited to the following" is omitted from the revised law as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "include" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

Revised Law

Sec. 1551.053. AUTHORITY TO HIRE EMPLOYEES. (a) The board of trustees may hire employees as the board considers necessary to ensure the proper administration of this chapter and the coverages, services, and benefits provided for or authorized by this chapter.

(b) The board of trustees shall determine and assign the compensation and duties of the employees. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . As it shall deem necessary to insure the proper administration of this Act and the insurance coverages, services, and benefits provided for or authorized by this Act, the trustee, as an agency of the

State of Texas, shall have full power and authority to hire employees. The duties of such employees and their compensation shall be determined and assigned by the trustee. . . .

Revisor's Note

(1) Section 4, V.T.I.C. Article 3.50-2, refers to administration of "insurance coverages." It is clear that the language is intended to encompass any of the group coverages offered through the group benefits program, including health benefit plans offered in accordance with Section 3(a)(7), V.T.I.C. Article 3.50-2, revised in this chapter as Section 1551.005. Some of the coverage provided may not be insurance coverage. For example, coverage offered by a health maintenance organization is not insurance coverage. As a result, the revised law omits the reference to "insurance."

(2) Section 4, V.T.I.C. Article 3.50-2, refers to the trustee "as an agency of the State of Texas." The revised law omits this language as unnecessary because the trustee, which is the board of trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas, is clearly an agency of the state.

Revised Law

Sec. 1551.054. LIABILITY INSURANCE. The board of trustees may purchase liability insurance for the board and employees and agents of the board in amounts that the board, in its sole discretion, considers reasonable and necessary. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . [The trustee shall have full power and authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of this Act in all its particulars, including but not limited to the following:]

. . .

(1) purchase of liability insurance for the coverage of the trustees, employees, and agents of the board of

trustees in such amounts as the board of trustees, in its sole discretion, considers reasonable and necessary;

. . .

Revised Law

Sec. 1551.055. GENERAL POWERS OF BOARD OF TRUSTEES REGARDING COVERAGE PLANS. The board of trustees may:

- (1) prepare specifications for a coverage provided under this chapter;
- (2) prescribe the time and conditions under which an individual is eligible for a coverage provided under this chapter;
- (3) determine the methods and procedures of claims administration;
- (4) determine the amount of payroll deductions and reductions applicable to employees and annuitants and establish procedures to implement those deductions and reductions;
- (5) establish procedures for the board of trustees to decide contested cases arising from a coverage provided under this chapter;
- (6) study, on an ongoing basis, the operation of all coverages provided under this chapter, including gross and net costs, administration costs, benefits, utilization of benefits, and claims administration;
- (7) administer the employees life, accident, and health insurance and benefits fund;
- (8) provide the beginning and ending dates of coverages of participants under all benefit plans;
- (9) develop basic group coverage plans applicable to all individuals eligible to participate in the group benefits program under Sections 1551.101 and 1551.102;
- (10) provide for optional group coverage plans in addition to the basic group coverage plans;
- (11) provide, as the board of trustees determines is appropriate, either additional statewide optional coverage plans or individual agency coverage plans;
- (12) develop health benefit plans that permit access to high-quality, cost-effective health care;
- (13) design, implement, and monitor health benefit plan features intended to discourage excessive utilization, promote efficiency, and contain costs;
- (14) develop and refine, on an ongoing basis, a health benefit strategy consistent with evolving benefit delivery systems; and
- (15) develop a funding strategy that efficiently uses employer contributions to achieve the purposes of this chapter and that is reasonable and ensures participants a fair choice

among health benefit plans as provided by Section 1551.302.  
(V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . [The trustee shall have full power and authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of this Act in all its particulars, including but not limited to the following:]

(a) preparation of specifications for coverages provided by authority of this Act;

(b) prescribing the time at which and the conditions under which an employee is eligible for all coverages provided under this Act;

(c) determination of the methods and procedures of claims administration;

(d) determination of the amount of employee payroll deductions and reductions and the responsibility of establishing procedures by which such deductions and reductions shall be made;

(e) establishment of procedures by which the trustee shall decide contested cases arising from programs or coverages provided under authority of this Act;

(f) continuing study of the operation of all coverages provided under this Act, including such matters as gross and net cost, administration costs, benefits, utilization of benefits, and claims administration;

(g) administration of the Employees Life, Accident, and Health Insurance and Benefits Fund, providing for the beginning and ending dates of coverages of employees and annuitants and their dependents under all benefit plans;

. . .

(i) development of basic plans of group coverages and benefits applicable to all employees. The trustee also may provide for optional group coverages and benefits in addition to the basic plan;

(j) to provide either additional

statewide optional programs or individual agency optional programs as the trustee may determine is appropriate;

. . .

(m) development of health benefits plans that permit access to high quality, cost-effective health care;

(n) designing, implementing, and monitoring health benefits plan features intended to discourage excessive utilization, promote efficiency, and contain costs;

(o) development and continuing refinement of a health care benefit strategy consistent with evolving benefit delivery systems; and

(p) development of a funding strategy to efficiently utilize employer contributions to achieve the purposes of this Act and which is reasonable and assures employees and retired employee annuitants a fair choice among health benefit plans as set out in Section 14 of this Act.

Revisor's Note

Section 4(i), V.T.I.C. Article 3.50-2, refers to the authority of the board of trustees for the "development of basic plans of group coverages and benefits applicable to all employees." The revised law omits the reference to "benefits" because in this context, "benefits" are clearly included within the meaning of "coverages."

Revised Law

Sec. 1551.056. INDEPENDENT ADMINISTRATOR. (a) The board of trustees may, on a competitive bid basis, contract with an entity to act for the board as an independent administrator or manager of the coverages, services, and benefits authorized under this chapter.

(b) The entity must be a qualified, experienced firm of group insurance specialists or an administering firm and shall assist the board of trustees in ensuring the proper administration of this chapter and the coverages, services, and benefits provided for or authorized by this chapter.

(c) The board of trustees shall pay an independent administrator selected under this section. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . The trustee may, on a competitive bid basis, contract with a qualified, experienced firm of group insurance specialists or an administering firm who shall act for the trustee in a capacity as independent administrators and managers of the programs authorized under this Act. The independent administrator so selected by the trustee shall assist the trustee to insure the proper administration of the Act and the coverages, services, and benefits provided for or authorized by the Act and shall be paid by the trustee. . . .

Revised Law

Sec. 1551.057. COMPENSATION OF PERSON EMPLOYED BY BOARD OF TRUSTEES. The board of trustees shall pay the compensation and expenses of a person employed by the board at the rate or in the amount approved by the board. The rate or amount may not exceed the rate or amount paid for similar services. (V.T.I.C. Art. 3.50-2, Sec. 4 (part).)

Source Law

Sec. 4. . . . Compensation of all persons employed by the trustee and their expenses shall be paid at such rates and in such amounts as the trustee shall approve, providing that in no case shall they be greater than those expenses paid for like or similar services. . . .

Revised Law

Sec. 1551.058. ELECTRONIC AUTHORIZATIONS. (a) The board of trustees may develop a system for a participant to electronically authorize:

- (1) enrollment in a coverage or benefit;
- (2) contributions to a coverage or benefit; and
- (3) deductions or reductions to the participant's

compensation or annuity for participation in a coverage or benefit.

(b) Notwithstanding any other law, the board of trustees may permit or require an authorization covered by Subsection (a) to be made electronically. (V.T.I.C. Art. 3.50-2, Sec. 4C.)

Source Law

Sec. 4C. (a) The trustee may develop a

system for an employee or annuitant to electronically authorize:

- (1) enrollment in a coverage or benefit program;
- (2) contributions to a coverage or benefit program; and
- (3) deductions or reductions to the compensation or annuity of the employee or annuitant for participation in a coverage or benefit program.

(b) The trustee may permit or require an authorization covered by Subsection (a) of this section to be made electronically, notwithstanding any law to the contrary.

#### Revised Law

Sec. 1551.059. CERTIFICATE OF COVERAGE. The board of trustees shall provide for issuance to each employee or annuitant participating in the group benefits program a certificate of coverage that states:

- (1) the benefits to which the participant is entitled;
- (2) to whom the benefits are payable;
- (3) to whom a claim must be submitted; and
- (4) the provisions of the plan document, in summary form, that principally affect the participant. (V.T.I.C. Art. 3.50-2, Sec. 6(a).)

#### Source Law

Sec. 6. (a) The trustees shall provide for the issuance to each employee insured under this Act a certificate of insurance setting forth the benefits to which the employee is entitled, to whom the benefits are payable, to whom the claims shall be submitted, and summarizing the provisions of the policy principally affecting the employee.

#### Revised Law

Sec. 1551.060. IDENTIFICATION CARDS. (a) The board of trustees may issue a single identification card to a participant in a health benefit plan and separately administered coverage under this chapter that offers pharmacy benefits.

(b) The card may contain information regarding both health and pharmacy benefits. (V.T.I.C. Art. 3.50-2, Sec. 6(b).)

Source Law

(b) The trustee may issue a single identification card to participants in a health benefits plan and separately administered coverage under this Act that offers pharmacy benefits. The card may contain information regarding both health and pharmacy benefits.

Revised Law

Sec. 1551.061. ANNUAL REPORT. The board of trustees shall submit a written report not later than January 1 of each year to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board concerning the coverages provided and the benefits and services being received by all participants under this chapter. The report must include information about the effectiveness and efficiency of:

- (1) managed care cost containment practices; and
- (2) fraud detection and prevention procedures.

(V.T.I.C. Art. 3.50-2, Sec. 7.)

Source Law

Sec. 7. The trustee shall make a written report not later than January 1 of each year to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board concerning the coverages provided and the benefits and services being received by all employees insured under the provisions of this Act and including information about the effectiveness and efficiency of managed care cost containment practices and fraud detection and prevention procedures.

Revised Law

Sec. 1551.062. INFORMATION ON OPERATION AND ADMINISTRATION OF CHAPTER. (a) The board of trustees shall:

(1) conduct a continuing study of the operation and administration of this chapter, including:

(A) conducting surveys and preparing reports on group coverages and benefits available to participants; and

(B) studying experience relating to group coverages and benefits available to participants; and

(2) maintain statistics on the number, type, and disposition of fraudulent claims for benefits under this chapter.

(b) A contract entered into under this chapter must require

a carrier to:

(1) furnish any reasonable report the board of trustees determines is necessary to enable the board to perform its functions under this chapter; and

(2) permit the board and a representative of the state auditor to examine records of the carrier as necessary to accomplish the purposes of this chapter.

(c) Each state agency shall keep records, make certifications, and furnish the board of trustees with information and reports necessary to enable the board to perform its functions under this chapter. (V.T.I.C. Art. 3.50-2, Sec. 17.)

#### Source Law

Sec. 17. (a) The trustee shall:

(1) make a continuing study of the operation and administration of this Act, including surveys and reports of group coverages and benefits available to employees and on the experience thereof; and

(2) maintain statistics on the number, type, and disposition of fraudulent claims for benefits under this Act.

(b) Each contract entered into under this Act shall contain provisions requiring carriers to

(1) furnish such reasonable reports as the trustee determines to be necessary to enable it to carry out its functions under this Act; and

(2) permit the trustee and representatives of the state auditor to examine records of the carriers as may be necessary to carry out the purposes of this Act.

(c) Each state department shall keep such records, make such certifications, and furnish the trustee with such information and reports as may be necessary to enable the trustee to carry out its functions under this Act.

#### Revised Law

Sec. 1551.063. CONFIDENTIALITY OF CERTAIN RECORDS. (a) The records of a participant in the group benefits program in the custody of the board of trustees, or of an administrator or carrier acting on behalf of the board, are confidential and not subject to disclosure and are exempt from the public access

provisions of Chapter 552, Government Code, except as provided by this section.

(b) The records may be released to a participant or to an authorized attorney, family member, or representative acting on behalf of the participant.

(c) The board of trustees may release the records to:

(1) an administrator, carrier, agent, or attorney acting on behalf of the board;

(2) another governmental entity;

(3) a medical provider of the participant to accomplish the purposes of this chapter; or

(4) a party in response to a subpoena issued under applicable law.

(d) The records of a participant remain confidential after release to a person as authorized by this section.

(e) The records of a participant may become part of the public record of an administrative or judicial proceeding related to a contested case under this chapter unless the records are closed to public access by a protective order issued under applicable law. (V.T.I.C. Art. 3.50-2, Sec. 10(c).)

Source Law

(c) The records of a participant in the Texas Employees Uniform Group Insurance Program in the custody of the trustee, or of an administrator or carrier acting on behalf of the trustee, are confidential and not subject to disclosure and are exempt from the public access provisions of Chapter 552, Government Code, except as provided by this subsection. Records may be released to a participant or to an authorized attorney, family member, or representative acting on behalf of the participant. The trustee may release the records to an administrator, carrier, or agent or attorney acting on behalf of the trustee, to another governmental entity, to a medical provider of the participant for the purpose of carrying out the purposes of this Act, or to a party in response to a subpoena issued under applicable law. The records of a participant remain confidential after release to a person as authorized by this subsection. The records of a participant may become part of the public record of an administrative or judicial proceeding related to a contested case under this Act, unless the records are

closed to public access by a protective order issued under applicable law.

Revised Law

Sec. 1551.064. CERTAIN GROUP HEALTH AND ACCIDENT POLICIES OR CONTRACTS. (a) This section applies only to a group policy or contract described by Section 3B(a), Article 3.51-6. A policy or contract executed under this chapter must provide that:

(1) premium payments must be:

(A) paid directly to the Employees Retirement System of Texas; and

(B) postmarked or received not later than the 10th day of the month for which the premium is due;

(2) the premium for group continuation coverage under Section 3B, Article 3.51-6, may not exceed the level established for other surviving dependents of deceased employees and annuitants;

(3) at the time the group policy or contract is delivered, issued for delivery, renewed, amended, or extended, the Employees Retirement System of Texas shall give notice of the continuation option to each state agency covered by the group benefits program; and

(4) each state agency shall give written notice of the continuation option to each employee and dependent of an employee who is covered by the group benefits program.

(b) A group policy or contract executed under this chapter must provide that, not later than the 15th day after the date of any severance of the family relationship that might activate the continuation option under Section 3B, Article 3.51-6, the group member shall give written notice of the severance to the employing state agency.

(c) On receipt of notice under Subsection (b) or on the death of an employee, the employing state agency shall give written notice of the continuation option to each affected dependent. The notice must state the amount of the premium to be charged and must be accompanied by any necessary enrollment forms.

(d) A covered dependent must exercise the continuation option not later than the 45th day after the date of:

(1) the severance of the family relationship; or

(2) the retirement or death of the group member.

(e) A covered dependent must provide written notice of the exercise of the continuation option to the employing state agency within the time prescribed by Subsection (d). Coverage under the policy or contract remains in effect during the period prescribed by Subsection (d) if the premiums are paid.

(f) Any period of previous coverage under the policy or contract must be used in full or partial satisfaction of any

required probationary or waiting periods provided in the policy or contract for dependent coverage. (V.T.I.C. Art. 3.51-6, Sec. 3B(m).)

Source Law

(m) Contracts executed pursuant to the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) shall provide that:

(1) Premium payments must be remitted directly to the Employees Retirement System of Texas and must be postmarked or received not later than the 10th day of the month for which the premium is due.

(2) The premium for this group continuation coverage may not exceed the level established for other surviving dependents of deceased employees or retirees.

(3) At the time the health insurance policy is delivered, issued for delivery, renewed, amended, or extended on or after January 1, 1986, the Employees Retirement System of Texas shall give notice of the continuation option to each commission, agency, and institution covered by the program. The commissions, agencies, and institutions shall give written notice of the continuation option to each of their employees and each dependent of those employees who are covered by the health insurance program.

(4) Each member of the group shall give written notice to the employing agency within 15 days of any severance of family relationship that might activate the continuation option under Subsection (b) of this section. Upon receipt of such notice or upon the death of an employee, the employing agency shall give written notice to each affected dependent of the continuation option, which shall include a statement of the amount of the premium to be charged. Notice under this paragraph will be accompanied by any necessary enrollment forms.

(5) The covered dependent must exercise this continuation option within 45 days from the severance of the family

relationship or the retirement or death of the member and must provide written notification to the employing agency within 45 days. Coverage under the health insurance policy remains in effect during this 45-day period provided the policy premiums are paid.

(6) Any period of previous coverage under the health insurance policy is to be used in full or partial satisfaction of any required probationary or waiting periods provided in the contract for dependent coverage.

Revisor's Note

(1) Section 3B(m), V.T.I.C. Article 3.51-6, applies only to a policy or contract described by Section 3B(a) of that article. The revised law includes a reference to that section.

(2) Section 3B(m)(3), V.T.I.C. Article 3.51-6, refers to an insurance policy under the Texas Employees Uniform Group Insurance Benefits Act (revised as this chapter) that is "delivered, issued for delivery, renewed, amended, or extended on or after January 1, 1986." The revised law omits the reference to January 1, 1986, as obsolete; any insurance policy or contract under that act in effect now or in the future would have been delivered, issued, renewed, amended, or extended on or after that date.

Revisor's Note

(End of Subchapter)

Section 4, V.T.I.C. Article 3.50-2, authorizes the board of trustees to enter into interagency contracts. The revised law omits this provision because it duplicates the authorization provided for all state agencies by Chapter 771, Government Code. The omitted law reads:

Sec. 4. . . . Also, as an agency of the State of Texas, the trustee shall have full power and authority to enter into interagency contracts with any department of the State of Texas. The interagency contracts shall provide for reimbursement to the state departments and shall define the services to

be performed by the departments for the trustee. . . .

[Sections 1551.065-1551.100 reserved for expansion]

SUBCHAPTER C. COVERAGE AND PARTICIPATION

Revised Law

Sec. 1551.101. PARTICIPATION ELIGIBILITY: STATE OFFICERS AND EMPLOYEES. (a) An elected or appointed officer or employee who performs service, other than as an independent contractor, for this state, including an institution of higher education, and who is described by this section is eligible to participate in the group benefits program as an employee.

(b) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual receives compensation for service performed for this state pursuant to a payroll certified by a state agency, other than an institution of higher education, or by an elected or appointed officer of this state, including a payment made from:

- (1) an amount appropriated by the legislature from a state fund;
- (2) a trust fund held by the comptroller; or
- (3) money paid under the official budget of a state agency, other than money appropriated under a general appropriations act.

(c) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual is appointed, subject to confirmation by the senate, as a member of the governing body with administrative responsibility over a statutory state agency that has statewide jurisdiction and whose employees are covered by this chapter.

(d) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual is a member of the State Board of Education or the governing body of an institution of higher education.

(e) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual receives compensation for service performed for an institution of higher education pursuant to a payroll certified by an institution of higher education or by an elected or appointed officer of this state and either:

- (1) is eligible to be a member of the Teacher Retirement System of Texas; or
- (2) is employed at least 20 hours a week and is not permitted to be a member of the Teacher Retirement System of Texas because the individual is employed by an institution of higher education only in a position that as a condition of employment requires the individual to be enrolled as a student in

the institution in graduate-level courses. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(5) (part); 3A(a) (part).)

Source Law

(5)(A) "Employee" shall mean any appointive or elective officer or employee in the service of the State of Texas, including an employee of an institution of higher education:

. . .

(iv) who receives compensation for services rendered to the State of Texas, other than an employee of an institution of higher education described by this subdivision, on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of this state;

(v) who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the comptroller upon the State Treasury against appropriations made by the Texas Legislature from any state funds or against any trust funds held by the comptroller or who is paid from funds of an official budget of a state department, rather than from funds of the General Appropriations Act;

(vi) who is appointed, subject to confirmation of the senate, as a member of a board or commission with administrative responsibility over a statutory agency having statewide jurisdiction whose employees are covered by this Act;

(vii) who is a member of the governing body of an institution of higher education, as that term is defined by this Act;

(viii) who is a member of the State Board of Education;

(ix) who receives compensation for services rendered to an institution of higher education on a warrant or check issued pursuant to a payroll certified by an institution of higher education or by an elected or duly appointed

officer of this state, and who is eligible for participation in the Teacher Retirement System of Texas; or

(x) who receives compensation for services rendered to an institution of higher education as provided by this subdivision but is not permitted to be a member of the Teacher Retirement System of Texas because the person is solely employed by an institution of higher education that as a condition of employment requires the person to be enrolled as a student in an institution of higher education in graduate-level courses and who is employed by the institution at least 20 hours a week.

(B) Persons performing personal services for the State of Texas as independent contractors shall never be considered employees of the state for purposes of this Act.

Sec. 3A. (a) . . . An officer or employee of either system is an employee for purposes of this Act, and . . . .

Revisor's Note

(1) Section 3(a)(5), V.T.I.C. Article 3.50-2, describes certain employees of state agencies, including institutions of higher education, who receive compensation for services "on a warrant" or "on a warrant or check." The revised law omits the references to "warrant" and "check" because Chapter 2103, Government Code, which applies to all state agencies, including institutions of higher education, and provides for the manner of payment by which an employee of a state agency may be compensated for services, has been amended since Section 3(a)(5) was enacted to include payment of state employees by electronic funds transfer.

(2) Sections 3(a)(5)(A)(iv) and (v), V.T.I.C. Article 3.50-2, describe employees of state agencies that are eligible to participate in the group benefits program. The clear legislative intent of Section 3(a)(5)(A)(v) is to provide that state employees paid from any of the funds

described by Section 3(a)(5)(A)(v) are eligible to participate. Because Sections 3(a)(5)(A)(iv) and (v) together cover all state employees paid from any state money or fund, the revised law combines those sections into a single provision.

(3) Section 3(a)(5)(A)(vi), V.T.I.C. Article 3.50-2, refers to a "board or commission" with administrative responsibility over certain statutory agencies. The revised law substitutes "governing body" for "board or commission" because it is clear that the legislature intended to describe any governing body, by whatever name described.

Revised Law

Sec. 1551.102. PARTICIPATION ELIGIBILITY: ANNUITANTS. (a) An individual who has at least three years of service for which the individual was eligible to participate in the group benefits program under Section 1551.101 and who retires in a manner described by this section is eligible to participate as an annuitant in the group benefits program.

(b) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual:

(1) retires under the jurisdiction of the Employees Retirement System of Texas; and

(2) receives or is eligible to receive an annuity under Subtitle B, D, or E, Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit or eligibility under Section 814.002 or 814.102, Government Code.

(c) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual:

(1) retires under the jurisdiction of the Teacher Retirement System of Texas;

(2) receives or is eligible to receive an annuity under Subtitle C, Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit; and

(3) was employed, as the last state employment before retirement, including employment by a public junior college, by a state agency whose employees are authorized to participate in the group benefits program.

(d) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual:

(1) retires under the optional retirement program established by Chapter 830, Government Code; and

(2) receives or is eligible to receive an annuity

under that program and the individual:

(A) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas based on at least 10 years of service credit if the individual had not elected to participate in the optional retirement program; or

(B) is disabled as determined by the Employees Retirement System of Texas.

(e) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual retired under Subtitle C, Title 8, Government Code, before September 1, 1991, with at least five and less than 10 years of service credit.

(f) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual is a retired officer or employee of a retirement system described by Section 1551.111.

(g) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual retires under a federal or state statutory retirement program not described by another provision of this section, to which an institution of higher education has made employer contributions, and the individual has met service requirements, age requirements, and other applicable requirements comparable to the requirements for retirement under the Teacher Retirement System of Texas, based on at least 10 years of service credit. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(2), (5) (part); 3(c); 3A(a) (part).)

Source Law

(2) "Annuitant" shall mean an officer or employee who has at least three years of service as an eligible employee with a department whose employees are authorized to participate in the Texas employees group benefits group insurance benefits program and who retires under:

(A) the jurisdiction of the Employees Retirement System of Texas and either receives an annuity or is eligible to receive an annuity, pursuant to Subtitle B, D, or E of Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit or eligibility under Section 814.002 or 814.102, Government Code;

(B) the jurisdiction of the Teacher Retirement System of Texas and either receives an annuity or is eligible to receive

an annuity, pursuant to Subtitle C, Title 8, Government Code, or Chapter 803, Government Code, that is based on at least 10 years of service credit, whose last state employment prior to retirement, including employment by a public community/junior college, was as an employee of a department whose employees are authorized to participate in the Texas employees group benefits group insurance program;

(C) the optional retirement program established by Chapter 830, Government Code, and either receives an annuity or is eligible to receive an annuity under that program, if the person either:

(i) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas based on at least 10 years of service credit had the person not elected to participate in the optional retirement program; or

(ii) is disabled as determined by the Employees Retirement System of Texas; or

(D) any other federal or state statutory retirement program to which an institution of higher education has made employer contributions, if the employee has met service requirements, age requirements, and other applicable requirements comparable to the requirements for retirement under the Teacher Retirement System of Texas, based on at least 10 years of service credit.

(5)(A) ["Employee" shall mean any appointive or elective officer or employee in the service of the State of Texas, including an employee of an institution of higher education:]

(i) who is retired or retires and is an annuitant under the jurisdiction of the Employees Retirement System of Texas, pursuant to Subtitle B, D, or E;

(ii) who is retired or retires and is an annuitant under the

jurisdiction of the Teacher Retirement System of Texas, pursuant to Subtitle C, Title 8, Government Code, or pursuant to Chapter 803, Government Code, and whose last employment with the state prior to retirement, including employment by a public community/junior college, was as an employee of a department whose employees are authorized to participate in the Texas employees group benefits group insurance program;

(iii) who is retired or retires and is an annuitant under the optional retirement program established by Chapter 830, Government Code, if the person's last state employment before retirement, including employment by a public community/junior college, was as an employee of a department whose employees are authorized to participate in the Texas employees group benefits group insurance program, and if the person either:

(a) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas had the person not elected to participate in the optional retirement program; or

(b) is disabled as determined by the Employees Retirement System of Texas;

. . .

(c) Notwithstanding Subsection (a)(2) of this section, a person who, before September 1, 1991, retired under Subtitle C, Title 8, Government Code, with at least 5 but less than 10 years of service is also an annuitant for purposes of this Act.

Sec. 3A. (a) . . . a retired officer or employee of either system is an annuitant for purposes of this Act. . . .

Revised Law

Sec. 1551.103. RIGHT TO COVERAGE. Subject to Section 1551.351, an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 may not be denied any group coverage under this chapter. (V.T.I.C.

Art. 3.50-2, Sec. 13(a).)

Source Law

Sec. 13. (a) Except as provided by Section 13A of this Act, no employee of the State of Texas shall be denied any of the group coverage provided under this Act.

Revised Law

Sec. 1551.104. AUTOMATIC COVERAGE. (a) Each full-time employee is covered automatically by the basic coverage plan for employees and each annuitant is covered by the basic coverage plan for annuitants unless:

(1) participation is specifically waived; or  
(2) the employee or annuitant is expelled from the program under Section 1551.351.

(b) This section does not apply to an employee described by Section 1551.101(e)(2). (V.T.I.C. Art. 3.50-2, Sec. 13(b) (part).)

Source Law

(b) Unless participation is waived specifically or unless an employee or employee-annuitant is expelled from the program under Section 13A of this Act, every full-time employee except one who is described by Section 3(a)(5)(A)(x) of this Act shall be covered automatically by the basic plan for active full-time employees and every employee-annuitant shall be covered by the basic plan for retired employee-annuitants. . . .

Revised Law

Sec. 1551.105. DATE AUTOMATIC COVERAGE BEGINS. Automatic coverage under this subchapter begins on the date an employee or annuitant becomes eligible for coverage. (V.T.I.C. Art. 3.50-2, Sec. 13(b) (part).)

Source Law

(b) . . . Coverage shall begin on the date he becomes eligible, and . . . .

Revised Law

Sec. 1551.106. GROUP COVERAGE PLAN PURCHASED TO PROVIDE FOR AUTOMATIC COVERAGE. A group coverage plan purchased by the board of trustees must provide for the automatic coverage described by this subchapter. (V.T.I.C. Art. 3.50-2, Sec. 13(b) (part).)

Source Law

(b) . . . each policy of insurance purchased by the trustee shall provide for such automatic coverage.

Revised Law

Sec. 1551.107. CONTINGENT COVERAGE. (a) Each part-time employee or employee eligible to participate in the group benefits program under Section 1551.101(e)(2) may participate in the program on execution of an appropriate application for coverage unless the employee is:

(1) ineligible for the group benefits program under Section 1551.110; or

(2) expelled from the group benefits program under Section 1551.351.

(b) An institution of higher education shall, at the time of employment, notify each of the institution's employees eligible to participate in the group benefits program under Section 1551.101(e)(2) of the employee's eligibility to participate. (V.T.I.C. Art. 3.50-2, Sec. 13(c).)

Source Law

(c) Unless expelled from the program under Section 13A of this Act or ineligible for the program under Section 13C of this Act, each part-time employee and each employee of an institution of higher education who is described by Section 3(a)(5)(A)(x) of this Act is eligible for participation in the group programs provided under this Act upon execution of appropriate application for coverage. An institution of higher education shall, at the time of employment, notify each eligible employee of the institution who is described by Section 3(a)(5)(A)(x) of this Act of the employee's eligibility to participate in the group programs provided under this Act.

Revised Law

Sec. 1551.108. CONTINUING ELIGIBILITY OF CERTAIN PERSONS WITH LEGISLATIVE SERVICE OR EMPLOYMENT. Subject to Section 1551.351, on application to the board of trustees and on arrangement for payment of contributions and postage:

(1) an individual who has at least eight years of service credit in the Employees Retirement System of Texas for service as a member of the legislature, on ending the

individual's service in the legislature, remains eligible for participation in the group benefits program; and

(2) an individual who has at least 10 years of service credit in the Employees Retirement System of Texas as an employee of the legislature, on ending the individual's service for the legislature, remains eligible for participation in the group benefits program. (V.T.I.C. Art. 3.50-2, Sec. 13(d).)

Source Law

(d) Except as provided by Section 13A of this Act, on application to the trustee and on arrangement for payment of contributions and postage:

(1) a person who has at least eight years creditable legislative service, as defined in Section 22.002, Title 110B, Revised Statutes, on ending his or her service in the legislature, continues to be eligible for participation in the group programs under this Act;

(2) a person who has at least 10 years of creditable service in the Employees Retirement System, as defined in Section 22.003, Title 110B, Revised Statutes, as an employee of the legislature, on ending his or her service for the legislature, continues to be eligible for participation in the group programs under this Act.

Revisor's Note

Section 13(d), V.T.I.C. Article 3.50-2, refers to certain forms of service, defined in Sections 22.002 and 22.003, Title 110B, Revised Statutes. Those statutes were renumbered in 1989 as Sections 812.002 and 812.003, Government Code. The revised law omits the references to Sections 812.002 and 812.003, Government Code, because those sections do not define service, and instead substitutes a description of the appropriate type of service credit in the Employees Retirement System of Texas.

Revised Law

Sec. 1551.109. CONTINUING ELIGIBILITY OF CERTAIN MEMBERS OF BOARDS, COMMISSIONS, AND INSTITUTIONS OF HIGHER EDUCATION. (a) Subject to Section 1551.351, on application to the board of trustees and arrangement for payment of contributions, a former

member of a governing body described by Section 1551.101(c) or a former member of the governing body of an institution of higher education remains eligible for participation in a health benefit plan offered under this chapter if a lapse in coverage after the end of the former member's term has not occurred.

(b) A participant described by this section may not receive a state contribution for premiums. The governing body of an institution of higher education may pay from local funds part or all of the contributions the state would pay for similar coverage of other participants in the group benefits program.

(c) The participant's contribution for coverage under a health benefit plan may not be greater than the contribution for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272). (V.T.I.C. Art. 3.50-2, Sec. 13(e).)

#### Source Law

(e) Except as provided by Section 13A of this Act, on application to the trustee and arrangement for payment of contributions, a former member of a board or commission described by Section 3(a)(5)(A)(vi) of this Act or a former member of the governing body of an institution of higher education remains eligible for participation in a group health coverage plan offered under this Act as long as no lapse in coverage occurs after the end of the former member's term. A participant described by this subsection may not receive a state contribution for premiums, but the governing body of an institution of higher education may elect to pay from local funds part or all of the contributions the state would pay for similar coverage of other participants in the program. The participant's contribution for coverage under a group health coverage plan may not be greater than the contribution for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272).

#### Revised Law

Sec. 1551.110. INELIGIBILITY OF CERTAIN JUNIOR COLLEGE EMPLOYEES. (a) Except as provided by Subsections (c) and (d), an employee of a public junior college who is employed to perform services outside this state is not eligible to participate in the group benefits program unless the college elects, under

procedures adopted by the board of trustees, to permit the employee to participate in the group benefits program.

(b) For purposes of this section, an employee is employed to perform services outside this state if 75 percent or more of the services performed by the employee are performed outside this state.

(c) This section does not apply to an individual employed by a public junior college on August 31, 1999. That individual remains eligible to participate in the group benefits program in the same manner as other employees of the college even if the individual's employment by the college is not continuous.

(d) An employee of a public junior college who is employed to perform services outside this state and who is employed after June 18, 1999, is eligible to participate in a group coverage provided under this chapter if the coverage is provided under an insurance policy, contract, or other agreement that:

(1) is in effect on June 18, 1999; and

(2) requires that the employee be eligible to participate in the coverage provided under the agreement.

(e) Eligibility to participate in a coverage under Subsection (d) ends on the date the insurance policy, contract, or other agreement is terminated or renewed. (V.T.I.C. Art. 3.50-2, Sec. 13C; Acts 76th Leg., R.S., Ch. 662, Sec. 3.)

Source Law

Sec. 13C. (a) An employee of a public community/junior college who is employed to perform services outside of this state is not eligible to participate in the group programs provided under this Act unless the college elects, in accordance with procedures adopted by the trustee, to permit such employees to participate in those programs.

(b) For purposes of this section, an employee is employed to perform services outside of this state if 75 percent or more of the services performed by the employee are performed outside of this state.

(c) This section does not apply to a person employed by a public community/junior college on August 31, 1999. That person remains eligible to participate in the group programs provided by this Act, in the same manner as other employees of the college, even if the person's employment by the college is not continuous.

Sec. 3. (a) Notwithstanding Section 13C, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by this Act, an employee of a public community/junior college who is employed to perform services outside of this state and who is employed after the effective date of this Act is eligible to participate in a group program provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), if the program is provided under an insurance policy, contract, or other agreement that:

(1) is in effect on the effective date of this Act; and

(2) requires that the employee be eligible to participate in the program provided under the insurance policy, contract, or other agreement.

(b) Eligibility to participate in a group program under Subsection (a) of this section terminates on the date that the insurance policy, contract, or other agreement is terminated or renewed.

#### Revisor's Note

Section 3, Chapter 662, Acts of the 76th Legislature, Regular Session, 1999, refers to certain acts taking place "after the effective date of this Act" and certain documents in effect "on the effective date of this Act." Chapter 662 became effective June 18, 1999, and the revised law is drafted accordingly.

#### Revised Law

Sec. 1551.111. PARTICIPATION BY CERTAIN RETIREMENT SYSTEMS.

(a) The Texas Municipal Retirement System and the Texas County and District Retirement System shall participate in the group benefits program in the manner described by this section.

(b) Participation is limited to:

(1) an officer or employee of either system;

(2) an eligible dependent of an officer or employee of either system;

(3) an individual who:

(A) was an officer or employee of either system;

(B) has retired from either system;

(C) receives or is eligible to receive an annuity

from either system or under Chapter 803, Government Code, based on at least 10 years of service credit; and

(D) has at least three years of service with a state agency whose employees are authorized to participate in the group benefits program; and

(4) an eligible dependent of a retired officer or employee described by Subdivision (3).

(c) Participation in the group benefits program does not extend to:

(1) the governing body of either system;

(2) a municipality or subdivision participating in either system; or

(3) a trustee, officer, or employee, or a dependent of a trustee, officer, or employee, of a participating municipality or subdivision.

(d) A participant described by this section may not receive a state contribution for premiums. (V.T.I.C. Art. 3.50-2, Sec. 3A(a) (part).)

#### Source Law

Sec. 3A. (a) . . . Participation is limited to the officers and employees of the systems; eligible dependents of the officers and employees; persons who have retired from either system, who receive or are eligible to receive an annuity from either system or under Chapter 803, Government Code, based on at least 10 years of service credit, who have at least three years of service with a department, including either system, whose employees are authorized to participate in the program provided by this Act, and who were officers or employees of either system; and eligible dependents of the retired officers and employees. . . . Participation under this subsection does not include the governing bodies of either system, the municipalities or subdivisions participating in either system, or the trustees, officers, or employees, or their dependents, of the participating municipalities or subdivisions. A participant described by this subsection may not receive a state contribution for premiums.

#### Revised Law

Sec. 1551.112. PARTICIPATION BY TEXAS TURNPIKE AUTHORITY.

(a) An individual may participate in the group benefits program

as an annuitant and may obtain coverage for the individual's dependents as any other participating annuitant if the individual:

(1) began employment with, or became an officer of, the Texas Turnpike Authority within the three-year period preceding August 31, 1997;

(2) was an officer or employee of the Texas Turnpike Authority on August 31, 1997;

(3) became an officer or employee of the North Texas Tollway Authority on September 1, 1997; and

(4) retires or is eligible to retire with at least 10 years of service credit under the proportionate retirement program established by Chapter 803, Government Code, or under a public retirement system to which Chapter 803 applies.

(b) The North Texas Tollway Authority is responsible for payment of the contributions the state would make if the annuitant were a state employee. (V.T.I.C. Art. 3.50-2, Sec. 3A(b).)

#### Source Law

(b) A person who began employment with, or became an officer of, the Texas Turnpike Authority within the three-year period preceding August 31, 1997, who was an officer or employee of the Texas Turnpike Authority on that date, who became an officer or employee of the North Texas Tollway Authority on September 1, 1997, and who retires or is eligible to retire with at least 10 years of service credit under the proportionate retirement program established by Chapter 803, Government Code, or under one of the public retirement systems to which Chapter 803 applies may participate in the programs and coverages provided by this Act as an annuitant and may obtain coverage for the person's dependents as any other participating annuitant. The North Texas Tollway Authority is responsible for payment of the contributions the state would make if the annuitants were state employees.

#### Revised Law

Sec. 1551.113. PARTICIPATION BY CERTAIN EMPLOYEES WHOSE POSITIONS ARE PRIVATIZED OR ELIMINATED. (a) An individual described by Subsection (b) is entitled to receive state contributions required to provide health benefit plan coverage under the group benefits program for two months after the

effective date of the individual's separation from state service.

(b) This section applies only to an individual who separates from state service and receives a cash payment under an incentive program implemented by the Texas Department of Human Services or the Texas Department of Health for certain employees whose positions are eliminated as a result of privatization or other reductions in services provided by those agencies.

(V.T.I.C. Art. 3.50-2, Sec. 3B.)

Source Law

Sec. 3B. (a) This section applies only to a person who separates from state service and receives a cash payment under an incentive program implemented by the Texas Department of Human Services or the Texas Department of Health with respect to certain employees whose positions are eliminated as a result of privatization or other reductions in services provided by those agencies.

(b) A person is entitled to receive state contributions required to provide health coverage under the program administered by the trustee under this Act for two months after the effective date of the person's separation from state service.

[Sections 1551.114-1551.150 reserved for expansion]

SUBCHAPTER D. COVERAGE FOR DEPENDENTS

Revised Law

Sec. 1551.151. ENTITLEMENT TO COVERAGE. An individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 is entitled to secure for a dependent of the individual any group coverages provided under this chapter, as determined by the board of trustees and subject to the exceptions provided by this subchapter. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

Sec. 19. (a) Any employee or annuitant shall be entitled to secure for his dependents any uniform group coverages provided for employees under this Act, as shall be determined by the trustee, except that . . . .

Revised Law

Sec. 1551.152. ELIGIBILITY OF FOSTER CHILD. A foster child

is eligible for health benefit plan coverage only if the child is not covered by another governmental health program. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

(a) . . . a foster child is eligible for health insurance coverage only if the child is not covered by another governmental health program. . . .

Revised Law

Sec. 1551.153. PARTICIPANT RESIDING OUTSIDE OF SERVICE AREA. An individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 and who resides outside of a health maintenance organization service area is entitled to group coverages for a dependent of the individual without evidence of insurability if the individual applies for the coverage for the dependent during the annual enrollment period. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

(a) . . . If an employee or annuitant resides outside of a health maintenance organization service area, the group benefits group coverages must be made available to a dependent without evidence of insurability if the employee or annuitant applies for the coverage for the dependent during the annual enrollment period. . . .

Revised Law

Sec. 1551.154. EMPLOYEE PAYMENTS. In the manner and form the board of trustees determines, payments required of an employee in excess of employer contributions shall be made by:

(1) a deduction from the employee's monthly pay or retirement benefits; or

(2) a reduction of the employee's salary. (V.T.I.C. Art. 3.50-2, Sec. 19(a) (part).)

Source Law

(a) . . . Payments required of the employee in excess of employer contributions shall be deducted from the monthly pay of the employee or from his retirement benefits, or the employee's salary shall be reduced in the appropriate amount, in such manner and form as the trustee shall determine.

Revisor's Note

Section 19(a), V.T.I.C. Article 3.50-2, refers to the reduction "in the appropriate amount" of the employee's salary to make certain payments for coverage of dependents. The revised law omits "in the appropriate amount" as unnecessary because it is clear that the amount of reduction is the amount of payment in excess of employer contributions.

Revised Law

Sec. 1551.155. COVERAGE OPTIONS FOR SURVIVING SPOUSE. (a) A surviving spouse of an individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 and who is entitled to monthly benefits paid by a retirement system named in this chapter may, following the death of the individual, elect to retain:

- (1) the spouse's authorized coverages; and
- (2) authorized coverages for any dependent of the spouse.

(b) The coverage is at the group rate for other participants if:

- (1) the coverage was previously secured by the deceased participant for the surviving spouse or dependent; and
- (2) the surviving spouse directs the applicable retirement system to deduct required contributions from the monthly benefits paid to the spouse by the retirement system.

(V.T.I.C. Art. 3.50-2, Sec. 19(b) (part).)

Source Law

(b) A surviving spouse of an employee or a retiree who is entitled to monthly benefits paid by a retirement system named in this Act may, following the death of the employee or retiree, elect to retain the spouse's authorized coverages and also retain authorized coverages for any dependent of the spouse, at the group rate for employees, provided such coverage was previously secured by the employee or retiree for the spouse or dependent, and the spouse directs the applicable retirement system to deduct required contributions from the monthly benefits paid the surviving spouse by the retirement system. . . .

Revised Law

Sec. 1551.156. COVERAGE OPTIONS FOR DEPENDENT WHEN THERE IS NO SURVIVING SPOUSE. (a) A surviving dependent of an annuitant

who was receiving monthly benefits paid by a retirement system named in this chapter may, following the death of the annuitant if there is not a surviving spouse, elect to retain any coverage previously secured by the annuitant until the dependent becomes ineligible for coverage for a reason other than the death of the member of the group.

(b) The coverage is at the group rate for other participants.

(c) A dependent who elects to retain coverage under this section and who is entitled to monthly benefits from a retirement system named in this chapter based on the service of the deceased annuitant must direct the retirement system to deduct required contributions for the coverage from the monthly benefits paid the surviving dependent by the retirement system. (V.T.I.C. Art. 3.50-2, Sec. 19(b) (part).)

Source Law

(b) . . . A surviving dependent of a retiree who was receiving monthly benefits paid by a retirement system named in this Act may, after the death of the retiree and if the retiree leaves no surviving spouse, elect to retain any coverage previously secured by the retiree, at the group rate for employees, until the dependent becomes ineligible for coverage for a reason other than the death of the member of the group. A dependent who makes an election under this subsection and who is entitled to monthly benefits from a retirement system named in this Act based on the service of the deceased retiree must direct the applicable retirement system to deduct required contributions for the coverage from the monthly benefits paid the surviving dependent by the retirement system. . . .

Revised Law

Sec. 1551.157. COVERAGE OPTIONS AFTER EXPIRATION OF ANNUITY OPTION. The surviving spouse or dependent of an employee or annuitant may retain authorized coverages after expiration of a time-certain annuity option selected by the employee or annuitant. To retain the coverages, the surviving spouse or dependent must make advance payment of contributions to the Employees Retirement System of Texas under rules adopted by the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 19(c).)

Source Law

(c) The surviving spouse of an employee or a retiree who designated or selected a time certain annuity option or a surviving dependent of a retiree who designated or selected a time certain annuity option, upon expiration of the annuity option may retain authorized coverages by advance payment of contributions to the Employees Retirement System of Texas under rules and regulations adopted by the trustee.

Revised Law

Sec. 1551.158. REINSTATEMENT OF HEALTH BENEFIT PLAN COVERAGE BY CERTAIN DEPENDENTS. (a) A dependent child who is unmarried and whose coverage under this chapter ends when the child becomes 25 years of age may, on expiration of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272), reinstate health benefit plan coverage under this chapter if the child, or the child's participating parent, pays the full cost of the health benefit plan coverage.

(b) A state contribution is not payable for coverage under this section.

(c) Coverage under this section terminates at the end of the month in which the child marries. (V.T.I.C. Art. 3.50-2, Sec. 19(d).)

Source Law

(d) A dependent child who is unmarried and whose coverage under this Act ceases when the child reaches the age of 25 may, on expiration of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), reinstate health benefits coverage under this Act if the child, or the child's participating parent, pays the full cost of the health benefits coverage. A state contribution is not payable for coverage described by this subsection. Coverage under this subsection ceases at the end of the month in which the child marries.

Revised Law

Sec. 1551.159. COVERAGE FOR CERTAIN DEPENDENT CHILDREN OF EMPLOYEES. (a) Subject to any applicable limit in the General

Appropriations Act, the board of trustees shall use money appropriated for employer contributions to fund 80 percent of the cost of basic coverage for a child who:

(1) is a dependent of an employee;

(2) would be eligible, if the child were not the dependent of the employee, for benefits under the program established by the state to implement Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended; and

(3) is not eligible for the state Medicaid program.

(b) The board of trustees shall notify employees that:

(1) they may be eligible for dependent child coverage under Subsection (a); and

(2) an employee may apply for the coverage as provided by Subsection (c).

(c) To obtain dependent child coverage under Subsection (a), the employee must apply to the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section. The eligibility screening shall be coordinated with eligibility screening for the state Medicaid program. The agency that performs the eligibility screening shall certify to the board of trustees in writing whether a child is eligible for dependent child coverage under Subsection (a).

(d) If an employee does not obtain dependent child coverage under this section at the time the individual begins service to the state, the employee may apply for the coverage during the annual open enrollment period applicable to the employee's coverage under this chapter. The board of trustees may:

(1) continue the coverage until the next annual open enrollment period applicable to the employee's coverage, without regard to any change in status of the child; or

(2) adopt rules requiring an employee, during the period the coverage is in effect, to report a change in status that would make the dependent child ineligible for coverage and may terminate the coverage on receipt of the report of a change in status.

(e) The board of trustees may require an employee to reapply for dependent child coverage under this section during each annual open enrollment period applicable to the employee's coverage. The board of trustees and the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section shall cooperate to develop a cost-effective method for annual reevaluation of eligibility determinations for dependent child coverage under this section.

(f) The board of trustees may pay a higher percentage of the cost of basic coverage for a child described by Subsection (a) than the percentage required by Subsection (a) if money

becomes available for that purpose.

(g) If the program established under Chapter 62, Health and Safety Code, using federal funding under Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated, state contributions for benefits for those eligible under Subsection (a) also terminates. (V.T.I.C. Art. 3.50-2, Sec. 14A.)

Source Law

Sec. 14A. (a) Subject to any applicable limit in the General Appropriations Act, the trustee shall use money appropriated for employer contributions to fund 80 percent of the cost of basic coverage for a child who:

- (1) is a dependent of an employee;
- (2) would be eligible, if the child were not the dependent of the employee, for benefits under the program established by this state to implement Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended; and
- (3) is not eligible for the state Medicaid program.

(b) The trustee shall notify employees that they may be eligible for dependent child coverage under Subsection (a) of this section and notify the employee that:

- (1) the employee may be eligible for dependent child coverage under Subsection (a) of this section; and
- (2) the employee may apply for the coverage as provided by Subsection (c) of this section.

(c) An employee who desires dependent child coverage under this section shall apply to the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section. The eligibility screening shall be coordinated with eligibility screening for the state Medicaid program. The agency that performs the eligibility screening shall certify to the trustee in writing whether a child is eligible for dependent child coverage under Subsection (a) of this section.

(d) If an employee does not obtain

dependent child coverage under this section at the time the employee is initially employed, the employee may apply for the coverage during the annual open enrollment period applicable to the employee's coverage under this Act. The trustee may:

(1) continue the coverage until the next annual open enrollment period applicable to the employee's coverage, without regard to any change in status of the child; or

(2) adopt rules requiring an employee, during the period the coverage is in effect, to report a change in status that would make the dependent child ineligible for coverage and may terminate the coverage on receipt of the report of a change in status.

(e) The trustee may require an employee to re-apply for dependent child coverage under this section during each annual open enrollment period applicable to the employee's coverage. The trustee and the Texas Department of Human Services or other agency designated by the Health and Human Services Commission to perform eligibility screening under this section shall cooperate to develop a cost-effective method for annual re-evaluation of eligibility determinations for dependent child coverage under this section.

(f) Notwithstanding Subsection (a) of this section, the trustee may pay a higher percentage of the cost of basic coverage for a child described by Subsection (a) of this section if money becomes available for that purpose.

(g) If the program established under Chapter 62, Health and Safety Code, which utilizes federal funding under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated, state contributions for benefits for those eligible under Subsection (a) of this section shall terminate as well.

[Sections 1551.160-1551.200 reserved for expansion]

SUBCHAPTER E. GROUP COVERAGES

Revised Law

Sec. 1551.201. ESTABLISHMENT. (a) The board of trustees by rule shall establish group coverage plans for individuals eligible to participate in the group benefits program.

(b) The group coverage plans may, in the board of trustees' discretion, include:

- (1) life coverage;
- (2) accidental death and dismemberment coverage;
- (3) health benefit coverage, including coverage for:
  - (A) hospital care and benefits;
  - (B) surgical care and treatment;
  - (C) medical care and treatment;
  - (D) dental care;
  - (E) obstetrical benefits;
  - (F) prescribed drugs, medicines, and prosthetic

devices; and

(G) supplemental benefits, supplies, and services in accordance with this chapter;

(4) coverage providing protection against either long-term or short-term loss of salary; and

(5) any other group coverage that the board of trustees, in consultation with the group benefits advisory committee created under Subchapter J, considers advisable.

(c) The group coverage plans for annuitants may, at the discretion of the board of trustees, be separate or a part of the group coverage plans for employees. If the trustee establishes separate group coverage plans for annuitants, the separate group coverage plans must include both full benefits and supplemental coverage options. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(13) (part), 5(a) (part).)

Source Law

[Sec. 3(a)]

(13) ["Retired employees plan" shall mean] . . . This plan may be separate or a part of the active employee plan at the discretion of the trustee, and, if separate, shall include both full benefits and supplemental coverage options.

Sec. 5. (a) The trustee is authorized, empowered, and directed to establish plans of group coverages for active employees and retired employees which in the trustee's discretion may include but are not necessarily limited to the following: group

life coverages, accidental death and dismemberment, health benefits plans, including but not limited to hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, obstetrical benefits, prescribed drugs, medicines, and prosthetic devices and supplemental benefits, supplies, and services in conformity with the provisions of this Act, protection against either long or short term loss of salary and any other group coverages which in the discretion of the trustee with consultation from the advisory committee shall be deemed advisable. All rules and regulations shall be promulgated pursuant thereto. The trustee shall determine the coverages desired for state employees and other eligible participants. . . .

Revisor's Note

(1) Section 5(a), V.T.I.C. Article 3.50-2, refers to coverages that "may include but are not necessarily limited to" certain coverages and benefits plans "including but not limited to" certain benefits. "[B]ut are not necessarily limited to" and "but not limited to" are omitted from the revised law for the reason stated in the revisor's note to Section 1551.052.

(2) Section 5(a), V.T.I.C. Article 3.50-2, refers to the "advisory committee." The revised law substitutes "group benefits advisory committee created under Subchapter J" for clarity.

Revised Law

Sec. 1551.202. AUTHORITY TO DEFINE BASIC COVERAGES. (a) The board of trustees may define the basic coverage applicable to each individual for whom coverage is automatic unless participation is specifically waived.

(b) The board of trustees may define different basic coverage plans for individuals eligible to participate in the uniform program under Section 1551.101 and for individuals eligible to participate in the group benefits program under Section 1551.102.

(c) Basic coverage must include basic health coverage. The coverage may be offered through any health benefit plan.

(V.T.I.C. Art. 3.50-2, Sec. 5A(a).)

Source Law

Sec. 5A. (a) The trustee may define the basic coverage in which every full-time employee and every annuitant participates unless participation is specifically waived. The trustee may define different basic coverage plans for active full-time employees and for annuitants. Basic coverage must include basic health coverage. Basic health coverage may be offered through any health benefits plan.

Revised Law

Sec. 1551.203. AUTHORITY TO DEFINE OPTIONAL COVERAGES. The board of trustees may define optional coverages for which the board may make available employer contributions under Section 1551.303. (V.T.I.C. Art. 3.50-2, Sec. 5A(b).)

Source Law

(b) The trustee may define optional coverages for which the trustee may make available employer contributions under Section 14 of this Act.

Revised Law

Sec. 1551.204. AUTHORITY TO DEFINE VOLUNTARY COVERAGES. Subject to Section 1551.304, the board of trustees may define voluntary coverages. (V.T.I.C. Art. 3.50-2, Sec. 5A(c) (part).)

Source Law

(c) The trustee may define voluntary coverages [for which the employee or annuitant is responsible for the full cost.]

Revised Law

Sec. 1551.205. LIMITATIONS. The board of trustees may not contract for or provide a coverage plan that:

- (1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control and Prevention of the United States Public Health Service, or human immunodeficiency virus infection; or
- (2) provides coverage for serious mental illness that is less extensive than the coverage provided for any physical illness. (V.T.I.C. Art. 3.50-2, Sec. 5(j).)

Source Law

(j) The trustee may not contract for or

provide a plan of coverage that:

(1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control of the United States Public Health Service, or human immunodeficiency virus infection; or

(2) provides coverage for serious mental illness that is less extensive than the coverage provided for any physical illness.

Revisor's Note

Section 5(j), V.T.I.C. Article 3.50-2, refers to the "Centers for Disease Control of the United States Public Health Service." The revised law substitutes the current name for these centers, "Centers for Disease Control and Prevention of the United States Public Health Service."

Revised Law

Sec. 1551.206. CAFETERIA PLAN. (a) The board of trustees may develop, implement, and administer a cafeteria plan if the board determines that establishment of the plan:

(1) is feasible;

(2) would be beneficial to the state and to employees who would be eligible to participate in the plan; and

(3) would not adversely affect the coverage plans provided under the group benefits program.

(b) The board of trustees may include in the cafeteria plan any benefit that may be included in a cafeteria plan under federal law.

(c) The board of trustees may enter into a contract or agreement with an independent and qualified agency, individual, or entity to:

(1) develop, implement, or administer a cafeteria plan; or

(2) assist in those activities.

(d) The board of trustees may adopt an order terminating the cafeteria plan and providing a procedure for the orderly withdrawal of the state and its employees from the plan if the board determines that a cafeteria plan established under this section is no longer advantageous to the state or its employees. (V.T.I.C. Art. 3.50-2, Secs. 4(k), 13B(a), (b), (c).)

Source Law

Sec. 4. . . . [The trustee shall have full power and authority to promulgate all

rules . . . necessary to implement and carry out the purposes and provisions of this Act . . . , including but not limited to the following:]

. . .

(k) design, development, adoption, implementation, and administration of a cafeteria plan;

. . .

Sec. 13B. (a) The trustee may study the feasibility of establishing a cafeteria plan and may design, develop, adopt, implement, and administer a cafeteria plan if the trustee determines that the establishment of a cafeteria plan is feasible, would be beneficial to the state and to the employees who would be eligible to participate in the cafeteria plan, and would not adversely affect the insurance program established under this Act. The trustee may include in the cafeteria plan any benefit that may be included in a cafeteria plan under federal law.

(b) In addition to other authority granted to the trustee by this Act, the trustee may enter into contracts and agreements with one or more independent and qualified agencies, persons, or entities to design, develop, adopt, implement, or administer or to assist in the design, development, adoption, implementation, or administration of a cafeteria plan.

(c) If the trustee determines that a cafeteria plan adopted under this section is no longer advantageous to the state or state employees, the trustee may adopt an order terminating the cafeteria plan and providing a procedure for the orderly withdrawal of the state and its employees from that plan.

Revisor's Note

(1) Sections 4(k) and 13B, V.T.I.C. Article 3.50-2, refer to the "design" and "development" of a cafeteria plan. The references to "design" are omitted from the revised law because, in context, "design" is included within the meaning of "development."

(2) Sections 4(k) and 13B, V.T.I.C. Article 3.50-2, refer to the "adoption" and "implementation" of a cafeteria plan. The references to "adoption" are omitted from the revised law because, in context, "adoption" is included within the meaning of "implementation."

(3) Section 13B(a), V.T.I.C. Article 3.50-2, authorizes the board of trustees to "study the feasibility of establishing a cafeteria plan." The board of trustees has established a cafeteria plan and the revised law omits that provision as executed.

Revised Law

Sec. 1551.207. PREMIUM CONVERSION BENEFIT PORTION OF CAFETERIA PLAN. Each employee must be enrolled in the premium conversion benefit portion of a cafeteria plan established under Section 1551.206. (V.T.I.C. Art. 3.50-2, Sec. 13B(d) (part).)

Source Law

(d) Each employee shall be enrolled in the premium conversion benefit portion of the cafeteria plan. . . .

Revised Law

Sec. 1551.208. DETERMINATION TO SELF-FUND. (a) The board of trustees, in the board's sole discretion, shall determine those coverage plans that the board does not intend to purchase but intends to provide directly from the employees life, accident, and health insurance and benefits fund.

(b) The board of trustees, in the board's sole discretion and under conditions the board approves, may reinsure any coverage the board determines will be provided directly from the employees life, accident, and health insurance and benefits fund under Subsection (a). (V.T.I.C. Art. 3.50-2, Secs. 5(f) (part), 8.)

Source Law

[Sec. 5]

(f) The trustee, in its sole discretion and in accordance with the requirements of this section, shall determine those plans of coverages for which the trustee does not intend to purchase insurance and which it intends to provide directly from the Employees Life, Accident, and Health Insurance and Benefits Fund. . . .

Sec. 8. The trustee, in its sole discretion and under conditions it approves, may reinsure any coverage that it has determined will be provided directly from the fund in accordance with Section 5(f) of this Act.

Revised Law

Sec. 1551.209. SELF-FUNDED COVERAGE EXEMPT FROM INSURANCE LAW. A coverage plan for which the board of trustees does not purchase coverage but provides under this chapter on a self-funded basis is exempt from any other insurance law that does not expressly apply to the plan or this chapter. (V.T.I.C. Art. 3.50-2, Sec. 5(f) (part).)

Source Law

(f) . . . Any plan of coverages for which the trustee does not purchase insurance but provides under this Act on a self-funded basis is exempt from any other insurance law unless the law expressly applies to this plan or this Act. . . .

Revised Law

Sec. 1551.210. ACTUARIAL ADVICE FOR SELF-FUNDED COVERAGE. A qualified actuary selected by the board of trustees shall advise the board regarding an actuarially sound level of contributions required to provide coverage directly from the employees life, accident, and health insurance and benefits fund. (V.T.I.C. Art. 3.50-2, Sec. 5(f) (part).)

Source Law

(f) . . . A qualified actuary selected by the trustee shall advise the trustee as to an actuarially sound level of contributions required to provide coverages directly from the fund.

Revised Law

Sec. 1551.211. CONTINGENCY RESERVE FUND FOR SELF-FUNDED COVERAGE. (a) Before the first day of each state fiscal biennium, the board of trustees shall estimate for an average 60-day period during the biennium the expenditures from the employees life, accident, and health insurance and benefits fund anticipated for self-funded coverage plans, considering projected claims and administrative expenses for those plans.

(b) The board of trustees shall place the estimated amount in a contingency reserve fund to provide for adverse fluctuations

in claims or administrative expenses.

(c) The board of trustees shall include in each request for legislative appropriations to the group benefits program the amount the board determines to be necessary to maintain the contingency reserve fund at the level required by this section.

(d) The board of trustees may invest and reinvest any portion of the contingency reserve fund under the standard of care provided by Section 815.307, Government Code, considering the functional need to provide for adverse fluctuations in claims or administrative expenses.

(e) The interest on, earnings of, and proceeds from the sale of investments of assets in the contingency reserve fund shall be credited to the fund. (V.T.I.C. Art. 3.50-2, Sec. 5(e).)

#### Source Law

(e) Before the first day of each state fiscal biennium, the trustee shall estimate for an average 60-day period during the biennium the expenditures from the fund anticipated for self-funded plans, considering claims and administrative expenses for those plans that are projected to be incurred. The trustee shall place the estimated amount in a contingency reserve fund to provide for adverse fluctuations in claims or administrative expenses. The trustee shall include in each request for legislative appropriations to the program the amount the trustee determines to be necessary to maintain the contingency reserve fund at the level required by this subsection. The trustee may invest and reinvest any portion of the contingency reserve fund under the standard of care provided by Section 815.307, Government Code, considering the functional need to provide for adverse fluctuations in claims or administrative expenses. The interest on, earnings of, and proceeds from the sale of investments of assets in the contingency reserve fund shall be credited to the fund.

#### Revised Law

Sec. 1551.212. FIRMS TO ADMINISTER SELF-FUNDED COVERAGE.

(a) For those coverage plans that the board of trustees funds from the employees life, accident, and health insurance and benefits fund, the board may contract with one or more qualified

and experienced administering firms to administer the plans in the best interest of the participants in the group benefits program.

(b) The contract may be awarded only after a competitive bid process. The board of trustees is not required to select the lowest bid but shall take into consideration other relevant criteria, including ability to service large group programs and past experience.

(c) If the board of trustees selects a firm whose bid was not the lowest or whose bid differs from that specified, the board shall fully justify and explain the reasons for the action in the minutes of the next meeting of the board. (V.T.I.C. Art. 3.50-2, Secs. 5(h), (i).)

Source Law

(h) In the event the trustee determines that benefits shall be provided from the Employees Life, Accident, and Health Insurance and Benefits Fund, the trustee may contract with one or more qualified and experienced administering firms on a competitive bid basis to administer the plans of coverage provided in Section 5 of the Act.

(i) The trustee shall select one or more administering firms to provide services which shall be in the best interests of the employees covered by the Act. The trustee is not required to select the lowest bid but shall take into consideration such other factors as ability to service large group programs, past experience, and other relevant criteria. Should the trustee select a firm whose bid was not the lowest or one whose bid differs from that specified, the reasons for such action shall be fully justified and explained in the minutes of the next meeting of the trustee.

Revised Law

Sec. 1551.213. BIDS FOR PURCHASED COVERAGE. (a) For those coverage plans for which the board of trustees determines to purchase coverage, the board shall notify eligible carriers:

(1) that competitive bidding will be conducted; and  
(2) of the date by which an eligible carrier must submit a bid on the contract to the board.

(b) The board of trustees shall submit the group coverages provided by the group benefits program for competitive bidding at least every six years. (V.T.I.C. Art. 3.50-2, Sec. 5(a) (part).)

Source Law

(a) . . . The trustee will notify eligible carriers that competitive bidding will be conducted and that they are to submit their bids to the trustee by a specified date if they wish to bid on the contract. . . . The trustee shall submit the coverages provided by the group plan for competitive bidding at least every six years.

Revised Law

Sec. 1551.214. SELECTION OF BIDS FOR PURCHASED COVERAGE.

(a) An actuary selected by the board of trustees shall advise the board as to the actuarial soundness of the bids received under Section 1551.213.

(b) The board of trustees:

(1) shall select carriers to provide services that will be in the best interest of participants; and

(2) is not required to select the lowest bid but shall take into consideration other relevant criteria, including ability to service contracts, past experience, and financial ability.

(c) If the board of trustees selects a carrier whose bid differs from that advertised, the board shall record the deviation and shall fully justify and explain the reasons for the deviation in the minutes of the next meeting of the board.

(d) The board of trustees shall notify the carriers that submitted bids of the results of the bidding. (V.T.I.C.

Art. 3.50-2, Sec. 5(a) (part).)

Source Law

(a) . . . An actuary selected by the trustee shall advise the trustee as to the actuarial soundness of the bids received. The trustee shall select the desired carrier or carriers and will notify the bidding eligible carriers as to the results of the bidding. The trustee shall select the desired carrier or carriers to provide services that will be in the best interest of the employees covered by this Act. The trustee is not required to select the lowest bid but shall take into consideration other factors such as ability to service contracts, past experience, financial ability, and other relevant criteria. Should the trustee select a carrier whose bid differs from that

advertised, such deviation shall be recorded and the reasons for such deviation shall be fully justified and explained in the minutes of the next meeting of the trustee. . . .

Revised Law

Sec. 1551.215. ACCOUNTING BY CARRIER PROVIDING PURCHASED COVERAGE. (a) A carrier providing a coverage purchased under this chapter shall provide an accounting to the board of trustees not later than the 90th day after the end of each plan year.

(b) The accounting must be in a form approved by the board of trustees.

(c) The accounting must state for the period from the coverage's date of issue to the end of the plan year:

(1) the amounts of contributions accrued under the coverage;

(2) the total of mortality and other claims, charges, losses, and expenses incurred; and

(3) the amounts of the carrier's allowance for a reasonable profit and contingencies. (V.T.I.C. Art. 3.50-2, Sec. 9(a).)

Source Law

Sec. 9. (a) A carrier providing any policy purchased under this Act shall provide an accounting to the trustee not later than 90 days after the end of each policy year. The accounting shall set forth, in a form approved by the trustee:

(1) the amounts of premiums actually accrued under the policy from its date of issue to the end of the policy year;

(2) the total of all mortality and other claims, charges, losses, costs, and expenses incurred for that period; and

(3) the amounts of the carrier's allowance for a reasonable profit and contingencies for that period.

Revised Law

Sec. 1551.216. SPECIAL CONTINGENCY RESERVE. (a) A carrier issuing a group coverage plan under this chapter shall hold as a special contingency reserve an amount that equals the amount by which the amount described by Section 1551.215(c)(1) exceeds the sum of the amounts described by Sections 1551.215(c)(2) and (3).

(b) The carrier may use the special contingency reserve only for charges, claims, and expenses under the plan.

(c) The special contingency reserve earns interest at a

rate determined before each plan year by the carrier and approved by the board of trustees as consistent with the rates generally used by the carrier for similar funds held under other group coverage plans.

(d) On a determination by the board of trustees that the special contingency reserve has attained an amount estimated by the board to make satisfactory provision for adverse fluctuations in future charges, claims, or expenses under the plan, any further excess shall be deposited to the credit of the employees life, accident, and health insurance and benefits fund.

(e) On discontinuation of a plan, any balance remaining in the special contingency reserve after all charges have been made shall be deposited to the credit of the employees life, accident, and health insurance and benefits fund. The carrier may make the deposit in equal monthly installments over a period of not more than two years. (V.T.I.C. Art. 3.50-2, Sec. 9(b).)

Source Law

(b) An excess of the total of Subdivision (a)(1) of this section over the sum of Subdivisions (a)(2) and (a)(3) of this section shall be held by the carrier issuing a participating policy as a special contingency reserve to be used by the carrier only for charges, claims, costs, and expenses under the policy. The reserve shall bear interest at a rate determined in advance of each policy year by the carrier and approved by the trustee as being consistent with the rates generally used by the carrier for similar funds held under other group insurance policies. When the trustee determines that the special contingency reserve has attained an amount estimated by it to make satisfactory provision for adverse fluctuations in future charges, claims, costs, or expenses under the policy, any further excess shall be deposited in the State Treasury to the credit of the Employees Life, Accident, and Health Insurance and Benefits Fund. When a policy is discontinued, any balance remaining in the special contingency reserve after all charges have been made shall be deposited in the State Treasury to the credit of the fund. The carrier may make the deposit in equal monthly installments over a period of not more than two years.

Revised Law

Sec. 1551.217. USE OF EMPLOYEE'S SALARY IN COMPUTATION OF PREMIUM OR COVERAGE. (a) If the board of trustees establishes a group coverage plan that protects against either long-term or short-term loss of salary, the board may use an employee's annual salary in computing the amount of the employee's premium or coverage, or both, under the plan.

(b) In this section, an employee's annual salary includes benefit replacement pay under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, Regular Session, 1995. (V.T.I.C. Art. 3.50-2, Sec. 5(k).)

Source Law

(k) If the trustee establishes a group coverage plan that protects against the long-term or short-term loss of salary, the trustee may use an employee's annual salary in the calculation of the amount of the employee's premium or coverage, or both, under the plan. For purposes of this subsection, an employee's annual salary includes the benefit replacement pay the employee would be earning annually under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, 1995, if Section 659.121(1), Government Code, defined "compensation" to include only base salary or wages, longevity pay, hazardous duty pay, and night differential pay.

Revisor's Note

Section 5(k), V.T.I.C. Article 3.50-2, provides that an employee's annual salary includes benefit replacement pay "if Section 659.121(1), Government Code, defined 'compensation' to include only base salary or wages, longevity pay, hazardous duty pay, and night differential pay." The clear intent of the source law is to include benefit replacement pay in an employee's annual salary, for purposes of this section, whatever the definition of "compensation" in Section 659.121(1), Government Code, includes, and the revised law reflects this intent.

[Sections 1551.218-1551.250 reserved for expansion]

SUBCHAPTER F. GROUP LIFE AND ACCIDENTAL DEATH AND  
DISMEMBERMENT INSURANCE COVERAGE PLAN

Revised Law

Sec. 1551.251. GROUP LIFE INSURANCE COVERAGE PLAN. (a) The board of trustees shall administer a group life insurance coverage plan to provide each individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 group life coverages that provide payments and benefits in an amount and manner the board determines.

(b) The group life insurance coverage plan is subject to the conditions and limitations of:

(1) this chapter and rules adopted under this chapter;  
and

(2) the policy or policies purchased by the board of trustees.

(c) The board of trustees may include the dependents of individuals eligible to participate in the group benefits program under Section 1551.101 or 1551.102 in the group life insurance coverage plan. (V.T.I.C. Art. 3.50-2, Sec. 11(a).)

Source Law

Sec. 11. (a) The trustee is authorized and directed to establish a group life program for all employees, including retired employees, of this state as herein provided, which, subject to the conditions and limitations contained in this Act and the trustee's rules and regulations promulgated pursuant thereto, will provide for each employee group life coverages in such an amount as shall be determined by the trustee. In addition to the benefits hereinabove provided and subject to the conditions and limitations of the policy or policies purchased by the trustee, such policy or policies shall provide such payments and benefits for employees and retired employees as shall be determined by the trustee. The trustee is also authorized to include the dependents of employees in the life program.

Revised Law

Sec. 1551.252. ADDITIONAL TERM LIFE INSURANCE. Notwithstanding any other provision of this code, the board of trustees may authorize:

(1) dependent term life insurance in an amount equal to the term life insurance provided under the basic coverage; and

(2) optional term life insurance in an amount equal to

four times the employee's annual salary plus the amount of term life insurance provided under the basic coverage. (V.T.I.C. Art. 3.50-2, Sec. 11(b).)

Source Law

(b) Notwithstanding any other provisions of this code, the trustee may authorize dependent term life insurance in an amount equal to the term life insurance provided under the basic coverage and may authorize optional term life insurance equal to four times the employee's annual salary plus the amount of term life insurance provided under the basic coverage.

Revised Law

Sec. 1551.253. DETERMINATION OF ANNUAL SALARY. (a) To implement this subchapter, the board of trustees shall:

(1) adopt rules for the conversion of other than annual rates of salary; and

(2) specify the types of pay included in annual salary and any other matter necessary to implement this subchapter.

(b) For the purpose of determining the amount of an employee's optional term life insurance coverage, an employee's annual salary includes benefit replacement pay under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, Regular Session, 1995. (V.T.I.C. Art. 3.50-2, Secs. 11(c), 11(d), as added Acts 75th Leg., R.S., Ch. 1035.)

Source Law

(c) Except as provided by Subsection (d), the trustee shall prescribe regulations providing for the conversion of other than annual rates of pay, and specify the types of pay included in annual pay and all other matters necessary to implement this section.

(d) [as added Acts 75th Leg., R.S., Ch. 1035] For the purpose of determining the amount of an employee's optional term life insurance coverage, an employee's annual salary includes the benefit replacement pay the employee would be earning annually under Subchapter H, Chapter 659, Government Code, as added by Chapter 417, Acts of the 74th Legislature, 1995, if Section 659.121(1), Government Code, defined "compensation" to include only base salary or wages, longevity

pay, hazardous duty pay, and night differential pay.

Revisor's Note

Section 11(d), V.T.I.C. Article 3.50-2, as added by Chapter 1035, Acts of the 75th Legislature, Regular Session, 1997, provides that an employee's annual salary includes benefit replacement pay "if Section 659.121(1), Government Code, defined 'compensation' to include only base salary or wages, longevity pay, hazardous duty pay, and night differential pay." The revised law omits the quoted language for the reason stated in the revisor's note to Section 1551.217.

Revised Law

Sec. 1551.254. ACCELERATED LIFE INSURANCE BENEFITS. (a) In addition to exercising the authority granted under Subchapter B, Chapter 1111, the board of trustees may adopt rules to provide for payment of accelerated life insurance benefits to a terminally ill, terminally injured, or permanently disabled participant, including an annuitant participating in optional term life insurance coverage, in amounts that benefit the participant without increasing the cost of providing the benefits.

(b) The amount of any payment of an accelerated benefit under a rule adopted under this section must be deducted from the amount that would otherwise be payable as a death benefit.

(V.T.I.C. Art. 3.50-2, Sec. 11(d), as added Acts 75th Leg., R.S., Ch. 1048; Sec. 11(e)(3) (part).)

Source Law

(d) [as added Acts 75th Leg., R.S., Ch. 1048] In addition to the authority granted under Article 3.50-6, Insurance Code, the trustee may adopt rules to provide for payment of accelerated life insurance benefits to a terminally ill, terminally injured, or permanently disabled participant in amounts that benefit the participants without increasing the cost of providing the benefits. The amount of any payment of an accelerated benefit under rules adopted under this subsection must be deducted from the amount that would otherwise be payable as a death benefit.

[(e)]

(3) . . . An annuitant participating in optional term life insurance coverage is eligible for accelerated life insurance benefits as provided by rules adopted under the authority of Subsection (d) of this section, as added by Chapter 1048, Acts of the 75th Legislature, Regular Session, 1997.

Revised Law

Sec. 1551.255. INCLUSION OF PROVISIONS FOR VIATICAL SETTLEMENTS. (a) In this section, "viatical settlement" has the meaning assigned by Section 1111.001.

(b) The board of trustees shall adopt rules that require a group life insurance coverage plan established under this chapter to allow a participant in the plan to make, in conjunction with receipt of a viatical settlement, an irrevocable designation of beneficiary for part or all of the group life coverage benefits.

(c) A viatical settlement is not valid for any coverage under the group benefits program unless the participant has a terminal illness or terminal injury, as defined by rules adopted by the board of trustees, at the time application for benefits is made. (V.T.I.C. Art. 3.50-2, Sec. 11A.)

Source Law

Sec. 11A. The trustee shall adopt rules requiring a group life insurance program provided to employees, including annuitants or dependents, to include a provision allowing the employee, annuitant, or dependent to make, in conjunction with receipt of a viatical settlement, an irrevocable designation of beneficiary for part or all of the group life coverage benefits. A viatical settlement is not valid for any coverage under the Texas Employees Uniform Group Insurance Program unless the employee, annuitant, or dependent has a terminal illness or terminal injury, as defined by rules adopted by the trustee, at the time application for benefits is made. In this section, "viatical settlement" has the meaning assigned by Article 3.50-6A, Insurance Code.

Revised Law

Sec. 1551.256. OPTIONAL TERM LIFE INSURANCE COVERAGE AFTER RETIREMENT. (a) A participant in the optional group term life

insurance coverage plan may maintain optional term life insurance coverage after retirement in addition to basic term life insurance coverage after retirement.

(b) The board of trustees may adopt rules to implement and administer Subsection (a).

(c) Under Subsection (a), the participant may maintain an amount of optional term life insurance coverage on the participant's life on the date of retirement, not to exceed two times the participant's annual salary on the last September 1 before retirement and subject to benefit reduction factors based on age as determined by the board of trustees.

(d) The board of trustees shall determine the premium rate for optional term life insurance coverage for annuitants under Subsection (a). The rate must be comparable to the premium rate for optional term life insurance coverage for employees of the same age.

(e) As an alternative to the optional term life insurance coverage plan, an annuitant may choose a minimum optional term life insurance coverage amount not subject to benefit reduction factors based on age, with a coverage amount and premium rate determined by the board of trustees. (V.T.I.C. Art. 3.50-2, Secs. 11(e)(1), (2).)

#### Source Law

(e)(1) In addition to retiree basic term life insurance coverage, a participant in the optional group term life insurance program may maintain optional term life insurance coverage after retirement. The trustee may adopt rules for the implementation and administration of this subsection.

(2) A participant may maintain after retirement the amount of optional term life insurance coverage on the participant's life on the date of retirement, not to exceed two times the participant's annual salary on the last September 1 before retirement and subject to benefit reduction factors based on age as determined by the trustee. The trustee shall determine the rate for retiree optional term life insurance coverage. The rate must be comparable to the rate for optional term life insurance coverage for an active employee of the same age. Alternatively, a retiree may choose another minimum optional term life insurance coverage amount not subject to benefit reduction

factors based on age, with a coverage amount and premium rate determined by the trustee.

Revised Law

Sec. 1551.257. ELIGIBILITY OF ANNUITANT FOR EXTENDED INSURANCE BENEFITS. An annuitant participating in optional term life insurance coverage is not eligible for premium-waived extended insurance benefits if the total disability begins after the date of retirement. (V.T.I.C. Art. 3.50-2, Sec. 11(e)(3) (part).)

Source Law

(3) An annuitant participating in optional term life insurance coverage is not eligible for premium-waived extended insurance benefits if the total disability begins after the date of retirement. . . .

Revised Law

Sec. 1551.258. TERMINATION OF ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE COVERAGE ON RETIREMENT. Without regard to the employee's age, accidental death and dismemberment insurance coverage ends on the employee's date of retirement. (V.T.I.C. Art. 3.50-2, Sec. 11(e)(3) (part).)

Source Law

(3) . . . Accidental death and dismemberment insurance coverage ceases on the date of retirement, regardless of age. . . .

Revised Law

Sec. 1551.259. ORDER OF PRECEDENCE OF PAYMENT TO SURVIVORS. (a) The amount of group life coverage and group accidental death and dismemberment coverage in force for a participant on the date the participant dies shall be paid, on the establishment of a valid claim, to a person surviving the death in the following order of precedence:

(1) to the beneficiary designated by the participant in a signed and witnessed writing received before death by the employing state agency;

(2) if a beneficiary is not designated, to the spouse of the participant;

(3) if Subdivisions (1) and (2) do not apply, to the children of the participant and descendants of the deceased children by representation;

(4) if Subdivisions (1)-(3) do not apply, to the parents of the participant or the survivor of the parents;

(5) if Subdivisions (1)-(4) do not apply, to the executor or administrator of the estate of the participant; or

(6) if Subdivisions (1)-(5) do not apply, to other relatives of the participant entitled under applicable laws of the participant's domicile on the date of the participant's death.

(b) If before the first anniversary of the date of death of the participant a claim for payment has not been filed by a person entitled under the order of precedence in Subsection (a), or if payment to the person within that period is prohibited by any statute or rule, payment may be made in the order of precedence as if the person had predeceased the participant.

(c) If before the second anniversary of the date of death of the participant a claim for payment has not been filed by a person entitled under the order of precedence in Subsection (a), and neither the board of trustees nor the office established by the administering carrier has received notice that the claim will be made, payment may be to a claimant equitably entitled to the payment as determined by the board.

(d) If before the fourth anniversary of the date of death of the participant payment has not been made under this section and a claim for payment by a person entitled under this section is not pending, the amount payable escheats to the credit of the employees life, accident, and health insurance and benefits fund.

(e) The board of trustees shall give effect to a full or partial disclaimer of benefits executed in accordance with Section 37A, Texas Probate Code.

(f) Payment under Subsection (b) or (c) bars recovery by any other person.

(g) For purposes of Subsection (a)(1), a designation, change, or cancellation of a beneficiary in a document, including a will, that is not executed and filed in the manner described by that subsection is not valid. (V.T.I.C. Art. 3.50-2, Sec. 12.)

Source Law

Sec. 12. (a) The amount of group life coverages and group accidental death and dismemberment coverages in force on an employee at the date of his death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries designated by the employee in a signed and witnessed writing received before death in the employing office. For this purpose, a designation, change, or

cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of the deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee.

Sixth, if none of the above, to other kin of the employee entitled under the laws of the domicile of the employee at the date of his death.

(b) If, within one year after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named by Subsection (a) of this section, or if payment to the person within that period is prohibited by any statute or regulation, payment may be made in the order of precedence as if the person had predeceased the employee, and the payment bars recovery by any other person.

(c) If, within two years after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named in Subsection (a) of this section, and neither the trustee nor the office established by the administering carrier has received notice that such a claim will be made, payment may be to the claimant who in the judgment of the trustee is equitably entitled thereto, and the payment bars recovery by any other person.

(d) If, within four years after the death of the employee, payment has not been made under this section and no claim for payment by a person entitled under this section is pending, the amount payable escheats to the credit of the fund.

(e) The trustee shall give effect to a

full or partial disclaimer of benefits executed in accordance with Section 37A, Texas Probate Code.

Revisor's Note

Section 12(a), V.T.I.C. Article 3.50-2, refers to a "duly appointed executor or administrator" of an estate. The revised law omits "duly" because it does not add to the clear meaning of the law. An individual who is not properly appointed as the executor or administrator of an estate is not the executor or administrator of the estate.

[Sections 1551.260-1551.300 reserved for expansion]

SUBCHAPTER G. CONTRIBUTIONS AND COSTS

Revised Law

Sec. 1551.301. FUNDING OF BASIC COVERAGE. The board of trustees shall use the amount appropriated for employer contributions in the manner provided by this subchapter to fund the basic coverage. (V.T.I.C. Art. 3.50-2, Sec. 14(a) (part).)

Source Law

Sec. 14. (a) The trustee shall use the amount appropriated for employer contributions in accordance with Section 15 of this Act to fund the basic coverage. . . .

Revised Law

Sec. 1551.302. ALLOCATION OF EMPLOYER CONTRIBUTIONS. (a) The board of trustees may equitably allocate to each health benefit plan the employer contributions that would be required to fund basic health coverage for participants in the plans to the extent funds are available.

(b) In allocating the employer contributions among plans, the board of trustees shall consider the relevant risk characteristics of each plan's enrollment, including:

(1) demographic variations in the use and cost of health care; and

(2) prevailing cost patterns in the area in which the plan operates.

(c) The allocation must be reasonable and set in a manner that ensures participants a fair choice among health benefit plans providing a basic plan.

(d) The contribution set for each participant must be within the total amount appropriated in the General Appropriations Act. (V.T.I.C. Art. 3.50-2, Sec. 14(a) (part).)

Source Law

(a) . . . The trustee may equitably allocate to each health benefits plan the employer contributions that would be required to fund basic health coverage for participants in the plans to the extent funds are available. In allocating the employer contributions among plans, the trustee shall consider the relevant risk characteristics of each plan's enrollment, including demographic variations in the use and cost of health care and the prevailing cost patterns in the area in which the plan operates. The allocation must be reasonable and set in a manner which assures employees a fair choice among health benefit plans providing a basic plan. The contribution set for each employee shall be within the total amount appropriated in the General Appropriations Act.

Revised Law

Sec. 1551.303. FUNDING OF OPTIONAL COVERAGES. The board of trustees may allocate any employer contributions remaining after the basic coverage has been funded to fund optional coverages in any manner the board determines is appropriate. (V.T.I.C. Art. 3.50-2, Sec. 14(b).)

Source Law

(b) Any employer contributions remaining after the basic coverage has been funded may be allocated by the trustee to fund optional coverages in any manner the trustee determines is appropriate.

Revised Law

Sec. 1551.304. FUNDING OF VOLUNTARY COVERAGES. The board of trustees may not allocate any employer contributions to fund voluntary coverages. Voluntary coverages may be funded only by participant contributions. (V.T.I.C. Art. 3.50-2, Secs. 5A(c) (part), 14(c).)

Source Law

[Sec. 5A]

(c) [The trustee may define voluntary coverages] for which the employee or annuitant is responsible for the full cost.

[Sec. 14]

(c) The trustee may not allocate any employer contributions to fund voluntary coverages. Voluntary coverages must be funded solely by employee contributions.

Revised Law

Sec. 1551.305. COST OF BASIC COVERAGE EXCEEDING EMPLOYER CONTRIBUTIONS. If the cost of the basic coverage for an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 exceeds the amount of employer contributions allocated to fund the basic coverage, the state shall deduct from or reduce the monthly compensation of the participant or deduct from the retirement benefits of the participant, as applicable, an amount sufficient to pay the cost of the basic coverage. (V.T.I.C. Art. 3.50-2, Sec. 14(d).)

Source Law

(d) If the cost of the basic coverage for a state employee or annuitant exceeds the amount of employer contributions allocated to fund the basic coverage, the state shall deduct from or reduce the monthly compensation of the state employee and shall deduct from the retirement benefits of the annuitant an amount sufficient to pay the cost of the basic coverage.

Revised Law

Sec. 1551.306. PAYMENT OF EXCESS COST OVER BASIC COVERAGE CONTRIBUTION. (a) The board of trustees shall apply the amount of any employer contribution for optional coverages to the excess of the cost of the basic and optional coverages for which an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 applies over the basic coverage contribution.

(b) Except as provided by Section 1551.309, if a participant applies for basic and optional coverages for which the cost exceeds the employer contributions for those coverages under this chapter, the participant shall authorize in a form and manner satisfactory to the board of trustees a deduction from the participant's monthly compensation or monthly annuity equal to the difference between:

(1) the cost of basic and optional coverages for which the participant applies; and

(2) the employer contributions for basic and optional coverages. (V.T.I.C. Art. 3.50-2, Sec. 14(e).)

Source Law

(e) The trustee shall apply the amount of any employer contribution allocated to fund optional coverages to the excess of the cost of the basic and optional coverages for which the employee or annuitant has applied over the basic coverage contribution. Except as provided by Subsection (h) of this section, if an employee or annuitant applies for basic and optional coverages for which the cost exceeds the contributions for those coverages under this Act, the employee or annuitant shall authorize in a form and manner satisfactory to the trustee a deduction from the employee's or annuitant's monthly compensation or annuity equal to the difference between the cost of basic and optional coverages for which the employee or annuitant has applied and the employer contributions for basic and optional coverage.

Revised Law

Sec. 1551.307. PAYMENT FOR VOLUNTARY COVERAGES. Except as provided by Section 1551.309, if an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 applies for voluntary coverages, the participant shall authorize in a form and manner satisfactory to the board of trustees a deduction from the participant's monthly compensation or monthly annuity equal to the cost of the voluntary coverages. (V.T.I.C. Art. 3.50-2, Sec. 14(f).)

Source Law

(f) Except as provided by Subsection (h) of this section, if an employee or annuitant applies for voluntary coverages, the employee shall authorize in a form and manner satisfactory to the trustee a deduction from the employee's monthly compensation or annuity equal to the cost of the voluntary coverages.

Revised Law

Sec. 1551.308. NO CONTRIBUTION ON REFUSAL OF COVERAGE. The state and a state agency may not make any contribution to the cost of any coverages or benefits provided under this chapter for an individual who refuses the coverages or benefits in a form and

manner satisfactory to the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 14(g).)

Source Law

(g) If an employee or annuitant refuses the coverages or benefits provided under this Act in a form and manner satisfactory to the trustee, the state and the employee's department may not make any contribution to the cost of any coverages or benefits for the employee or annuitant.

Revised Law

Sec. 1551.309. EMPLOYEE PAYMENTS FOR PARTICIPATION IN CAFETERIA PLAN. (a) If an employee elects to participate in the cafeteria plan, the employee must execute a salary reduction agreement under which the employee's monthly compensation will be reduced in an amount equal to the difference between:

(1) the employer contributions for basic and optional coverages; and

(2) the cost of the cafeteria plan coverages the board of trustees identifies as comparable to the basic and optional coverages for which the employee is eligible.

(b) The salary reduction agreement must also provide for an additional reduction in the employee's compensation equal to the cost of voluntary coverages for which the employee has applied.

(c) An employee who executes a salary reduction agreement for a group coverage plan included in the cafeteria plan elects to participate in the cafeteria plan and agrees to a salary reduction for the coverages for subsequent plan years unless the employee, during an annual enrollment period specified by the board of trustees, elects in a form and manner satisfactory to the board not to participate for the next plan year in the coverages.

(d) An employee who elects not to participate in the cafeteria plan group coverage plans may reenroll by executing a new salary reduction agreement during a subsequent annual enrollment period.

(e) A salary reduction agreement for cafeteria plan benefits, other than a group coverage plan, must be executed annually during the annual enrollment period.

(f) The employee shall pay any remaining portion of the cost of benefits that is not covered by the contributions for basic and optional coverages and the salary reduction under the cafeteria plan by executing a payroll deduction agreement.

(V.T.I.C. Art. 3.50-2, Sec. 14(h).)

Source Law

(h) If an employee elects to participate in the cafeteria plan, the employee must execute a salary reduction agreement under which the employee's monthly compensation will be reduced in an amount that is equal to the difference between the employer contributions for basic and optional coverages and the cost of the cafeteria plan coverages identified by the trustee as comparable to the basic and optional coverages for which the employee is eligible. The salary reduction agreement must also provide for an additional reduction in the employee's compensation equal to the cost of voluntary coverages for which the employee has applied. An employee who executes a salary reduction agreement for insurance coverage included in the cafeteria plan has elected to participate in the cafeteria plan and agreed to a salary reduction for the insurance coverages for subsequent plan years unless the participant, during an annual enrollment period specified by the trustee, elects in a form and manner satisfactory to the trustee not to participate for the next plan year in the insurance coverages. An employee who has elected not to participate in the cafeteria plan insurance coverages may re-enroll by executing a new salary reduction agreement during a subsequent annual enrollment period. A salary reduction agreement for cafeteria plan benefits other than insurance coverages must be executed annually, during the annual enrollment period. The employee shall pay any remaining portion of the cost of benefits that is not covered by the contributions for basic and optional coverages and the salary reduction under the cafeteria plan by executing a payroll deduction agreement.

Revised Law

Sec. 1551.310. STATE CONTRIBUTION REQUIRED. The state shall contribute to the cost of each participant's group coverages, including dependents' group coverages, the amounts appropriated for the coverages in the General Appropriations Act. (V.T.I.C.

Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) The state shall contribute to the cost of each employee's individual and dependent group coverages the amounts appropriated for the coverages in the General Appropriations Act. . . .

Revised Law

Sec. 1551.311. AMOUNT OF STATE CONTRIBUTION. (a) Not later than November 1 preceding each regular session of the legislature, the board of trustees shall certify to the Legislative Budget Board and the budget division of the governor's office for information and review the amount necessary to pay the contributions of the state to the board for the coverages provided under this chapter during the following biennium.

(b) The governor shall include the amount in the budget that the governor submits to the legislature. (V.T.I.C. Art. 3.50-2, Sec. 15(a) (part).)

Source Law

Sec. 15. (a) On or before the first day of November next preceding each regular session of the legislature, the trustee shall certify to the Legislative Budget Board and budget division of the governor's office for information and review the amount necessary to pay the contributions of the State of Texas to the trustee for the coverages provided under this Act during the ensuing biennium. . . . This amount shall be included in the budget of the state which the governor submits to the legislature.

Revised Law

Sec. 1551.312. AMOUNT OF STATE CONTRIBUTION FOR CERTAIN DEPENDENT CHILDREN. The state may contribute a greater amount for coverage for dependent children described by Section 1551.159(a) than the amount the state contributes for group coverages for other dependent children. (V.T.I.C. Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) . . . The state may contribute a greater amount for coverage for dependent children described by Section 14A(a) of this

Act than the state contributes for group coverages for other dependent children. . . .

Revised Law

Sec. 1551.313. AMOUNT OF STATE CONTRIBUTION FOR CERTAIN SURVIVING DEPENDENTS. If funds are specifically appropriated for the purpose, this state shall pay the same portion of the cost of the required contributions for a deceased annuitant's surviving spouse or other surviving dependent who elects to retain coverage under Section 1551.156 as this state pays for similar dependent coverage for an employee or annuitant participating in the program. (V.T.I.C. Art. 3.50-2, Sec. 19(b) (part).)

Source Law

(b) . . . If funds are specifically appropriated for the purpose, the state shall pay the same portion of the cost of the required contributions for a deceased retiree's surviving spouse or other surviving dependent who elects to retain coverage under this subsection as it pays for similar dependent coverage for an employee or retiree participating in the program.

Revised Law

Sec. 1551.314. CERTAIN STATE CONTRIBUTIONS PROHIBITED. A state contribution may not be made for coverages under this chapter selected by an individual who receives a state contribution, other than as a spouse, dependent, or beneficiary, for coverages under a group benefits program provided by an institution of higher education, as defined by Section 61.003, Education Code. (V.T.I.C. Art. 3.50-2, Sec. 15(a) (part).)

Source Law

(a) . . . A state contribution may not be made for coverages under this Act selected by a person who receives a state contribution, other than as a spouse, dependent, or beneficiary, for coverages under a group benefits program provided by an institution of higher education, as that term is defined by Section 61.003, Education Code. . . .

Revised Law

Sec. 1551.315. REQUIRED CONTRIBUTIONS BY STATE AGENCIES.  
(a) The governing board of each state agency participating in the group benefits program shall pay to the board of trustees an

amount equal to the amount appropriated by the legislature for each employee's individual group coverages or dependents' group coverages for the agency's employees who are, and annuitants who were, compensated from funds not appropriated in the General Appropriations Act.

(b) The state agency shall:

(1) include the required contributions from funds not appropriated in the General Appropriations Act in its annual operating budget;

(2) ensure current participant coverages based on the records of the board of trustees;

(3) make timely payments of amounts due the board of trustees from all fund sources under the state agency's control; and

(4) each month reconcile board of trustees and state agency records of coverages and payments. (V.T.I.C. Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) . . . The governing board of each state department and institution of higher education participating in the program established under this Act shall pay the trustee a like amount for each employee's individual or dependent group coverages for their employees who are, and retirees who were, compensated from funds not appropriated in the General Appropriations Act. The departments and institutions shall include the required contributions from funds not appropriated in the General Appropriations Act in their annual operating budgets. Each state department and institution of higher education participating in the program shall assure current participant coverages based on the records of the trustee, make timely payments of amounts due the trustee from all fund sources under the control of the department or institution, and reconcile trustee and agency records of coverages and payments monthly. . . .

Revised Law

Sec. 1551.316. ALLOCATION TO BOARD OF TRUSTEES OF EMPLOYER CONTRIBUTIONS. From the several funds from which employees receive their respective salaries, all employer contributions computed in accordance with this chapter and rules adopted under this chapter are allocated to the board of trustees as provided

by this chapter. (V.T.I.C. Art. 3.50-2, Sec. 15(b) (part).)

Source Law

(b) . . . There is hereby allocated to the trustee, in accordance with the provisions of this Act, from the several funds from which employees receive their respective salaries, a sum equal to the total of all employer contributions computed in accordance with the provisions of this Act and the rules and regulations of the trustee promulgated pursuant thereto.

Revised Law

Sec. 1551.317. PAYMENT OF EMPLOYER CONTRIBUTIONS ALLOCATED BY THE STATE. (a) All money allocated by this state, including by institutions of higher education, to the board of trustees under this chapter shall be paid to the board in monthly installments based on the annual estimate by the board of the contributions to be received for all employees during the year.

(b) At the end of each fiscal year, the board of trustees shall make any adjustments required to cover the difference between:

- (1) the annual estimate; and
- (2) the actual amount of the employer contributions

during the year.

(c) Each monthly installment shall be paid to the appropriate fund created by this chapter in the amount certified by the board of trustees. (V.T.I.C. Art. 3.50-2, Sec. 15(c).)

Source Law

(c) All money hereby allocated by the state, including institutions of higher education, to the trustee under this Act shall be paid to the trustee in monthly installments based on the annual estimate by the trustee of the contributions to be received for all employees during said year; provided, however, that in the event said estimate of the contributions of the employees shall vary from the actual amount of the employer contributions during the year, such adjustments shall be made at the close of each fiscal year as may be required. Each of said monthly installments shall be paid into the appropriate fund created by this Act in the amount certified by the trustee.

Revised Law

Sec. 1551.318. PAYMENT OF EMPLOYER CONTRIBUTIONS NOT ALLOCATED BY THE STATE. (a) The board of trustees shall certify to the governing board of each state agency participating in the group benefits program that provides contributions for its employees' group coverages and dependents' group coverages from operating budgets provided from sources other than the General Appropriations Act the proportionate amounts required to pay its contributions.

(b) The board of trustees shall make the certification not later than the 30th day before the date of the meeting at which the governing board of the state agency adopts its operating budget. (V.T.I.C. Art. 3.50-2, Sec. 15(d).)

Source Law

(d) The trustee shall certify to the governing boards of those state departments and institutions of higher education participating in the program established under this Act who provide contributions for their employees' individual and dependent coverages from operating budgets provided from sources other than the General Appropriations Act the proportionate amounts required to pay their respective contributions. Such certifications shall be made at least 30 days prior to the meeting at which the governing board adopts its operating budget.

Revised Law

Sec. 1551.319. AMOUNT OF CONTRIBUTION FOR FULL-TIME AND PART-TIME EMPLOYEES. (a) A full-time employee receives the benefits of a full state contribution for coverage under this chapter.

(b) A part-time employee receives the benefits of one-half of the amount of the state contribution received by a full-time employee. (V.T.I.C. Art. 3.50-2, Secs. 3(a)(14) (part), (15) (part).)

Source Law

(14) . . . A part-time employee shall receive the benefits of one-half the amount of the state's contribution received by full-time employees.

(15) . . . A full-time employee shall receive the benefits of a full state contribution for coverage under this Act.

Revised Law

Sec. 1551.320. CERTAIN COSTS. The Texas Higher Education Coordinating Board shall pay all costs incurred in determining whether an individual is disabled if:

(1) the individual is an annuitant under the optional retirement program established by Chapter 830, Government Code; and

(2) the individual's last state employment was as an officer or employee of the coordinating board. (V.T.I.C. Art. 3.50-2, Sec. 4A (part).)

Source Law

Sec. 4A. . . . All costs incurred in determining whether or not a person is disabled who is an annuitant under the optional retirement program established by Subchapter G, Chapter 51, Texas Education Code, as amended, and whose last state employment was as an officer or employee of the Coordinating Board, Texas College and University System, shall be paid by that board.

Revisor's Note

(1) Section 4A, V.T.I.C. Article 3.50-2, refers to the "Coordinating Board, Texas College and University System." In 1987, the name of the agency was changed by Section 1.08, Chapter 823, Acts of the 70th Legislature, Regular Session, to "Texas Higher Education Coordinating Board." The revised law is drafted accordingly.

(2) Section 4A, V.T.I.C. Article 3.50-2, refers to the optional retirement program established by "Subchapter G, Chapter 51, Texas Education Code, as amended." That statute was repealed and recodified in 1981 as Chapter 830, Government Code. The revised law is drafted accordingly. In addition, the revised law omits the reference to "as amended" because Section 312.008, Government Code, which applies to this code, provides that a reference to any statute applies to all amendments of the statute.

[Sections 1551.321-1551.350 reserved for expansion]

SUBCHAPTER H. EXPULSION AND ADJUDICATION OF CLAIMS

Revised Law

Sec. 1551.351. EXPULSION. (a) After notice and hearing as provided by this section, the board of trustees may expel from participation in the group benefits program a participant who:

- (1) submits a fraudulent claim or application for coverage under the program; or
- (2) defrauds or attempts to defraud a group coverage plan offered under the group benefits program.

(b) On receipt of a complaint or on its own motion, the board of trustees may call and hold a hearing to determine whether a participant acted in a manner described by Subsection (a).

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) At the conclusion of the hearing, if the board of trustees determines that the participant acted in a manner described by Subsection (a), the board shall expel the participant from participation in the group benefits program.

(e) A participant expelled from the group benefits program may not participate in a coverage plan offered by the program for a period determined by the board of trustees, not to exceed five years, beginning on the date the expulsion takes effect.

(f) An appeal of a determination by the board of trustees under this section is under the substantial evidence rule.

(V.T.I.C. Art. 3.50-2, Sec. 13A.)

Source Law

Sec. 13A. (a) After notice and hearing as provided by this section, the trustee may expel from participation in the Texas employees uniform group insurance program any employee, annuitant, or dependent who submits a fraudulent claim or application for coverage under or has defrauded or attempted to defraud any health maintenance organization or insurance or benefits plan offered under the program.

(b) On receipt of a complaint or on its own motion, the trustee may call and hold a hearing to determine whether an employee, annuitant, or dependent has submitted a fraudulent claim or application for coverage under or has defrauded or attempted to defraud any health maintenance organization or insurance or benefits plan offered under the Texas employees uniform group insurance program.

(c) A proceeding under this section is a contested case under the administrative procedure law, Chapter 2001, Government Code.

(d) At the conclusion of the hearing, if the trustee issues a decision that finds that the accused employee, annuitant, or dependent submitted a fraudulent claim or application for coverage or has defrauded or attempted to defraud any health maintenance organization or insurance or benefits plan offered under the Texas employees uniform group insurance program, the trustee shall expel the employee, annuitant, or dependent from participation in the program.

(e) An appeal of a decision of the trustee under this section is under the substantial evidence rule.

(f) An employee, annuitant, or dependent expelled from the Texas employees uniform group insurance program may not participate in any plan of coverage offered by the program for a period determined by the trustee of not more than five years from the date the expulsion from the program takes effect.

#### Revisor's Note

Section 13A(a), V.T.I.C. Article 3.50-2, provides a process for expulsion from participation in the group benefits program for a participant who engages in certain fraudulent acts in relation to "any health maintenance organization or insurance or benefits plan offered under the program." It is the clear intent of the source law that the expulsion process apply to a participant who engages in certain fraudulent acts in relation to all of the plans offered under the group benefits program and group coverage plan, and the revised law is drafted accordingly.

#### Revised Law

Sec. 1551.352. EXECUTIVE DIRECTOR DETERMINES QUESTIONS RELATING TO ENROLLMENT OR PAYMENT OF CLAIMS. The executive director has exclusive authority to determine all questions relating to enrollment in or payment of a claim arising from group coverages or benefits provided under this chapter other than questions relating to payment of a claim by a health

maintenance organization. (V.T.I.C. Art. 3.50-2, Sec. 4B(a).)

Source Law

Sec. 4B. (a) The executive director of the Employees Retirement System of Texas has exclusive authority to determine all questions relating to enrollment in or payment of claims arising from programs or coverages provided under authority of this Act, other than questions relating to payment of claims by a health maintenance organization.

Revised Law

Sec. 1551.353. RESCISSION OF COVERAGE OR DENIAL OF CLAIM BY EXECUTIVE DIRECTOR. (a) The executive director may rescind coverage, deny a claim arising from the coverage, or both, if the executive director determines that a participant has:

(1) obtained the coverage under any group coverage plan provided under this chapter through the use of a material misrepresentation or fraud; or

(2) fraudulently induced the extension of the coverage by making a material misrepresentation or supplying false information on an application for coverage or related documentation or in a communication.

(b) The executive director may rescind the coverage to the date of:

(1) the inception of the coverage; or

(2) the fraudulent act or material misrepresentation.

(c) The authority of the executive director to act under this section is in addition to and independent of any expulsion action under Section 1551.351. (V.T.I.C. Art. 3.50-2, Sec. 4B(a-1) (part).)

Source Law

(a-1) If the executive director determines that a participant has obtained coverage under any program provided under the authority of this Act through the use of any material misrepresentation or fraud or has fraudulently induced the extension of coverage by making a material misrepresentation or by supplying false information on any application for coverage or related documentation or in any communication, the executive director may rescind the coverage to the date of the inception of the coverage or to the date of

the fraudulent act or material misrepresentation, deny any claim arising out of the fraudulently induced coverage, or both. Remedies available to the executive director under this subsection are in addition to and independent of any expulsion action that may be instituted under Section 13A of this Act. . . .

Revised Law

Sec. 1551.354. DOUBLE OR MULTIPLE LIABILITY. (a) The executive director may determine that a claim arising under any group coverage plan administered by the board of trustees may expose the plan to double or multiple liability.

(b) The executive director may cause the filing of a suit concerning the claim in a district court in Travis County on behalf of the Employees Retirement System of Texas to protect the group coverage plan from double or multiple liability. (V.T.I.C. Art. 3.50-2, Sec. 4B(b).)

Source Law

(b) The authority of the executive director to determine questions includes the authority to determine that a claim arising under any program administered by the trustee may expose the program to double or multiple liability. The executive director may cause suit concerning the claim to be filed in a district court in Travis County on behalf of the Employees Retirement System of Texas to protect the program from double or multiple liability.

Revised Law

Sec. 1551.355. APPEAL OF EXECUTIVE DIRECTOR'S DETERMINATION. (a) Subject to Subsection (b), an appeal of a determination of the executive director under this subchapter is only to the board of trustees.

(b) On behalf of the board of trustees, the executive director may:

(1) refer an appeal to the State Office of Administrative Hearings for a hearing; or

(2) notwithstanding any other law, including Section 2003.021, Government Code, employ or contract for the services of an administrative law judge or other hearing examiner not affiliated with the State Office of Administrative Hearings to conduct the hearing of an appeal.

(c) The appeal is a contested case under Chapter 2001,

Government Code. (V.T.I.C. Art. 3.50-2, Secs. 4B(a-1) (part), (c) (part), (c-3).)

Source Law

(a-1) . . . A decision of the executive director under this subsection may be appealed to the trustee as provided by Subsection (c) of this section.

(c) A decision by the executive director under Subsection (a) or (a-1) of this section may be appealed only to the trustee. An appeal to the trustee is a contested case under the administrative procedure law, Chapter 2001, Government Code. . . .

(c-3) On behalf of the trustee, the executive director may refer an appeal made under Subsection (c) of this section to the State Office of Administrative Hearings for a hearing or, notwithstanding Section 2003.021, Government Code, or other law, employ or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct the hearing.

Revised Law

Sec. 1551.356. STANDING. A person has standing to appeal a determination of the executive director under this subchapter only if the person is:

(1) an individual participating in the group benefits program; or

(2) after the death of a participant, the participant's estate, personal representative, heir at law, or designated beneficiary. (V.T.I.C. Art. 3.50-2, Sec. 4B(c) (part).)

Source Law

(c) . . . Standing to pursue an administrative appeal under this section is limited to employees, annuitants, and covered dependents participating in the Texas employees uniform group insurance program or, after the death of a participant, to the participant's estate, personal

representative, heirs at law, or designated beneficiary.

Revised Law

Sec. 1551.357. DETERMINATION OF APPEAL BY BOARD OF TRUSTEES. (a) In a proceeding considered to be a contested case under Chapter 2001, Government Code, the board of trustees may modify or delete a proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law.

(b) The board of trustees shall state in writing the specific reason for the board's determination.

(c) The board of trustees may adopt rules to implement this section. (V.T.I.C. Art. 3.50-2, Sec. 4B(c-1).)

Source Law

(c-1) The board of trustees may modify or delete a proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001, Government Code. The board of trustees shall state in writing the specific reason for the determination and may adopt rules for the implementation of this subsection.

Revised Law

Sec. 1551.358. NEGOTIATION. (a) Notwithstanding any other provision of this subchapter, the board of trustees and a person who has standing to pursue an administrative appeal under this subchapter may at any time informally negotiate an award of benefits.

(b) Negotiated benefits may not exceed the maximum benefits otherwise available or required by law. (V.T.I.C. Art. 3.50-2, Sec. 4B(c-2).)

Source Law

(c-2) Notwithstanding Subsections (c) and (d) of this section, the trustee and a person who has standing to pursue an administrative appeal may at any time informally negotiate an award of benefits. Negotiated benefits may not exceed the maximum benefits otherwise available or

required by law.

Revised Law

Sec. 1551.359. STANDARD OF REVIEW OF DETERMINATION OF BOARD OF TRUSTEES. The standard of review for the appeal of a determination made by the board of trustees under this subchapter is by substantial evidence. (V.T.I.C. Art. 3.50-2, Sec. 4B(d).)

Source Law

(d) On appeal of a decision made by the trustee under Subsection (c) of this section, the standard of review is by substantial evidence.

Revised Law

Sec. 1551.360. DELEGATION. (a) The board of trustees may delegate its duty to hear an appeal to the executive director.

(b) The executive director may delegate the director's duty under this subchapter to another employee of the Employees Retirement System of Texas. (V.T.I.C. Art. 3.50-2, Secs. 4B(e), (f).)

Source Law

(e) The trustee may delegate its duties to hear appeals to the executive director.

(f) The executive director may delegate the duties of the executive director under this section to another person who is employed by the Employees Retirement System of Texas.

[Sections 1551.361-1551.400 reserved for expansion]

SUBCHAPTER I. FUNDS

Revised Law

Sec. 1551.401. EMPLOYEES LIFE, ACCIDENT, AND HEALTH INSURANCE AND BENEFITS FUND. (a) The employees life, accident, and health insurance and benefits fund is in the state treasury.

(b) The board of trustees shall administer the fund.

(c) Contributions of participants and the state provided for under this chapter shall be credited to the fund.

(d) The fund is available:

(1) without fiscal year limitation for all payments for any coverages provided for under this chapter; and

(2) for payment of expenses of administering this chapter within the limitations that may be specified annually by the legislature.

(e) The board of trustees shall regularly set aside in the

fund an amount equal to a percentage of the contributions made by participants and the state that the board determines is reasonably adequate to pay the expenses of administering this chapter.

(f) The board of trustees, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves to be used by the board only for charges, claims, and expenses under the group benefits program. (V.T.I.C. Art. 3.50-2, Secs. 16(a), (b).)

Source Law

Sec. 16. (a) There is hereby created with the treasury of the State of Texas an Employees Life, Accident, and Health Insurance and Benefits Fund which shall be administered by the trustee. The contributions of employees, annuitants, and the state provided for under this Act shall be paid into the fund. The fund is available:

(1) without fiscal year limitation for all payments for any coverages provided for under this Act; and

(2) to pay expenses for administering this Act within the limitations that may be specified annually by the legislature.

(b) Portions of the contributions made by employees, annuitants, and the state shall be regularly set aside in the fund as follows: a percentage determined by the trustee to be reasonably adequate to pay the administrative expenses made available by Subsection (a) of this section. The trustee, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves to be used by the trustee only for charges, claims, costs, and expenses under the program.

Revised Law

Sec. 1551.402. STATE EMPLOYEES CAFETERIA PLAN TRUST FUND.

(a) The state employees cafeteria plan trust fund is in the state treasury.

(b) The board of trustees shall administer the fund.

(c) The following shall be credited to the fund:

(1) salary reduction payments for benefits included in a cafeteria plan other than group coverage plans under the group

benefits program; and

(2) appropriations by the state for the administration of a cafeteria plan.

(d) The trust fund is available without fiscal year limitation:

(1) for all payments for any benefits included in a cafeteria plan other than group coverage plans under the group benefits program; and

(2) for payment of expenses of administering a cafeteria plan.

(e) The board of trustees may establish accounts for money in the fund as the board considers necessary, including accounts for the administration of a cafeteria plan. The board of trustees may transfer assets from one account to another:

(1) to pay benefits if:

(A) the transfer is necessary for financial management purposes; and

(B) adequate arrangements are made to reimburse the account from which the transfer was made; and

(2) to pay administrative expenses. (V.T.I.C. Art. 3.50-2, Secs. 16B(a), (c).)

Source Law

Sec. 16B. (a) The State Employees Cafeteria Plan Trust Fund is created in the State Treasury. The trust shall be administered by the trustee. Salary reduction payments for benefits included in a cafeteria plan adopted under this Act other than coverages under the Texas Employees Uniform Group Insurance Program and appropriations by the state for the administration of a cafeteria plan adopted under this Act shall be paid into the trust fund. The trust fund is available without fiscal year limitation:

(1) for all payments for any benefits included in a cafeteria plan adopted under this Act other than coverages under the Texas Employees Uniform Group Insurance Program; and

(2) to pay expenses for administering the cafeteria plan adopted under this Act.

(c) The trustee may establish the accounts for money in the State Employees Cafeteria Plan Trust Fund as the trustee

considers necessary, including any accounts the trustee considers necessary for the administration of a cafeteria plan adopted under this Act. The trustee may transfer assets from one account to another to pay benefits if the transfer is necessary for financial management purposes and if adequate arrangements are made to reimburse the account out of which the transfer was made, and to pay administrative expenses.

Revised Law

Sec. 1551.403. FEES FOR STATE EMPLOYEES CAFETERIA PLAN TRUST FUND. (a) Subject to Subsection (e), the board of trustees may establish a monthly fee to be paid by each employee who elects to participate in a cafeteria plan for the purpose of paying the expenses of administering the cafeteria plan.

(b) The board of trustees shall establish the amount of the monthly fee and may establish a separate fee for each benefit included in a cafeteria plan.

(c) If the board of trustees establishes a monthly fee, each employee who participates in the cafeteria plan must authorize payment of the fee by executing a separate payroll deduction agreement or as part of the salary reduction agreement, as determined by the board.

(d) The monthly fee shall be paid into the state employees cafeteria plan trust fund.

(e) The board of trustees may not establish a fee for administering the premium conversion benefit portion of a cafeteria plan. (V.T.I.C. Art. 3.50-2, Secs. 13B(d) (part), 16B(b).)

Source Law

[Sec. 13B]

(d) . . . Notwithstanding any provision of Section 16B of this Act to the contrary, the trustee may not establish a fee or charge for administering the premium conversion benefit portion of the cafeteria plan.

[Sec. 16B]

(b) The trustee may establish a monthly charge or charges to be paid by each employee who elects to participate in a cafeteria plan adopted under this Act for the purpose of paying the expenses of administering the cafeteria plan. The trustee shall establish

the amount of the monthly charge or charges and may establish a separate charge for each benefit included in a cafeteria plan adopted under this Act. If the trustee establishes a monthly charge or charges, each employee who participates in the cafeteria plan shall authorize payment of the charge or charges by executing a payroll deduction agreement or as part of the salary reduction agreement, as determined by the trustee. The monthly charge or charges shall be paid into the State Employees Cafeteria Plan Trust Fund.

Revisor's Note

Section 13B(d), V.T.I.C. Article 3.50-2, refers to a "fee or charge." The reference to "charge" is omitted from the revised law because "charge" is included within the meaning of "fee."

Revised Law

Sec. 1551.404. INSUFFICIENT EARNINGS FOR EMPLOYEE TO PARTICIPATE IN CAFETERIA FUND. (a) If the earnings of an employee who elects to participate in a cafeteria plan are insufficient to pay the cost of the coverages and benefits selected by the employee, the employee is liable to the board of trustees for an amount equal to the difference between:

- (1) the amount received by the board; and
- (2) the cost of the coverages and benefits.

(b) If the employee does not pay the difference within the time specified by the board of trustees, the board may:

- (1) cancel the coverages and benefits retroactive to the last month for which full payment was made; or
- (2) pursue any other available legal remedy. (V.T.I.C. Art. 3.50-2, Sec. 16B(d).)

Source Law

(d) If the earnings of an employee who elects to participate in a cafeteria plan adopted under this Act are insufficient to pay the cost of the coverages and benefits selected by the employee, the employee shall be liable to the trustee for the difference between the amount received by the trustee and the cost of the coverages and benefits selected. If the employee fails to pay the difference within the time specified by the trustee, the trustee may cancel the coverages and benefits retroactive to the last month

for which full payment was made or may pursue other legal remedies available to it.

Revised Law

Sec. 1551.405. EMPLOYEES' HEALTH CARE STABILIZATION TRUST FUND. (a) The employees' health care stabilization trust fund is a fund in the state treasury.

(b) The board of trustees shall administer the fund.

(c) The following shall be credited to the fund:

(1) money transferred to the fund at the direction of the legislature; and

(2) gifts and grants contributed to the fund.

(d) In administering the fund, the board of trustees shall make investments in a manner that preserves the purchasing power of the fund's assets.

(e) Money in the fund may not be spent for any purpose, except that the interest and investment returns of the fund may be appropriated only to stabilize the cost of state and participant contributions for health benefit coverage under this chapter by minimizing to the greatest extent possible increases in those contributions.

(f) The fund is exempt from the application of Section 403.095, Government Code. (V.T.I.C. Art. 3.50-2, Secs. 16C(a), (b) (part), (c) (part), (d), (e).)

Source Law

Sec. 16C. (a) The employees' health care stabilization trust fund is a special fund in the treasury outside the general revenue fund.

(b) The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

. . .

(c) The trustee shall administer the fund. . . . In administering the fund, the trustee shall make investments in a manner that preserves the purchasing power of the fund's assets.

(d) Money in the fund may not be spent for any purpose, except that the interest and investment returns of the fund may be appropriated only for the purpose of stabilizing the cost of state and participant contributions for health care coverage under this Act by minimizing to the greatest extent

possible increases in those contributions.

(e) The fund is exempt from the application of Section 403.095, Government Code.

Revisor's Note

(1) Section 16C, V.T.I.C. Article 3.50-2, which establishes the employees' health care stabilization trust fund, was enacted by Senate Bill 1130, Chapter 1541, Acts of the 76th Legislature, Regular Session, 1999. The final action by the legislature in enacting Senate Bill 1130 took place on May 29, 1999. House Bill 3084, Chapter 1045, Acts of the 76th Legislature, Regular Session, 1999, attempted to abolish the trust fund. The final action by the legislature in enacting House Bill 3084 took place on May 26, 1999. Section 311.025, Government Code (Code Construction Act), provides that "if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails" and that "the date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute." Section 312.014, Government Code, contains identical provisions. The bill establishing the fund irreconcilably conflicts with the bill abolishing it. Because the bill establishing the fund was finally passed by the legislature after the date on which the bill abolishing the fund was finally passed, the revised law gives effect to the establishment of the fund.

(2) Section 16C(a), V.T.I.C. Article 3.50-2, refers to the employees' health care stabilization trust fund as a "special" fund. The revised law deletes the designation of the fund as being "special" because that designation is unnecessary. The designation of a fund as a "special" fund has no legal effect.

(3) Section 16C(a), V.T.I.C. Article 3.50-2, refers to "a special fund in the treasury outside the general revenue fund." The revised law omits the reference to

"outside the general revenue fund" as unnecessary because the creation of a separate fund in the treasury means the fund is outside the general revenue fund.

Revised Law

Sec. 1551.406. INVESTMENT OF FUNDS. (a) Under the standard of care provided by Section 815.307, Government Code, the board of trustees may manage and has full power to invest and reinvest the money in:

- (1) the employees life, accident, and health insurance and benefits fund;
- (2) the state employees cafeteria plan trust fund; and
- (3) the employees' health care stabilization trust fund.

(b) The earnings, including interest on money in the fund and proceeds from the sale of any investments, become a part of the fund. (V.T.I.C. Art. 3.50-2, Secs. 16(c), 16B(e), 16C(b) (part), (c) (part).)

Source Law

[Sec. 16]

(c) The trustee shall have full power to invest and reinvest any of the money in the fund under the standard of care provided by Section 815.307, Government Code. The interest on and the proceeds from the sale of these obligations become a part of the fund.

[Sec. 16B]

(e) The trustee may, under the standard of care provided by Section 815.307, Government Code, invest and reinvest any of the money in the State Employees Cafeteria Plan Trust Fund. The interest on, earnings of, and the proceeds from the sale of the investments become a part of the trust fund.

[Sec. 16C]

(b) The [employees' health care stabilization trust] fund is composed of:

. . .

(3) the returns received as interest on, and from investment of, money in the fund.

(c) . . . The trustee may manage and invest the money in the fund under the standard of care provided by Section 815.307, Government Code. . . .

Revisor's Note

Section 16(c), V.T.I.C. Article 3.50-2, refers to the power to invest money in the fund and to the "interest on and proceeds from the sale of these obligations." It is clear from the context of that section that "these obligations" refers to investments of the fund. The revised law is drafted accordingly.

Revised Law

Sec. 1551.407. MANAGEMENT OF ASSETS. The board of trustees may commingle for investment purposes the assets of a fund created under this chapter with another fund created under this chapter or any other trust fund administered by the board if the board maintains and credits proportionate ownership records. (V.T.I.C. Art. 3.50-2, Sec. 16A.)

Source Law

Sec. 16A. The trustee may commingle for investment purposes the assets of any fund created under this Act with any other fund created under this Act or any other trust fund administered by the trustee, as long as proportionate ownership records are maintained and credited.

[Sections 1551.408-1551.450 reserved for expansion]

SUBCHAPTER J. GROUP BENEFITS ADVISORY COMMITTEE

Revised Law

Sec. 1551.451. DEFINITION. In this subchapter, "committee" means the group benefits advisory committee. (New.)

Revisor's Note

The definition of "committee" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 1551.452. NUMBER OF MEMBERS. The committee is composed of 26 voting members as provided by this subchapter. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

Sec. 18. (a) The group benefits advisory committee is composed of 26 voting members as provided by this section. . . .

Revised Law

Sec. 1551.453. MEMBERS REPRESENTING STATE AGENCIES. (a) The following state agencies are entitled to be represented by one member each on the committee:

- (1) the office of the attorney general;
- (2) the office of the comptroller;
- (3) the Railroad Commission of Texas;
- (4) the General Land Office; and
- (5) the Department of Agriculture.

(b) A committee member described by Subsection (a) may, as determined by rule by the governing body or officer of the state agency the member represents, be:

- (1) appointed by the governing body or officer of the agency; or
- (2) elected by and from the employees of the agency.

(c) The eight largest state agencies that are governed by appointed officers, not including the agencies listed under Subsection (a) or institutions of higher education, are entitled to be represented by one member each on the committee.

(d) A committee member described by Subsection (c) is elected by and from the employees of the state agency the member represents.

(e) The board of trustees shall appoint one committee member who is an employee of a state agency eligible for membership in the Texas Small State Agency Task Force.

(f) Not more than one employee from a particular state agency may serve on the committee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . The office of the attorney general, the office of the comptroller, the Railroad Commission of Texas, the General Land Office, and the Department of Agriculture are entitled to be represented by one member each on the committee, who may be appointed by the governing body of the state agency or elected by and from the employees of the agency, as determined by rule by the governing body of the agency. One employee shall be elected from each of the remaining eight largest state agencies that are governed by appointed officers by and from the employees of those agencies. . . . One member shall be a state employee of a state agency eligible for membership in the Texas Small State Agency Task Force, appointed by the trustee. Not more than one employee from

a particular state agency may serve on the committee. . . .

Revisor's Note

(1) Section 18(a), V.T.I.C. Article 3.50-2, refers to the governing body of certain state agencies, including the office of the attorney general, the office of the comptroller, the General Land Office, and the Department of Agriculture. Since these state agencies do not have governing bodies, the revised law refers to the "governing body or officer" of the relevant state agencies.

(2) Section 18(a), V.T.I.C. Article 3.50-2, refers to "the remaining eight largest state agencies that are governed by appointed officers." The revised law clarifies that institutions of higher education are not included in this group of agencies because Section 1551.003 of this chapter defines the term "state agency" to include institutions of higher education. Representatives for institutions of higher education are governed by the portion of Section 18(a), V.T.I.C. Article 3.50-2, revised as Section 1551.454.

Revised Law

Sec. 1551.454. MEMBERS REPRESENTING INSTITUTIONS OF HIGHER EDUCATION. (a) The seven largest institutions of higher education, as determined by the number of employees on the payroll of an institution, are entitled to be represented by one member each on the committee.

(b) A committee member described by Subsection (a) must be elected from among individuals who have each been nominated by a petition signed by at least 300 employees.

(c) The Texas Higher Education Coordinating Board shall appoint two committee members who are employees of institutions of higher education, other than those institutions described by Subsection (a).

(d) Not more than one employee from an institution of higher education may serve on the committee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . Each of the seven largest institutions of higher education, as determined by the number of employees on the payroll of an institution, shall elect one

member of the committee from among persons who have each been nominated by a petition signed by at least 300 employees. Two members shall be employees of institutions of higher education, other than the seven largest institutions of higher education, who are appointed by the Texas Higher Education Coordinating Board, but not more than one employee shall be from any one institution. . . .

Revised Law

Sec. 1551.455. MEMBERS REPRESENTING PRIVATE SECTOR. (a) The governor shall appoint to the committee one member from the private sector who is an expert in employee benefit issues.

(b) The lieutenant governor shall appoint to the committee one member from the private sector who is an expert in employee benefit issues. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . One member shall be an expert in employee benefit issues from the private sector, appointed by the governor. One member shall be an expert in employee benefits issues from the private sector, appointed by the lieutenant governor. . . .

Revised Law

Sec. 1551.456. RETIRED STATE EMPLOYEE. The board of trustees shall appoint to the committee one member who is a retired state employee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . One member shall be a retired state employee appointed by the trustee. . . .

Revised Law

Sec. 1551.457. EXECUTIVE DIRECTOR. The executive director is a nonvoting member of the committee. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . One nonvoting member shall be the executive director of the Employees Retirement System of Texas. . . .

Revised Law

Sec. 1551.458. TERM. A member of the committee is appointed or elected for a three-year term. (V.T.I.C. Art. 3.50-2, Sec. 18(b) (part).)

Source Law

(b) All members of the committee shall be appointed or elected for three-year terms. . . .

Revised Law

Sec. 1551.459. VACANCY. (a) The governing body or officer of a state agency, including an institution of higher education, shall appoint to the committee an employee of the agency to fill the remainder of a vacated term of an employee from the agency.

(b) The officer who originally appointed a committee member from the private sector shall appoint an individual to fill the remainder of that committee member's vacated term. (V.T.I.C. Art. 3.50-2, Sec. 18(b) (part).)

Source Law

(b) . . . During a term of appointment or election, state employee vacancies shall be filled by an employee of the same agency from which the vacancy occurred appointed by the governing body of the agency or institution for the balance of the vacated term. A vacancy in a position held by a member of the private sector shall be filled by the officer who originally made the appointment to that position.

Revised Law

Sec. 1551.460. PRESIDING OFFICER. The members of the committee shall elect a presiding officer from the committee's membership to serve a one-year term. (V.T.I.C. Art. 3.50-2, Sec. 18(a) (part).)

Source Law

(a) . . . The members shall elect a presiding officer from their membership to serve a one-year term.

Revised Law

Sec. 1551.461. DUTIES OF COMMITTEE. The committee shall:  
(1) advise and consult with the board of trustees on matters concerning all group coverages provided under this chapter;

(2) present recommendations to the board regarding other existing or proposed state employee benefits, other than retirement benefits; and

(3) cooperate and work with the board in coordinating and correlating the administration of the group benefits program among the various state agencies. (V.T.I.C. Art. 3.50-2, Sec. 18(c) (part).)

Source Law

(c) The group benefits advisory committee shall advise and consult with the trustee on matters concerning all insurance coverages provided under this Act and shall present recommendations to the trustee regarding other existing or proposed state employee benefits, other than retirement benefits. The committee shall cooperate and work with the trustee in coordinating and correlating the administration of the Employees Uniform Group Insurance Program among the various state departments and agencies. . . .

Revised Law

Sec. 1551.462. DUTIES OF COMMITTEE MEMBERS. (a) A committee member shall secure input from fellow employees.

(b) A member's service on the committee is in addition to the duties of the member's employment or state office.

(c) An expense incurred by a member in performing a duty as a member of the committee shall be paid from funds made available for that purpose to the state agency of which the member is an employee or officer. (V.T.I.C. Art. 3.50-2, Sec. 18(c) (part).)

Source Law

(c) . . . The duties of each member of the group benefits advisory committee shall be to secure input from fellow employees and shall be considered additional duties required of the member's other state office or employment and all expenses incurred by any such member in performing the member's duties as a member of the committee shall be paid from funds made available for those purposes to the agency or department of which the member is an employee or officer.

Revisor's Note  
(End of Chapter)

(1) The revised law omits Section 11(e)(4), V.T.I.C. Article 3.50-2, because, by its own terms, it is expired. The omitted law reads:

(4) A participant who retired on or after December 31, 1995, but before September 1, 1997, and who elected at the time of retirement to continue the maximum optional term life insurance amount available to a retiree at the time, may reinstate, prospectively, the level of optional group term life insurance in force on the participant's life immediately before the participant's retirement, not to exceed the maximum coverage set for retirees in Subdivision (2) of this subsection. This subdivision expires December 31, 1997.

(2) The revised law omits Section 20, V.T.I.C. Article 3.50-2, relating to the effective date of the act, because that provision is executed. The omitted law reads:

Sec. 20. This Act shall become effective September 1, 1975, but no insurance coverages shall be provided hereunder until such time as the trustee shall have made a study of the coverages and benefits authorized by this Act and gathered the necessary statistical data and information to secure such group insurance and the Texas Legislature has appropriated the funds necessary to provide the insurance coverages and benefits provided for in this Act; provided, however, that subject only to the legislature's appropriating the necessary funds, group insurance coverages for state employees contemplated by this Act shall be provided beginning not later than September 1, 1976. Departments are specifically authorized to continue or initiate state employee insurance plans and policies with state financial participation until the date and time this Act is implemented; provided, however, that any experience rating refunds becoming

payable to such department under any such plans or policies on or after the date and time this Act is implemented shall be paid to the Employees Life, Accident, and Health Insurance and Benefits Fund, and such payment shall be deemed payment to such department.

(3) Section 21, V.T.I.C. Article 3.50-2, provides that the section headings in the article do not affect the meaning of any of the provisions of the article. The revised law omits this provision as unnecessary because Section 311.024, Government Code (Code Construction Act), applicable to the revised law, provides that "[t]he heading of a . . . section does not limit or expand the meaning of a statute." The omitted law reads:

Sec. 21. Section headings contained in this Act shall not be deemed to govern, limit, expand, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section hereof.

(4) The revised law omits Section 22, V.T.I.C. Article 3.50-2, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. Those provisions state that a provision of a statute is severable from each other provision of the statute that can be given effect. The omitted law reads:

Sec. 22. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act in all its particulars and as to all other persons and circumstances shall be valid and of full force and effect, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision; and to this end the provisions of

this Act are declared to be severable.

(5) Section 23, V.T.I.C. Article 3.50-2, repeals all laws in conflict with that article. The revised law omits this provision as unnecessary because, under general rules of statutory construction, a statute automatically has the effect of repealing prior conflicting enactments. The provision is, of course, ineffective to repeal subsequent legislation. The omitted law reads:

Sec. 23. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only.

CHAPTER 1552. GROUP LONG-TERM CARE INSURANCE FOR  
STATE EMPLOYEES

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CHAPTER 1552. GROUP LONG-TERM CARE INSURANCE FOR STATE  
EMPLOYEES

Revised Law

Sec. 1552.001. DEFINITIONS. In this chapter, "annuitant," "board of trustees," and "employee" have the meanings assigned by Section 1551.003. (V.T.I.C. Art. 3.50-2A, Subsec. (a)(2).)

Source Law

Art. 3.50-2A

(a) In this article:

(2) "Employee" and "trustee" have the meanings assigned by Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

Revisor's Note

(1) Subsection (a)(2), V.T.I.C. Article 3.50-2A, provides that the definition of "employee" has the meaning assigned by Section 3, V.T.I.C. Article 3.50-2. That definition is referenced in Section 1551.003. Under Section 3, the term "employee" included

an "annuitant." Subsequent provisions of Article 3.50-2A refer to an employee, "including a retired employee." To continue the meaning of the revised law without change in the context of the revision, the revised law also includes a reference to the definition of "annuitant" from Section 3, V.T.I.C. Article 3.50-2, also referenced in Section 1551.003. Appropriate changes are made throughout this chapter.

(2) Subsection (a)(2), V.T.I.C. Article 3.50-2A, defines "trustee" for purposes of this chapter as having the meaning assigned that term by Section 3, V.T.I.C. Article 3.50-2, revised as Section 1551.003. Section 3 defines "trustee" as meaning "the Board of Trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas." For clarity and convenience, the revised law substitutes "board of trustees" for "trustee" as the defined term and substitutes the text of the definition instead of a cross-reference. The substitution of "board of trustees" for "trustee" is also made throughout this chapter to reflect the change made in this section.

#### Revised Law

Sec. 1552.002. ESTABLISHMENT OF PROGRAM. (a) The board of trustees may establish a group long-term care insurance program to provide long-term care insurance coverage for:

- (1) an individual eligible to participate in the program provided by Chapter 1551 as an employee or annuitant;
- (2) the spouse, parent, or grandparent of an employee or annuitant; and
- (3) a parent of a spouse described by Subdivision (2).

(b) The board of trustees may not implement a group long-term care insurance program unless any cost or administrative burden associated with the development of, implementation of, or communications about the program is incidental. (V.T.I.C. Art. 3.50-2A, Subsecs. (b), (d) (part).)

#### Source Law

(b) The trustee may establish a group long-term care insurance program to provide long-term care insurance coverage for:

- (1) an employee, including a retired employee;

(2) a spouse of an employee, including a retired employee;

(3) a parent or grandparent of an employee, including a retired employee; and

(4) the parent of a spouse of an employee, including a retired employee.

(d) . . . The trustee may not implement the group long-term care insurance program under this section unless any cost or administrative burden associated with the development of, implementation of, or communications about the program is incidental.

Revisor's Note

Subsection (b), V.T.I.C. Article 3.50-2A, refers to "an employee, including a retired employee." For consistency of terminology, the revised law substitutes "an individual eligible to participate in the program provided by Chapter 1551 as an employee or annuitant." See also Revisor's Note (1) to Section 1552.001.

Revised Law

Sec. 1552.003. ADMINISTERING FIRM. The board of trustees may select an administering firm to administer the group long-term care insurance program under contract with the board. (V.T.I.C. Art. 3.50-2A, Subsec. (c) (part).)

Source Law

(c) The trustee may select an administering firm to administer the program under contract to the trustee. . . .

Revised Law

Sec. 1552.004. PREMIUMS. (a) The administering firm shall bill each program participant directly for premiums and any other program costs. Each participant is responsible for required payments.

(b) Premiums and program costs may not be deducted from a program participant's monthly compensation or annuity. (V.T.I.C. Art. 3.50-2A, Subsec. (c) (part).)

Source Law

(c) . . . The administering firm shall bill each program participant directly for premiums and any other program cost, and the

program participant is responsible for the required payment. The premiums and program cost may not be deducted from an employee's monthly compensation or a retired employee's annuity.

Revised Law

Sec. 1552.005. PROGRAM NOT PART OF OTHER GROUP COVERAGES.

(a) The group long-term care insurance program is not part of the group coverages offered under Chapter 1551.

(b) The state may not contribute any part of the premiums for coverage offered under this chapter. (V.T.I.C. Art. 3.50-2A, Subsec. (d) (part).)

Source Law

(d) The group long-term care insurance program is not part of the group coverages offered under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), and the state may not contribute any part of the premiums for coverage offered under this article. . . .

Revised Law

Sec. 1552.006. RULES. The board of trustees may adopt rules as necessary to implement this chapter, including rules specifying the coverage to be offered under the group long-term care insurance program. (V.T.I.C. Art. 3.50-2A, Subsec. (e).)

Source Law

(e) The trustee may adopt rules as necessary to implement this article, including rules specifying the coverage to be offered under the group long-term care insurance program.

Revisor's Note

(End of Chapter)

Subsection (a)(1), V.T.I.C. Article 3.50-2A, provides a definition of "administering firm." The revised law omits this definition as unnecessary because the substance of the definition is included in the operative terms of the statute. The omitted law reads:

[(a) In this article:]

(1) "Administering firm" means a firm designated by the trustee to administer the group long-term care insurance program under this article.

[Chapters 1553-1574 reserved for expansion]

CHAPTER 1575. TEXAS PUBLIC SCHOOL EMPLOYEES GROUP  
BENEFITS PROGRAM

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CHAPTER 1575. TEXAS PUBLIC SCHOOL EMPLOYEES GROUP  
BENEFITS PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1575.001. SHORT TITLE. This chapter may be cited as  
the Texas Public School Employees Group Benefits Act. (V.T.I.C.  
Art. 3.50-4, Sec. 1.)

Source Law

Art. 3.50-4

Sec. 1. This article may be cited as the  
Texas Public School Employees Group Insurance  
Act.

Revisor's Note

Section 1, V.T.I.C. Article 3.50-4,  
provides that the article, revised as this  
chapter, may be cited as the "Texas Public  
School Employees Group Insurance Act." The  
revised law substitutes "Benefits" for  
"Insurance" to more accurately reflect the  
types of coverages provided under this law.

Revised Law

Sec. 1575.002. GENERAL DEFINITIONS. In this chapter:

(1) "Active employee" means an employee as defined by  
Section 821.001, Government Code, who:

(A) is a member of the system; and

(B) is not entitled to coverage under a plan

provided under Chapter 1551 or 1601.

(2) "Board of trustees" means the board of trustees of

the Teacher Retirement System of Texas.

(3) "Carrier" means an insurance company or hospital service corporation authorized by the department under this code to provide any of the insurance coverages, benefits, or services provided by this chapter.

(4) "Fund" means the Texas public school employees group insurance fund.

(5) "Group program" means the Texas Public School Employees Group Insurance Program authorized by this chapter.

(6) "Health benefit plan" means a group insurance policy, contract, or certificate, medical or hospital service agreement, membership or subscription contract, salary continuation plan, or similar group arrangement to provide health care services or to pay or reimburse expenses of health care services.

(7) "System" means the Teacher Retirement System of Texas. (V.T.I.C. Art. 3.50-4, Secs. 2(1), (2), (4), (5), (9), (12); New.)

#### Source Law

Sec. 2. In this article:

(1) "Active employee" means an employee as defined by Subdivision (6), Section 821.001, Government Code, who is a member of the Teacher Retirement System of Texas and who is not entitled to coverage under a plan provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), or under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code).

(2) "Carrier" means any insurance company or hospital service corporation authorized by the State Board of Insurance to provide any of the insurance coverages, benefits, or services provided by this article under the insurance laws of this state.

(4) "Fund" means the Texas public school employees group insurance fund.

(5) "Health benefit plan" or "plan" means a group insurance policy, contract, or certificate, medical or hospital service agreement, membership or subscription contract, salary continuation plan, or

similar group arrangement to provide, pay for, or reimburse expenses for health care services.

(9) "Program" means the group insurance program authorized by this article.

(12) "Trustee" means the Teacher Retirement System of Texas.

Revisor's Note

(1) Section 2(2), V.T.I.C. Article 3.50-4, refers to the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the State Board of Insurance have been changed appropriately.

(2) Section 2(2), V.T.I.C. Article 3.50-4, refers to an insurance company authorized "to provide any of the insurance coverages, benefits, or services provided by this article under the insurance laws of this state." The revised law substitutes "under this code" for "under the insurance laws of this state" because all of the laws of this state relating to the coverages, benefits, or services provided under Article 3.50-4 have been codified in this code.

(3) Section 2(5), V.T.I.C. Article 3.50-4, defines "health benefit plan" or "plan." The term "plan" is not used consistently in the source law for this chapter. For clarity and to avoid any inconsistency, the revised law uses only "health benefit plan" in this context.

(4) Section 2(6), V.T.I.C. Article 3.50-4, provides a definition of "Medicare." The revised law omits the definition as unnecessary because the term is commonly used

in other statutes, and its meaning is unambiguous. The omitted law reads:

(6) "Medicare" means the health insurance program for the aged and disabled that is provided by the United States government.

(5) Section 2(12), V.T.I.C. Article 3.50-4, defines "trustee" for purposes of that article to mean the Teacher Retirement System of Texas. The board of trustees is the governing body of the Teacher Retirement System of Texas. For clarity and convenience, the revised law substitutes "board of trustees" for "trustee" as the defined term. The substitution of "board of trustees" for "trustee" is also made throughout this chapter to reflect the change made in this section, except that "system" is used in those instances in which "trustee" clearly means not the governing body of the Teacher Retirement System of Texas but the Teacher Retirement System of Texas itself.

(6) The definition of "system" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

#### Revised Law

Sec. 1575.003. DEFINITION OF DEPENDENT AND RELATED TERMS.

In this chapter:

(1) "Dependent" means:

(A) the spouse of a retiree or active employee;

(B) an unmarried child of a retiree, active employee, or deceased active employee if the child is younger than 25 years of age, including:

(i) an adopted child;

(ii) a foster child, stepchild, or other child who is in a regular parent-child relationship; or

(iii) a recognized natural child;

(C) a retiree's or active employee's recognized natural child, adopted child, foster child, stepchild, or other child, without regard to the age of the child, if the child is in a regular parent-child relationship, lives with or has the child's care provided by the retiree, active employee, or surviving spouse on a regular basis, and is mentally retarded or physically incapacitated to an extent that the child is dependent on the retiree, active employee, or surviving spouse for care or

support, as determined by the board of trustees; or

(D) a deceased active employee's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship, without regard to the age of the child, if, while the active employee was alive, the child:

(i) lived with or had the child's care provided by the active employee on a regular basis; and

(ii) was mentally retarded or physically incapacitated to an extent that the child was dependent on the active employee or surviving spouse for care or support, as determined by the board of trustees.

(2) "Surviving dependent child" means:

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

(B) the dependent child of a deceased active employee who has survived the deceased employee and the deceased employee's spouse if the deceased employee:

(i) had contributions made to the group program at the last place of employment of the deceased employee in public education in this state;

(ii) had 10 or more years of service credit in the system; and

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

(3) "Surviving spouse" means:

(A) the surviving spouse of a deceased retiree;  
or

(B) the surviving spouse of a deceased active employee:

(i) for whom contributions have been made to the group program at the last place of employment of the deceased employee in public education in this state;

(ii) who had 10 or more years of service credit in the system; and

(iii) who died on or after September 1, 1986. (V.T.I.C. Art. 3.50-4, Secs. 2(3), (11), (13).)

Source Law

Sec. 2. In this article:

(3) "Dependent" means:

(A) a spouse of a retiree or active member;

(B) a retiree's, an active member's, or a deceased active member's unmarried child who is younger than 25 years of age including:

- (i) an adopted child;
- (ii) a foster child, a stepchild, or other child who is in a regular parent-child relationship; and
- (iii) a recognized natural child; and

(C) a retiree's or active member's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or whose care is provided by the retiree, active member, or surviving spouse on a regular basis, regardless of the child's age, if the child is mentally retarded or physically incapacitated to such an extent as to be dependent on the retiree, active member, or surviving spouse for care or support, as determined by the trustee, or in the case of a deceased active member, a recognized natural child, adopted child, foster child, stepchild, or other child who was in a regular parent-child relationship and who lived with or whose care was provided by the deceased active member on a regular basis, regardless of the child's age, if the child is mentally retarded or physically incapacitated to such an extent as to have been dependent on the deceased active member or surviving spouse for care or support, as determined by the trustee.

(11) "Surviving spouse" means:

- (A) the surviving spouse of a deceased retiree;

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

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

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

- (iii) who died on or

after September 1, 1986.

(13) "Surviving dependent child" means:

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

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

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

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

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

#### Revised Law

Sec. 1575.004. DEFINITION OF RETIREE. In this chapter, "retiree" means:

(1) an individual who:

(A) has taken a service retirement under the system with at least 10 years of service credit in the system for actual service in public schools in this state; and

(B) is not eligible for coverage under a plan provided under Chapter 1551 or 1601; or

(2) an individual who:

(A) has taken a disability retirement under the system; and

(B) is entitled to receive monthly benefits from the system. (V.T.I.C. Art. 3.50-4, Sec. 2(10).)

#### Source Law

Sec. 2. In this article:

(10) "Retiree" means:

(A) a person who has retired under the Teacher Retirement System of Texas, as provided by Subtitle C, Title 8, Government Code, with at least 10 years of service credit in the retirement system for

actual service in Texas public schools and who is not eligible to be covered by a plan provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), or under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code); or

(B) a person who has retired as a disability retiree under Subtitle C, Title 8, Government Code, and is entitled to receive monthly benefits from the retirement system.

#### Revised Law

Sec. 1575.005. ISSUANCE OF CERTIFICATE OF COVERAGE. At the time and in the circumstances specified by the board of trustees, a carrier shall issue to each retiree, surviving spouse, surviving dependent child, or active employee of a participating school district covered under this chapter a certificate of coverage that:

- (1) states the benefits to which the person is entitled;
- (2) states to whom the benefits are payable;
- (3) states to whom a claim must be submitted; and
- (4) summarizes the provisions of the coverage principally affecting the person. (V.T.I.C. Art. 3.50-4, Sec. 9.)

#### Source Law

Sec. 9. At such times, or upon such events, as designated by the trustee, each insurance carrier shall issue to each retiree, active employee, surviving spouse, or surviving dependent child insured under this article a certificate of insurance that:

- (1) states the benefits to which the person is entitled;
- (2) states to whom the benefits are payable;
- (3) states to whom the claims must be submitted; and
- (4) summarizes the provisions of the policy principally affecting the person.

#### Revisor's Note

- (1) Section 9, V.T.I.C. Article 3.50-4, refers to coverage provided to an "active

employee." Under Section 2(1), V.T.I.C. Article 3.50-4, revised as part of Section 1575.002, "active employee" means a member of the Teacher Retirement System of Texas who is not entitled to coverage under certain other programs. However, under Section 7A, V.T.I.C. Article 3.50-4, revised as Subchapter R of this chapter, it is clear that only the employees of public school districts that elect to participate in the program may receive coverage under the group program. For clarity, the revised law refers to an active employee "of a participating school district." Similar changes are made throughout this chapter where appropriate.

(2) Section 9, V.T.I.C. Article 3.50-4, refers to certain persons "insured" under the article and to the issuance of a certificate of "insurance." For consistency and clarity throughout this subtitle, the revised law refers to persons "covered" instead of "insured" and to the issuance of a certificate of "coverage" instead of a certificate of "insurance." Related changes necessary to ensure consistent use of terminology have been made throughout this chapter.

#### Revised Law

Sec. 1575.006. EXEMPTION FROM PROCESS. (a) The following are exempt from execution, attachment, garnishment, or any other process:

- (1) benefit payments, including optional benefits payments, active employee and state contributions, and retiree, surviving spouse, and surviving dependent child contributions;
- (2) any rights, benefits, or payments accruing to any person under this chapter; and
- (3) any money in the fund.

(b) The items listed in Subsection (a) may not be assigned except for direct payment to benefit providers as authorized by the board of trustees by contract, rule, or otherwise. (V.T.I.C. Art. 3.50-4, Sec. 11(a).)

#### Source Law

Sec. 11. (a) All insurance benefit payments, active employee and state contributions, retiree, surviving spouse, and surviving dependent child contributions, and optional benefits payments and any rights,

benefits, or payments accruing to any person under this article, as well as all money in the fund created by this article, are exempt from execution, attachment, garnishment, or any other process and may not be assigned except for direct payment to benefit providers as authorized by the trustee by contract, rule, or otherwise.

Revised Law

Sec. 1575.007. EXEMPTION FROM STATE TAXES AND FEES. A premium or contribution on a policy, insurance contract, or agreement authorized by this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. (V.T.I.C. Art. 3.50-4, Sec. 11(b).)

Source Law

(b) A premium or contribution on a policy, insurance contract, or agreement authorized as provided by this article is not subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

Revised Law

Sec. 1575.008. APPLICABILITY OF OTHER LAW. Article 3.51 does not apply to insurance purchased under this chapter. (V.T.I.C. Art. 3.50-4, Sec. 21.)

Source Law

Sec. 21. Article 3.51, Insurance Code, does not apply to insurance purchased under this article.

Revisor's Note

(End of Subchapter)

Section 2(7), V.T.I.C. Article 3.50-4, defines "minimum premium contract." The revised law omits the definition as unnecessary because the defined term is not used in that article or in the revised law. The omitted law reads:

(7) "Minimum premium contract" means a contract entered into with the carrier by the trustee that provides that:

(A) an appropriate amount will be paid to the carrier to cover its cost

of direct claims administration, cost of other administration, risk charges with stop loss provisions, and profit; and

(B) the remainder of the funds under the program will be used by the fund to reimburse the carrier to cover claims as they are paid, to pay the administrative expenses of the program, and to provide within the fund the assets to cover all reserves necessary for the trustee to operate on a financially sound basis.

[Sections 1575.009-1575.050 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATION

##### Revised Law

Sec. 1575.051. ADMINISTRATION OF GROUP PROGRAM. The board of trustees shall take the actions it considers necessary to devise, implement, and administer the group program. (V.T.I.C. Art. 3.50-4, Sec. 3(b).)

##### Source Law

(b) The trustee shall take the actions it considers necessary to devise, administer, and implement the program.

##### Revised Law

Sec. 1575.052. AUTHORITY TO ADOPT RULES AND PROCEDURES; OTHER AUTHORITY. (a) The board of trustees may adopt rules, plans, procedures, and orders reasonably necessary to implement this chapter, including:

(1) minimum benefit and financing standards for group coverage for retirees, dependents, surviving spouses, surviving dependent children, and active employees of participating school districts;

(2) basic and optional group coverage for retirees, dependents, surviving spouses, surviving dependent children, and active employees of participating school districts;

(3) procedures for contributions and deductions;

(4) periods for enrollment and selection of optional coverage and procedures for enrolling and exercising options under the group program;

(5) procedures for claims administration;

(6) procedures to administer the fund; and

(7) a timetable for:

(A) developing minimum benefit and financial standards for group coverage;

(B) establishing group plans; and

(C) taking bids and awarding contracts for group plans.

(b) The board of trustees may:

(1) study the operation of all group coverage provided under this chapter; and

(2) contract for advice and counsel in implementing and administering the group program with an independent and experienced group insurance consultant or actuary who does not receive a commission from any insurance company. (V.T.I.C. Art. 3.50-4, Sec. 5.)

Source Law

Sec. 5. (a) The trustee may adopt rules, plans, procedures, and orders reasonably necessary to implement this article, including:

(1) establishment of minimum benefit and financing standards for group insurance coverage to be provided to all retirees, active employees, dependents, surviving spouses, and surviving dependent children;

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

(3) establishment of the procedures for contributions and deductions;

(4) establishment of periods for enrollment and selection of optional coverage and procedures for enrolling and exercising options under the plan;

(5) determination of methods and procedures for claims administration;

(6) study of the operation of all insurance coverage provided under this article;

(7) administration of the fund;

(8) adoption of a timetable for the development of minimum benefit and financial standards for group insurance coverage, establishment of group insurance plans, and the taking of bids for and awarding of contracts for insurance plans; and

(9) contracting with an independent and experienced group insurance

consultant or actuary, who does not receive insurance commissions from any insurance company, for advice and counsel in implementing and administering this program.

(b) The trustee may adopt other rules relating to the program as considered necessary by the trustee.

Revisor's Note

Section 5(a)(5), V.T.I.C. Article 3.50-4, refers to the "methods and procedures" for claims administration. The reference to "methods" is omitted from the revised law because "methods" is included within the meaning of "procedures."

Revised Law

Sec. 1575.053. PERSONNEL. (a) The board of trustees may employ persons to assist the board in implementing this chapter.

(b) The board of trustees shall prescribe the duties and compensation of each employee of the board. (V.T.I.C. Art. 3.50-4, Sec. 4.)

Source Law

Sec. 4. The trustee may employ persons to assist it in carrying out this article. The trustee shall determine the duties and compensation of these employees.

Revised Law

Sec. 1575.054. BUDGET. Expenses incurred in developing and administering the group program shall be paid as provided by a budget adopted by the board of trustees. (V.T.I.C. Art. 3.50-4, Sec. 15(c).)

Source Law

(c) Expenses for the development and administration of the program shall be spent as provided by a budget adopted by the trustee.

Revised Law

Sec. 1575.055. DEPARTMENT ASSISTANCE. The department shall, as requested by the board of trustees, assist the board in implementing and administering this chapter. (V.T.I.C. Art. 3.50-4, Sec. 19.)

Source Law

Sec. 19. In implementing and

administering this article, the State Board of Insurance, as requested by the trustee, shall assist the trustee in carrying out this article.

Revisor's Note  
(End of Subchapter)

Section 3(a), V.T.I.C. Article 3.50-4, refers to the establishment of the Texas Public School Employees Group Insurance Program. The revised law omits the reference to the establishment of the program because that provision is executed. The omitted law reads:

Sec. 3. (a) The Texas Public School Employees Group Insurance Program is established to provide for an insurance plan or plans under this article.

[Sections 1575.056-1575.100 reserved for expansion]

SUBCHAPTER C. PROVISION OF BENEFITS

Revised Law

Sec. 1575.101. SYSTEM AS GROUP PLAN HOLDER. The system is the group plan holder of a plan established under this chapter. (V.T.I.C. Art. 3.50-4, Sec. 8(a) (part).)

Source Law

Sec. 8. (a) The trustee shall be designated as the group policyholder for any plan or plans established in this article. . . .

Revised Law

Sec. 1575.102. SELF-INSURED PLANS. The board of trustees may self-insure any plan established under this chapter. (V.T.I.C. Art. 3.50-4, Secs. 8(a) (part), (j) (part).)

Source Law

(a) . . . The trustee has authority to establish one or more plans that are self-insured.

(j) Notwithstanding any other provisions of this article, the trustee providing programs of benefits under this article is authorized to self-insure any and

all programs available under this article and  
. . . .

Revisor's Note

Section 8(j), V.T.I.C. Article 3.50-4, refers to the power of the board of trustees to self-insure "programs of benefits." The revised law substitutes "plan" for "programs of benefits" to clarify the use of that phrase in this context.

Revised Law

Sec. 1575.103. PLANS MAY VARY ACCORDING TO MEDICARE COVERAGE. For retirees and surviving spouses who are covered by Medicare, the board of trustees may provide one or more plans that are different from the plans provided for retirees and surviving spouses who are not covered by Medicare. (V.T.I.C. Art. 3.50-4, Sec. 8(c).)

Source Law

(c) The trustee may provide different plans for retirees and surviving spouses covered by Medicare than the plans provided for retirees and surviving spouses who are not covered by Medicare.

Revised Law

Sec. 1575.104. TERMS OF CONTRACT. A contract for group coverage awarded by the board of trustees must meet the minimum benefit and financial standards adopted by the board. (V.T.I.C. Art. 3.50-4, Sec. 8(g).)

Source Law

(g) Each contract shall be based on the terms and conditions agreed on between the trustee and the entity selected to provide the coverage and benefits. Any contract for group benefits awarded by the trustee must meet the minimum benefit and financial standards adopted by the trustee.

Revisor's Note

The first sentence of Section 8(g), V.T.I.C. Article 3.50-4, provides that a contract "shall be based on the terms and conditions agreed on" between certain entities. The revised law omits the sentence as unnecessary because a contract by definition establishes the terms and

conditions agreed on between the contracting parties.

Revised Law

Sec. 1575.105. PLAN COVERAGE SECONDARY TO CERTAIN OTHER COVERAGE. The coverage provided by a plan established under this chapter:

(1) is secondary to Medicare hospital and medical insurance to the extent permitted by federal law if the retiree, dependent, surviving spouse, or surviving dependent child is entitled to receive Medicare hospital insurance benefits without charge; and

(2) may be made secondary to other coverage to which the retiree, dependent, surviving spouse, or surviving dependent child is entitled. (V.T.I.C. Art. 3.50-4, Sec. 8(h).)

Source Law

(h) The coverage provided by the plan or plans may be secondary to all other benefit coverage to which the retiree, surviving spouse, dependent, or surviving dependent child is entitled. In the event the retiree, surviving spouse, dependent, or surviving dependent child is entitled to receive medicare hospital insurance benefits at no charge, then the coverage provided by the plan or plans shall be secondary to medicare hospital and medical insurance to the extent permitted by federal law.

Revised Law

Sec. 1575.106. COMPETITIVE BIDDING REQUIREMENTS; RULES. (a) A contract to provide group benefits under this chapter may be awarded only through competitive bidding under rules adopted by the board of trustees.

(b) The rules:

(1) must require that a prospective bidder provide, for each area consisting of a county and all adjacent counties, information on the number and types of qualified providers willing to participate in the plan for which the bid is made; and

(2) may provide criteria for determining whether a provider is qualified.

(c) The board of trustees may not require a bidder to demonstrate a minimum standard of provider participation.

(d) The board of trustees shall submit for competitive bidding at least every six years each contract under this chapter. (V.T.I.C. Art. 3.50-4, Secs. 8(f), (i) (part).)

Source Law

(f) New contracts for coverages under this program shall be submitted for competitive bidding at least every six years.

(i) In contracting for any benefits under this article, competitive bidding shall be required under rules adopted by the trustee. The rules must require that prospective bidders provide information, for each area consisting of a county and all adjacent counties, on the number and types of qualified providers willing to participate in the coverage or plan for which the bid is made. The rules may provide criteria to determine qualified providers. The trustee . . . may not require a bidder to demonstrate a minimum standard of provider participation. . . .

Revised Law

Sec. 1575.107. CONTRACT AWARD; CONSIDERATIONS. (a) In awarding a contract to provide group benefits under this chapter, the board of trustees is not required to select the lowest bid and:

(1) shall consider information obtained under Section 1575.106; and

(2) may consider any relevant criteria, including the bidder's:

- (A) ability to service contracts;
- (B) past experiences; and
- (C) financial stability.

(b) If the board of trustees awards a contract to a bidder whose bid deviates from that advertised, the board shall record the deviation and fully justify the reason for the deviation in the minutes of the next board meeting. (V.T.I.C. Art. 3.50-4, Sec. 8(i) (part).)

Source Law

(i) . . . The trustee shall consider the information before awarding a contract but . . . . The trustee is not required to select the lowest bid but may consider also ability to service contracts, past experiences, financial stability, and other relevant criteria. If the trustee awards a contract to an entity whose bid deviates from that advertised, the deviation shall be recorded and the reasons for the deviation shall be fully justified in the minutes of the next meeting of the trustee.

Revised Law

Sec. 1575.108. USE OF PRIVATE ENTITIES. The board of trustees may engage a private entity to collect contributions from or to settle claims in connection with a plan established by the board under this chapter. (V.T.I.C. Art. 3.50-4, Sec. 8(j) (part).)

Source Law

(j) . . . the trustee . . . may, at its discretion, engage

private entities to collect contributions from or to settle claims in connection with plans established by the trustee under this section.

Revised Law

Sec. 1575.109. USE OF HEALTH CARE PROVIDER. To provide benefits to participants in the group program, the board of trustees may contract directly with a health care provider, including a health maintenance organization, a preferred provider organization, a carrier, an administrator, and any other qualified vendor. (V.T.I.C. Art. 3.50-4, Sec. 8(k).)

Source Law

(k) The trustee may contract directly with health care providers, including health maintenance organizations, preferred provider organizations, carriers, administrators, and other qualified vendors, to provide benefits to participants in the program.

[Sections 1575.110-1575.150 reserved for expansion]

SUBCHAPTER D. COVERAGES AND PARTICIPATION

Revised Law

Sec. 1575.151. TYPES OF COVERAGES. The board of trustees may include in a plan any coverage it considers advisable, including:

- (1) life insurance;
- (2) accidental death and dismemberment coverage;
- (3) coverage for:
  - (A) hospital care and benefits;
  - (B) surgical care and treatment;
  - (C) medical care and treatment;
  - (D) dental care;
  - (E) eye care;
  - (F) obstetrical benefits;
  - (G) long-term care;
  - (H) prescribed drugs, medicines, and prosthetic devices; and
  - (I) supplemental benefits, supplies, and services in accordance with this chapter; and
- (4) protection against loss of salary. (V.T.I.C. Art. 3.50-4, Sec. 8(b).)

Source Law

(b) The coverages provided under the plan or plans may include but are not limited to life insurance, accidental death and dismemberment, hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, eye care,

obstetrical benefits, long-term care, prescribed drugs, medicines, and prosthetic devices, and other supplemental benefits, supplies, and services as provided by this article, protection against loss of salary, and other coverages considered advisable.

Revisor's Note

Section 8(b), V.T.I.C. Article 3.50-4, refers to coverages that "include but are not limited to" certain coverages. "[B]ut are not limited to" is omitted from the revised law as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

Revised Law

Sec. 1575.152. BASIC PLAN MUST COVER PREEXISTING CONDITIONS. A basic plan must cover preexisting conditions. (V.T.I.C. Art. 3.50-4, Sec. 8(d).)

Source Law

(d) Each basic plan must cover preexisting conditions.

Revised Law

Sec. 1575.153. AUTOMATIC BASIC COVERAGE. A retiree or active employee of a participating school district who applies for coverage during an enrollment period may not be denied coverage in a basic plan provided under this chapter unless the board of trustees finds under Subchapter K that the individual defrauded or attempted to defraud the group program. (V.T.I.C. Art. 3.50-4, Sec. 13.)

Source Law

Sec. 13. A retiree or active employee who applies during an enrollment period may not be denied any of the group insurance basic coverage provided under this article unless the person has been found under Section 18A of this article to have defrauded or attempted to defraud the Texas Public School Employees Group Insurance Program.

Revised Law

Sec. 1575.154. ENROLLMENT IN BASIC PLAN BY RETIREES REQUIRED. A retiree must be enrolled in a basic plan offered under the group program unless:

(1) the retiree rejects enrollment in the group program in writing on a form provided by the board of trustees; or

(2) the board of trustees finds under Subchapter K

that the retiree defrauded or attempted to defraud the group program. (V.T.I.C. Art. 3.50-4, Sec. 7(a).)

Source Law

Sec. 7. (a) Each retiree must be enrolled in a basic plan offered in the program unless:

- (1) the retiree rejects enrollment in the program in writing on a form provided by the trustee; or
- (2) the retiree has been found under Section 18A of this article to have defrauded or attempted to defraud the program.

Revised Law

Sec. 1575.155. COVERAGE FOR DEPENDENTS OF RETIREE. (a) A retiree participating in the group program is entitled to secure for the retiree's dependents group coverage provided for the retiree under this chapter, as determined by the board of trustees.

(b) The additional contribution payments for the dependent coverage shall be deducted from the annuity payments to the retiree in the manner and form determined by the board of trustees. (V.T.I.C. Art. 3.50-4, Sec. 18(a).)

Source Law

Sec. 18. (a) Any retiree participating in the program is entitled to secure for his dependents group insurance coverages provided for the retiree under this article, as determined by the trustee. The additional contribution payments for the coverages for dependents shall be deducted from the annuities of the retiree in the manner and form determined by the trustee.

Revised Law

Sec. 1575.156. COVERAGE FOR SURVIVING SPOUSE OR DEPENDENTS OF SURVIVING SPOUSE. (a) A surviving spouse who is entitled to group coverage under this chapter may elect to retain or obtain coverage for the surviving spouse or dependents of the surviving spouse at the applicable rate for the deceased participant.

(b) A surviving spouse must provide payment of applicable contributions in the manner established by Section 1575.205 and by the board of trustees. (V.T.I.C. Art. 3.50-4, Sec. 18(b).)

Source Law

(b) A surviving spouse who is entitled to insurance benefits under this article may elect to retain or obtain the insurance coverage for himself or his dependents, at the applicable rates for retirees, provided the surviving spouse provides payment of applicable contributions in the manner established by Section 14 of this Act and by the trustee.

Revised Law

Sec. 1575.157. COVERAGE FOR SURVIVING DEPENDENT CHILD. (a) A surviving dependent child, the guardian of the child's estate, or the person having custody of the child may elect to retain or obtain group coverage for the surviving dependent child at the applicable rate for a dependent.

(b) The applicable contributions must be provided in the manner established by Section 1575.205 and by the board of trustees. (V.T.I.C. Art. 3.50-4, Sec. 18(c).)

Source Law

(c) A surviving dependent child, the guardian of the child's estate, or the person having custody of the child may elect to retain or obtain insurance coverage for the surviving dependent child at rates applicable for dependents if applicable contributions are made in the manner established by Section 14 of this Act and by the trustee.

Revised Law

Sec. 1575.158. OPTIONAL GROUP HEALTH BENEFIT PLAN. (a) The board of trustees may, in addition to providing a basic plan, contract for and make available an optional group health benefit plan for retirees, dependents, surviving spouses, or surviving dependent children.

(b) An optional group health benefit plan may provide for:

(1) a deductible in an amount that is less than the amount for the basic plan;

(2) coinsurance in an amount that is less than the amount for the basic plan; or

(3) additional benefits as permitted under Section 1575.151. (V.T.I.C. Art. 3.50-4, Sec. 8(e) (part).)

Source Law

(e) The trustee may contract for and make available to all retirees, dependents, surviving spouses, and surviving dependent children optional group health benefit plans in addition to the basic plans. The optional coverage may include a smaller deductible, lower coinsurance, or additional categories of benefits permitted under Subsection (b) of this section to provide additional levels of coverages and benefits. . . .

Revised Law

Sec. 1575.159. COVERAGE FOR PROSTATE-SPECIFIC ANTIGEN TEST. A health benefit plan offered under the group program must provide coverage for a medically accepted prostate-specific antigen test used for the detection of prostate cancer for each male enrolled in the plan who:

(1) is at least 50 years of age; or

- (2) is at least 40 years of age and:
  - (A) has a family history of prostate cancer; or
  - (B) exhibits another cancer risk factor.

(V.T.I.C. Art. 3.50-4, Sec. 18D.)

Source Law

Sec. 18D. A health benefit plan offered under the program must provide coverage for each male who is at least 50 years of age, or is at least 40 years of age with a family history of prostate cancer or another cancer risk factor, and who is enrolled in the plan for a medically accepted prostate specific antigen test used for the detection of prostate cancer.

Revised Law

Sec. 1575.160. GROUP LIFE OR ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE: PAYMENT OF CLAIM. The amount of group life insurance or group accidental death and dismemberment insurance covering a retiree, active employee, dependent, surviving spouse, or surviving dependent child on the date of death shall be paid, on the establishment of a valid claim, only to:

- (1) the beneficiary designated by the person in a signed and witnessed document received before death in the office of the system; or

- (2) a person in the order prescribed by Section 824.103(b), Government Code, if a beneficiary is not properly designated or a beneficiary does not exist. (V.T.I.C. Art. 3.50-4, Sec. 12.)

Source Law

Sec. 12. The amount of group life insurance and group accidental death and dismemberment insurance covering a retiree, active employee, surviving spouse, dependent, or surviving dependent child at the date of death shall be paid, on the establishment of a valid claim, only:

- (1) to the beneficiary or beneficiaries designated by the person in a signed and witnessed written document received before death in the trustee's office; or

- (2) if no beneficiary is properly designated or in existence, to persons in accordance with the trustee's death benefit provisions in Subsection (b), Section 824.103, Government Code.

Revisor's Note

Section 12, V.T.I.C. Article 3.50-4, refers to a signed and witnessed "written" document. The revised law omits "written" as unnecessary because in order for a document to be signed and witnessed, it must be written.

[Sections 1575.161-1575.200 reserved for expansion]

SUBCHAPTER E. CONTRIBUTIONS

Revised Law

Sec. 1575.201. ADDITIONAL STATE CONTRIBUTIONS. The state through the system shall contribute from money in the fund the total cost of the basic plan covering each participating retiree. (V.T.I.C. Art. 3.50-4, Sec. 7(b).)

Source Law

(b) For each retiree who participates in the program, the state through the trustee shall contribute from money in the fund the total cost for the basic plan covering the retiree.

Revised Law

Sec. 1575.202. STATE CONTRIBUTION BASED ON ACTIVE EMPLOYEE COMPENSATION. (a) Each state fiscal year, the state shall contribute to the fund an amount equal to 0.5 percent of the salary of each active employee.

(b) The state may contribute to the fund an amount in addition to the contribution required by Subsection (a).

(V.T.I.C. Art. 3.50-4, Sec. 16(b).)

Source Law

(b) The state shall contribute as the state's contribution to the fund each fiscal year an amount equal to .50 percent of the salary of each active employee. The state may contribute amounts in addition to the contribution required by this subsection.

Revised Law

Sec. 1575.203. ACTIVE EMPLOYEE CONTRIBUTION. (a) Each state fiscal year, each active employee shall, as a condition of employment, contribute to the fund an amount equal to 0.25 percent of the employee's salary.

(b) The employer of an active employee shall monthly:

(1) deduct the employee's contribution from the employee's salary and remit the contribution to the system in the manner required by the board of trustees; or

(2) assume and pay the total contributions due from its active employees.

(c) Contributions to the fund deducted from the salary of an active employee are included in annual compensation for purposes of the system. (V.T.I.C. Art. 3.50-4, Secs. 16(a), (e).)

Source Law

Sec. 16. (a) For the state fiscal year beginning September 1, 1985, and for each subsequent state fiscal year, each active

employee, as a condition of employment, shall contribute to the fund an amount equal to .25 percent of the employee's salary. Each month the employer of an active employee shall deduct the contributions from the employee's salary and shall remit the contributions to the trustee as provided by any procedures that the trustee may require. In lieu of deducting the contributions from salaries, an employer may assume and pay the total contributions due from its active employees for any month.

(e) Contributions to the fund deducted from the salary of an active employee are included in "annual compensation" for purposes of the Teacher Retirement System of Texas.

Revisor's Note

Section 16(a), V.T.I.C. Article 3.50-4, provides the amount of the contribution required from active employees for each state fiscal year "beginning September 1, 1985." The revised law omits the quoted language as executed.

Revised Law

Sec. 1575.204. RATIO OF STATE AND ACTIVE EMPLOYEE CONTRIBUTIONS. If the amount of state and active employee contributions to the fund is raised by the legislature above the percentages provided by Sections 1575.202 and 1575.203 to provide adequate funding for the group program, the ratio between the state's contribution and the active employees' contributions must be maintained at two to one. (V.T.I.C. Art. 3.50-4, Sec. 16(c).)

Source Law

(c) If after the state fiscal year beginning September 1, 1990, the amount of state and active employee contributions to the fund is raised by the legislature above the percentages provided by Subsections (a) and (b) of this section to provide adequate funding for the program, the ratio between the state's contribution and the active employees' contributions must be maintained at two to one.

Revisor's Note

Section 16(c), V.T.I.C. Article 3.50-4, provides for the adjustment of state and employee contributions if those contributions exceed certain percentages after the state fiscal year "beginning September 1, 1990." The revised law omits the quoted language as executed.

Revised Law

Sec. 1575.205. PARTICIPANT CONTRIBUTION FOR OPTIONAL PLAN.  
(a) A retiree, surviving spouse, or surviving dependent child who elects an optional plan shall pay a monthly contribution to cover the cost of the plan. The board of trustees shall adopt rules for the collection of additional contributions.

(b) As a condition of electing coverage under an optional plan, a retiree or surviving spouse must, in writing, authorize the board of trustees to deduct the amount of the contribution from the person's monthly annuity payment.

(c) The board of trustees may spend a part of the money received for the group program to offset a part of the costs for optional coverage paid by retirees if the expenditure does not reduce the period the group program is projected to remain financially solvent by more than one year in a biennium.

(V.T.I.C. Art. 3.50-4, Secs. 8(e) (part), 14.)

Source Law

[Sec. 8]

(e) . . . The trustee may utilize a portion of the funds received for the Texas Public School Employees Group Insurance Program to offset some portion of costs paid by the retiree for optional coverage if such utilization does not reduce the period the program is projected to remain financially solvent by more than one year in a biennium. Any additional contributions for these optional plans shall be paid for by the retiree, surviving spouse, or surviving dependent children.

Sec. 14. Retirees, surviving spouses, and surviving dependent children shall pay monthly contributions to cover the cost of optional plans that they elect to receive, and the trustee shall adopt rules for the collection of additional contributions from retirees, surviving spouses, and surviving dependent children participating in the optional plans. As a condition of electing this coverage, a retiree or surviving spouse must authorize in writing the trustee to deduct the amount of these contributions from the monthly annuity payments.

Revised Law

Sec. 1575.206. CONTRIBUTIONS HELD IN TRUST FOR FUND. An employing school district and its trustees:

(1) hold contributions required by this subchapter in trust for the fund and its participants; and

(2) may not divert the contributions for any other purpose. (V.T.I.C. Art. 3.50-4, Sec. 16(i).)

Source Law

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

Revisor's Note

Section 16(i), V.T.I.C. Article 3.50-4, refers to an

"employing district." Throughout this chapter, the revised law substitutes "employing school district" for "employing district" for consistency of usage throughout this chapter.

Revised Law

Sec. 1575.207. INTEREST ASSESSED ON LATE PAYMENT OF DEPOSITS BY EMPLOYING SCHOOL DISTRICTS. An employing school district that does not remit to the board of trustees all contributions required by this subchapter before the 11th day after the last day of the month shall pay to the fund:

- (1) the contributions; and
- (2) interest on the unpaid amounts at the annual rate of six percent compounded monthly. (V.T.I.C. Art. 3.50-4, Sec. 16(h).)

Source Law

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

Revised Law

Sec. 1575.208. CERTIFICATION OF AMOUNT NECESSARY TO PAY STATE CONTRIBUTIONS. Not later than October 31 preceding each regular session of the legislature, the board of trustees shall certify the amount necessary to pay the state contributions to the fund to:

- (1) the Legislative Budget Board; and
  - (2) the budget division of the governor's office.
- (V.T.I.C. Art. 3.50-4, Sec. 16(f) (part).)

Source Law

(f) Before the first day of November preceding each regular session of the legislature, the trustee shall certify to the Legislative Budget Board and the budget division of the governor's office the amounts necessary to pay the contributions of the state to the fund under this article for information and review. . . .

Revised Law

Sec. 1575.209. CERTIFICATION OF AMOUNT OF STATE CONTRIBUTIONS. Not later than August 31 of each year, the board of trustees shall certify to the comptroller the estimated amount of state contributions to be received by the fund for the next fiscal year under the appropriations authorized by this chapter. (V.T.I.C. Art. 3.50-4, Sec. 16(f) (part).)

Source Law

(f) . . . Not later than August 31 of each year, the trustee shall certify to the comptroller of public accounts the estimated amount of state contributions to be received by the fund for the next fiscal year under the appropriations authorized by this article.

Revisor's Note

Section 16(f), V.T.I.C. Article 3.50-4, refers to the "comptroller of public accounts." Throughout this chapter, the revised law substitutes "comptroller" for "comptroller of public accounts" because Section 403.001, Government Code, defines "comptroller" in any state statute to mean the comptroller of public accounts.

Revised Law

Sec. 1575.210. PAYMENT OF STATE CONTRIBUTIONS; RECONCILIATION. (a) Contributions allocated and appropriated under this subchapter for a state fiscal year shall be:

- (1) paid from the general revenue fund in equal monthly installments;
- (2) based on the estimated amount certified by the board of trustees to the comptroller for that year; and
- (3) subject to any express limitations specified in the Act making the appropriation.

(b) A variation between the certified amount and the actual amount due for the state fiscal year shall be reconciled at the end of the fiscal year, and the annual contributions to the fund shall be adjusted accordingly. (V.T.I.C. Art. 3.50-4, Sec. 16(g).)

Source Law

(g) Contributions allocated and appropriated under this section shall be paid from the General Revenue Fund in equal monthly installments, based on the annual estimate certified by the trustee to the comptroller of public accounts for that year, and subject to any express limitations specified in the Act making the appropriation. Variations between the certified amount and the actual amount due for the year shall be reconciled at the close of the fiscal year and proper adjustments in the annual contributions to the fund shall be made.

[Sections 1575.211-1575.250 reserved for expansion]

SUBCHAPTER F. FEDERAL OR PRIVATE SOURCE CONTRIBUTIONS

Revised Law

Sec. 1575.251. DEFINITION. In this subchapter, "employer" has the meaning assigned by Section 821.001, Government Code.

(V.T.I.C. Art. 3.50-4, Sec. 16A(a).)

Source Law

Sec. 16A. (a) In this section, "employer" has the meaning assigned by Section 821.001, Government Code.

Revised Law

Sec. 1575.252. APPLICATION BY EMPLOYER FOR MONEY TO PAY STATE CONTRIBUTIONS. An employer who applies for money provided by the United States or a privately sponsored source shall:

(1) if any of the money will pay part or all of an active employee's salary, also apply for any legally available money to pay state contributions required by Subchapter E; and

(2) immediately send any money received for state contributions as a result of the application to the system for deposit in the general revenue fund. (V.T.I.C. Art. 3.50-4, Secs. 16A(b), (c).)

Source Law

(b) If an employer applies for money provided by the United States, an agency of the United States, or a privately sponsored source and if any of the money will pay part or all of an active employee's salary, the employer shall apply for any legally available money to pay state contributions required by Section 16 of this article.

(c) When an employer receives money for state contributions from an application made in accordance with Subsection (b) of this section, the employer shall immediately send the money to the trustee for deposit in the General Revenue Fund of the state treasury.

Revisor's Note

Section 16A(b), V.T.I.C. Article 3.50-4, refers to the "United States" and "an agency of the United States." The reference to an "agency" is omitted from the revised law because under Section 311.005(9), Government Code (Code Construction Act), "United States" includes an agency of the United States. That definition applies to the revised law.

Revised Law

Sec. 1575.253. MONTHLY CERTIFICATION. An employer shall monthly certify to the board of trustees in a form prescribed by the board:

(1) the total amount of salary paid from federal funds and private grants; and

(2) the total amount of state contributions provided by the funds and grants. (V.T.I.C. Art. 3.50-4, Sec. 16A(d) (part).)

Source Law

(d) Monthly, employers shall:

(1) report to the trustee in a form prescribed by the trustee a certification of the total amount of salary paid from federal funds and private grants and the total amounts provided by the funds and grants for state contributions for the employees; and

. . . .

Revised Law

Sec. 1575.254. MONTHLY MAINTENANCE OF INFORMATION. An employer shall monthly maintain:

- (1) the name of each employee whose salary is paid wholly or partly from a grant;
- (2) the source of the grant;
- (3) the amount of the employee's salary paid from the grant;
- (4) the amount of the money provided by the grant for state contributions for the employee; and
- (5) any other information the board of trustees determines is necessary to enforce this subchapter. (V.T.I.C. Art. 3.50-4, Sec. 16A(d) (part).)

Source Law

(d) Monthly, employers shall:

. . . .

- (2) maintain and retain the following information:
  - (A) the name of each employee paid in whole or part from a grant;
  - (B) the source of the grant;
  - (C) the amount of the employee's salary paid from the grant;
  - (D) the amount of the money provided by the grant for state contributions for the employee; and
  - (E) any other information the trustee determines is necessary to enforce this section.

Revisor's Note

Section 16A(d), V.T.I.C. Article 3.50-4, refers to a requirement to "maintain and retain" certain information. The reference to "retain" is omitted from the revised law because "retain" is included within the meaning of "maintain."

Revised Law

Sec. 1575.255. PROOF OF COMPLIANCE. The board of trustees may:

- (1) require an employer to report an application for federal or private money;

(2) require evidence that the application includes a request for funds available to pay state contributions for active employees; and

(3) examine the records of an employer to determine compliance with this subchapter and rules adopted under this subchapter. (V.T.I.C. Art. 3.50-4, Sec. 16A(e).)

Source Law

(e) The trustee may:

(1) require from employers reports of applications for money;

(2) require evidence that the applications include requests for funds available to pay state contributions to the program for active employees paid from the grant; and

(3) examine the records of any employer to determine compliance with this section and rules promulgated under it.

Revised Law

Sec. 1575.256. CRIMINAL OFFENSE: FAILURE OF ADMINISTRATOR TO COMPLY. (a) An administrator of an employer commits an offense if the administrator knowingly fails to comply with this subchapter.

(b) An offense under this section is a Class C misdemeanor. (V.T.I.C. Art. 3.50-4, Secs. 16A(f), (g).)

Source Law

(f) A person commits an offense if the person is an administrator of an employer and knowingly fails to comply with this section.

(g) An offense under Subsection (f) of this section is a Class C misdemeanor.

Revised Law

Sec. 1575.257. CIVIL SANCTIONS FOR FAILURE OF EMPLOYER TO COMPLY. (a) An employer who fails to comply with this subchapter may not apply for or spend any money received from a federal or private grant.

(b) The board of trustees shall report an alleged noncompliance with this subchapter to the attorney general, the Legislative Budget Board, the comptroller, and the governor.

(c) On receipt of a report under Subsection (b), the attorney general shall bring a writ of mandamus against the employer to compel compliance with this subchapter. (V.T.I.C. Art. 3.50-4, Sec. 16A(h).)

Source Law

(h) An employer who fails to comply with this section may not, after the failure, apply for or spend any money from a

federal or private grant. The trustee shall report alleged noncompliance to the attorney general, the Legislative Budget Board, the comptroller of public accounts, and the governor. The attorney general shall bring a writ of mandamus against the employer to compel compliance with this section.

[Sections 1575.258-1575.300 reserved for expansion]

SUBCHAPTER G. TEXAS PUBLIC SCHOOL EMPLOYEES GROUP INSURANCE FUND

Revised Law

Sec. 1575.301. FUND; ADMINISTRATION. (a) The Texas public school employees group insurance fund is a trust fund with the comptroller, who is custodian of the fund.

(b) The board of trustees shall administer the fund.  
(V.T.I.C. Art. 3.50-4, Sec. 15(a) (part).)

Source Law

Sec. 15. (a) The school employees group insurance fund is created. The comptroller is the custodian of the fund, and the trustee shall administer the fund. . . .

Revisor's Note

Section 15(a), V.T.I.C. Article 3.50-4, refers to the creation of the "school employees group insurance fund." The revised law refers to the fund as a "trust fund" to accurately describe the fund and for consistency with the description of other, similar funds in this subtitle. In addition, the revised law omits the reference to the creation of the fund because that provision is executed.

Revised Law

Sec. 1575.302. PAYMENTS INTO FUND. The following shall be paid into the fund:

- (1) contributions from active employees and the state, including contributions for optional coverages;
- (2) investment income;
- (3) appropriations for implementation of the group program; and
- (4) other money required or authorized to be paid into the fund. (V.T.I.C. Art. 3.50-4, Sec. 15(a) (part).)

Source Law

(a) . . . All contributions from active employees, retirees, and the state, contributions for optional coverages, investment income, appropriations for implementation of this program, and other money required or authorized to be paid into the fund shall be paid into the fund. . . .

Revised Law

Sec. 1575.303. PAYMENTS FROM FUND. (a) The following shall, without state fiscal year limitation, be paid from the fund:

- (1) the appropriate premiums to a carrier providing group coverage under a plan under this chapter;
- (2) claims for benefits under the group coverage; and
- (3) money spent by the board of trustees to administer the group program.

(b) The appropriate portion of the contributions to the fund to provide for incurred but unreported claim reserves and contingency reserves, as determined by the board of trustees, shall be retained in the fund. (V.T.I.C. Art. 3.50-4, Sec. 15(a) (part).)

Source Law

(a) . . . From the fund shall be paid, without state fiscal year limitation, the appropriate premiums to the carrier or carriers providing group coverage under the plan or plans under this article, claims for benefits under the group coverage, and the amounts expended by the trustee for administration of the program. The appropriate portion of the contributions to the fund to provide for incurred but unreported claim reserves and contingency reserves, as determined by the trustee, shall be retained in the fund.

Revised Law

Sec. 1575.304. TRANSFER OF CERTAIN CONTRIBUTIONS. The board of trustees shall transfer into the fund the amounts deducted from annuities for contributions. (V.T.I.C. Art. 3.50-4, Sec. 15(b).)

Source Law

(b) The trustee shall transfer the amounts deducted from annuities for contributions into the fund.

Revised Law

Sec. 1575.305. INVESTMENT OF FUND. The board of trustees may invest money in the fund in the manner provided by Subchapter D, Chapter 825, Government Code, for assets of the system. (V.T.I.C. Art. 3.50-4, Sec. 15(d).)

Source Law

(d) The trustee may invest and reinvest the money in the fund as provided by Subchapter D, Chapter 825, Government Code, for assets of the Teacher Retirement System of Texas.

Revisor's Note

Section 15(d), V.T.I.C. Article 3.50-4, refers to the power of the board of trustees to "invest and reinvest" money. The revised law omits "reinvest" because the power to invest includes the power to reinvest.

Revised Law

Sec. 1575.306. EMPLOYEE CONTRIBUTIONS PROPERTY OF FUND ON RECEIPT; NO REFUND. A contribution from an active employee:

(1) is the property of the fund on receipt by the system; and

(2) may not be refunded to the active employee under any circumstances, including termination of employment. (V.T.I.C. Art. 3.50-4, Sec. 16(d).)

Source Law

(d) Contributions from active employees become the property of the fund on receipt by the trustee and may not be refunded to the active employee under any circumstances, including termination of employment.

[Sections 1575.307-1575.350 reserved for expansion]

SUBCHAPTER H. COORDINATED CARE NETWORK

Revised Law

Sec. 1575.351. DEFINITIONS. In this subchapter:

(1) "Credentialing committee" means a credentialing committee created by the board of trustees under Section 1575.354.

(2) "Health care provider" means:

(A) an individual licensed as a health care practitioner; or

(B) a health care facility.

(3) "Network" means the coordinated care network established by the board of trustees under this subchapter. (V.T.I.C. Art. 3.50-4, Sec. 18C(j); New.)

Source Law

(j) In this section, "health care provider" means an individual licensed as a health care practitioner, or a health care facility.

Revisor's Note

The definitions of "credentialing committee" and "network" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of each definition. Related changes necessary to ensure consistent use of terminology have been made throughout this subchapter.

Revised Law

Sec. 1575.352. IMPLEMENTATION AND ADMINISTRATION. The board of trustees may implement and administer a coordinated care network for the group program. (V.T.I.C. Art. 3.50-4, Sec. 18C(a) (part).)

Source Law

Sec. 18C. (a) The trustee may take action as it determines to be necessary to implement and administer a coordinated care network for the program. . . .

Revised Law

Sec. 1575.353. CONTRACTS WITH HEALTH CARE PROVIDERS AND OTHERS. As the board of trustees determines is necessary to implement and administer the network, the board may contract with a health care provider or other individuals or entities. (V.T.I.C. Art. 3.50-4, Secs. 18C(a) (part), (b).)

Source Law

(a) . . . The trustee may contract with health care practitioners or facilities and . . . .

(b) The trustee may contract with additional individuals or entities as the trustee determines to be necessary to implement and administer the network.

Revised Law

Sec. 1575.354. CREDENTIALING COMMITTEES. The board of trustees may establish credentialing committees to evaluate the qualifications of health care providers to participate in the network. (V.T.I.C. Art. 3.50-4, Sec. 18C(a) (part).)

Source Law

(a) . . . The trustee . . . may establish credentialing committees to evaluate the qualifications of those practitioners and facilities.

Revised Law

Sec. 1575.355. IMMUNITY FROM LIABILITY ARISING FROM ACTS OR OMISSIONS OF HEALTH CARE PROVIDER. (a) The following are not liable for damages arising from an act or omission of a health care provider participating in the network:

- (1) the system and its officers and employees, including the board of trustees;
- (2) the group program;
- (3) the fund; and
- (4) a member of an advisory committee to the board of trustees.

(b) A health care provider participating in the network is

an independent contractor and is responsible for the provider's acts or omissions. (V.T.I.C. Art. 3.50-4, Sec. 18C(c).)

Source Law

(c) The trustee, the Texas public school employees group insurance program, the school employees group insurance fund, and the board of trustees, officers, advisory committee members, and employees of the trustee are not liable for damages arising from the acts or omissions of health care providers who are participating health care providers in the coordinated care network established by the trustee. Those health care providers are independent contractors and are responsible for their own acts and omissions.

Revised Law

Sec. 1575.356. IMMUNITY FROM LIABILITY ARISING FROM EVALUATION OF QUALIFICATIONS OR CARE. The following are not liable for damages arising from an act, including a statement, determination, report of an act, or recommendation, committed without malice in the course of the evaluation of the qualifications of a health care provider or of the patient care provided by a health care provider participating in the network:

(1) the system and its officers and employees, including the board of trustees;

(2) the group program;

(3) the fund;

(4) a member of an advisory committee to the board of trustees; and

(5) a member of a credentialing committee. (V.T.I.C. Art. 3.50-4, Sec. 18C(d).)

Source Law

(d) The trustee, the Texas public school employees group insurance program, the school employees group insurance fund, or a member of a credentialing committee, or the board of trustees, officers, advisory committee members, or employees of the trustee are not liable for damages arising from any act, statement, determination, recommendation made, or act reported, without malice, in the course of the evaluation of the qualifications of health care providers or of the patient care rendered by those providers.

Revised Law

Sec. 1575.357. IMMUNITY FROM LIABILITY ARISING FROM ACTS RELATING TO CREDENTIALING COMMITTEE. An individual, a health care provider, or a medical peer review committee is not liable for damages arising from an act committed without malice that consists of:

(1) participating in the activity of a credentialing committee; or

(2) furnishing records, information, or assistance to a credentialing committee. (V.T.I.C. Art. 3.50-4, Sec. 18C(f).)

Source Law

(f) An individual, a health care provider, or a medical peer review committee that, without malice, participates in a credentialing committee activity or furnishes records, information, or assistance to a credentialing committee is not liable for damages arising from that act.

Revised Law

Sec. 1575.358. OPEN MEETINGS LAW NOT APPLICABLE TO CREDENTIALING COMMITTEE. The proceedings of a credentialing committee are not subject to Chapter 551, Government Code. (V.T.I.C. Art. 3.50-4, Sec. 18C(e) (part).)

Source Law

(e) . . . The proceedings of a credentialing committee are not subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments. . . .

Revisor's Note

(1) Section 18C(e), V.T.I.C. Article 3.50-4, refers to Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes). That statute was codified in 1993 as Chapter 551, Government Code. The revised law is drafted accordingly.

(2) Section 18C(e), V.T.I.C. Article 3.50-4, refers to a certain state statute "and its subsequent amendments." The revised law omits the quoted language as unnecessary because under Section 311.027, Government Code (Code Construction Act), unless expressly provided otherwise, a reference to a statute applies to all reenactments, revisions, or amendments of the statute.

Revised Law

Sec. 1575.359. RECORDS AND PROCEEDINGS OF CREDENTIALING COMMITTEE NOT SUBJECT TO SUBPOENA. Except to the extent required by the constitution of this state or the United States, the records and proceedings of a credentialing committee and a communication made to a credentialing committee are not subject to court subpoena. (V.T.I.C. Art. 3.50-4, Sec. 18C(e) (part).)

Source Law

(e) . . . Except to the extent required by the

constitution of this state or the United States, the records and proceedings of a credentialing committee and a communication made to a credentialing committee are not subject to court subpoena.

Revised Law

Sec. 1575.360. CONFIDENTIALITY. Except as otherwise provided by this subchapter:

- (1) proceedings and records of a credentialing committee are confidential; and
- (2) a communication made to a credentialing committee is privileged. (V.T.I.C. Art. 3.50-4, Sec. 18C(e) (part).)

Source Law

(e) Except as otherwise provided by this article, all proceedings and records of a credentialing committee are confidential, and all communications made to a credentialing committee are privileged. . . .

Revised Law

Sec. 1575.361. DISCLOSURE TO HEALTH CARE PROVIDER. Disclosure of confidential credentialing committee information that is relevant to the matter under review to an affected health care provider is not a waiver of the confidentiality requirements under this subchapter. (V.T.I.C. Art. 3.50-4, Sec. 18C(g).)

Source Law

(g) Disclosure of confidential credentialing committee information to the affected health care provider that is relevant to the matter under review does not constitute a waiver of the confidentiality requirements imposed under this article.

Revised Law

Sec. 1575.362. DISCLOSURE TO CERTAIN ENTITIES. (a) A written or oral communication made to a credentialing committee, or a record or proceeding of the committee, may be disclosed to an appropriate:

- (1) state or federal agency, including a state board of registration or licensing;
- (2) national accreditation body; or
- (3) medical peer review committee.

(b) A disclosure under this section is not a waiver of the confidential and privileged nature of the information. (V.T.I.C. Art. 3.50-4, Sec. 18C(h).)

Source Law

(h) A written or oral communication made to a credentialing committee, and the records and proceedings of such a committee, may be disclosed to appropriate state or federal agencies,

national accreditation bodies, state boards of registration or licensure, or medical peer review committees. A disclosure under this subsection does not constitute a waiver of the confidential and privileged nature of the information.

Revised Law

Sec. 1575.363. DISCLOSURE TO DEFENDANTS IN CIVIL ACTIONS.

(a) Any of the following persons named as a defendant in any civil action filed as a result of participation in the credentialing process may use, including in the person's own defense, otherwise confidential information obtained for legitimate internal business and professional purposes:

- (1) the system and its officers and employees, including the board of trustees;
- (2) a credentialing committee;
- (3) a person participating in a credentialing review;
- (4) a health care provider;
- (5) the group program; and
- (6) a member of an advisory committee.

(b) Use of information under this section is not a waiver of the confidential and privileged nature of the information.  
(V.T.I.C. Art. 3.50-4, Sec. 18C(i).)

Source Law

(i) A credentialing committee, a person participating in a credentialing review, a health care provider, the trustee, the Texas public school employees group insurance program, or the board of trustees, officers, advisory committee members, or employees of the trustee that are named as defendants in any civil action filed as a result of participation in the credentialing process may use otherwise confidential information obtained for legitimate internal business and professional purposes, including use in their own defense. Use of information under this subsection does not constitute a waiver of the confidential and privileged nature of the information.

[Sections 1575.364-1575.400 reserved for expansion]

SUBCHAPTER I. RETIREES ADVISORY COMMITTEE

Revised Law

Sec. 1575.401. DEFINITION. In this subchapter, "committee" means the Retirees Advisory Committee. (New.)

Revisor's Note

The definition of "committee" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 1575.402. APPOINTMENT OF COMMITTEE MEMBERS. (a) The

Retirees Advisory Committee is composed of the following nine members appointed by the board of trustees:

- (1) one member who is an active school administrator;
- (2) one member who is a retired school administrator;
- (3) two members who are active teachers;
- (4) three members who are retired teachers;
- (5) one member who is an active member of the auxiliary personnel of a school district; and
- (6) one member who is a retired member of the auxiliary personnel of a school district.

(b) A person is not eligible for appointment as a member of the committee if the person is required to register as a lobbyist under Chapter 305, Government Code. (V.T.I.C. Art. 3.50-4, Secs. 6(a), (f).)

#### Source Law

Sec. 6. (a) There is created a Retirees Advisory Committee composed of nine members appointed by the trustee. One member shall be an active school administrator. One member shall be a retired school administrator. Two members shall be active teachers. Three members shall be retired teachers. One member shall be an active member of the auxiliary personnel of a school district. One member shall be a retired member of the auxiliary personnel.

(f) A person is not eligible for appointment as a member of the advisory committee if the person is required to register with the secretary of state under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes).

#### Revisor's Note

(1) Section 6(a), V.T.I.C. Article 3.50-4, refers to the creation of the Retirees Advisory Committee. The revised law omits the reference to the creation of the committee because that provision is executed.

(2) Section 6(f), V.T.I.C. Article 3.50-4, refers to a person "required to register with the secretary of state under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes)." That statute was codified in 1985 as Chapter 305, Government Code. The revised law is drafted accordingly. In addition, the revised law omits the reference to the secretary of state because under Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, a person formerly required to register with the secretary of state must now register with the Texas Ethics Commission under Chapter 305, Government Code. A reference to the Texas Ethics Commission is unnecessary because Chapter 305, Government Code,

provides for registration only with that agency.

Revised Law

Sec. 1575.403. TERMS. (a) Members of the committee serve staggered four-year terms.

(b) Five members' terms, including the terms of the active school administrator, one active teacher, two retired teachers, and the retired member of the auxiliary personnel, expire February 1, 2002, and every fourth year after that date.

(c) The remaining members' terms expire February 1, 2004, and every fourth year after that date. (V.T.I.C. Art. 3.50-4, Sec. 6(b) (part).)

Source Law

(b) Members of the committee serve for staggered terms of four years. Five members' terms, including the active school administrator, one active teacher, two retired teachers, and the retired member of the auxiliary personnel, expire February 1, 1986, and every fourth year after that date. The remaining members' terms expire February 1, 1988, and every fourth year after that date. . . .

Revised Law

Sec. 1575.404. VACANCY. The board of trustees shall fill a vacancy on the committee by appointing a person who meets the qualifications applicable to the vacated position. (V.T.I.C. Art. 3.50-4, Sec. 6(b) (part).)

Source Law

(b) . . . The trustee shall fill each vacancy on the committee with a person who meets the qualifications of the vacated position.

Revised Law

Sec. 1575.405. MEETINGS. (a) The committee shall meet:

- (1) at least twice each year; and
- (2) at the call of the board of trustees.

(b) If there is an emergency, the committee may meet at the call of a majority of the members of the committee. (V.T.I.C. Art. 3.50-4, Sec. 6(e).)

Source Law

(e) The advisory committee shall meet at least twice per year, and at the call of the trustee. In the event of an emergency, the advisory committee may meet at the call of a majority of the members of the committee.

Revised Law

Sec. 1575.406. DUTIES. The committee shall:

(1) hold public hearings on group coverage;  
(2) recommend to the board of trustees minimum standards and features of a plan under the group program that the committee considers appropriate; and  
(3) recommend to the board of trustees desirable changes in rules and legislation affecting the group program.  
(V.T.I.C. Art. 3.50-4, Sec. 6(c).)

Source Law

(c) The committee shall:  
(1) hold public hearings on group insurance benefits;  
(2) recommend to the trustee minimum standards and features of the plan or plans that it considers appropriate; and  
(3) recommend to the trustee desirable changes in rules and legislation affecting the program.

Revised Law

Sec. 1575.407. PROCEDURAL RULES. The board of trustees shall adopt procedural rules for the committee to follow in implementing its powers and duties under this subchapter.  
(V.T.I.C. Art. 3.50-4, Sec. 6(d).)

Source Law

(d) The trustee shall adopt procedural rules for the committee to follow in carrying out its powers and duties under this section.

Revised Law

Sec. 1575.408. REIMBURSEMENT FOR ACTUAL AND REASONABLE EXPENSES. A committee member is entitled to reimbursement for actual and reasonable expenses incurred in performing functions as a committee member. (V.T.I.C. Art. 3.50-4, Sec. 6(g).)

Source Law

(g) A member of the advisory committee is entitled to reimbursement for actual and reasonable expenses incurred in performing functions as a member of the committee.

[Sections 1575.409-1575.450 reserved for expansion]

SUBCHAPTER J. ACCOUNTING, REPORTS, AND RECORDS

Revised Law

Sec. 1575.451. ANNUAL ACCOUNTING. (a) In this section, "plan year" means the period beginning on September 1 and ending on the following August 31.

(b) Group coverage purchased under this chapter must provide for an accounting to the board of trustees by each carrier providing the coverage.

- (c) The accounting must be submitted:
- (1) not later than the 90th day after the last day of each plan year; and
  - (2) on a form approved by the board of trustees.
- (d) Each carrier shall prepare any other report that the board of trustees considers necessary.
- (e) A carrier may not assess an extra charge for an accounting report. (V.T.I.C. Art. 3.50-4, Secs. 2(8), 10(b).)

Source Law

Sec. 2. In this article:

(8) "Policy year" or "year" means the period beginning on September 1 of one year and ending on August 31 of the following year.

[Sec. 10]

(b) Insurance coverage purchased under this article shall provide for an accounting to the trustee by each carrier providing coverage not later than the 90th day after the end of each policy year. The accounting shall be on a form approved by the trustee. Other reports shall be prepared by each carrier if considered necessary by the trustee. An extra charge may not be assessed by the carrier for the accounting reports.

Revised Law

Sec. 1575.452. ANNUAL REPORT. Not later than the 180th day after the last day of each state fiscal year, the board of trustees shall submit a written report to the department concerning the group coverages provided to and the benefits and services being received by individuals covered under this chapter. (V.T.I.C. Art. 3.50-4, Sec. 10(a).)

Source Law

Sec. 10. (a) Not later than the 180th day after the end of each state fiscal year, the trustee shall make a written report to the State Board of Insurance concerning the insurance coverages provided and the benefits and services being received by persons insured under this article.

Revised Law

Sec. 1575.453. STUDY AND REPORT BY BOARD OF TRUSTEES. (a) The board of trustees shall study the operation and administration of this chapter, including:

- (1) conducting surveys and preparing reports on financing group coverages and health benefit plans available to participants; and
- (2) studying the experience and projected cost of

coverage.

(b) The board of trustees shall report to the legislature at each regular session on the operation and administration of this chapter. (V.T.I.C. Art. 3.50-4, Sec. 17(a).)

Source Law

Sec. 17. (a) The trustee shall study the operation and administration of this article, including surveys and reports on financing group insurance coverages and health benefits plans available to retirees, and the experience and projected cost of coverage and benefits. The trustee shall make a report to the legislature at each regular legislative session relating to the operation and administration of this article.

Revised Law

Sec. 1575.454. REPORTS BY AND EXAMINATION OF CARRIER. Each contract entered into under this chapter between the board of trustees and a carrier must require the carrier to:

(1) furnish to the board in a timely manner reasonable reports that the board determines are necessary to implement this chapter; and

(2) permit the board and the state auditor to examine records of the carrier as necessary to implement this chapter. (V.T.I.C. Art. 3.50-4, Sec. 17(b).)

Source Law

(b) Each contract entered into under this article shall include provisions requiring carriers to:

(1) furnish to the trustee on a timely basis reasonable reports that the trustee determines are necessary to carry out its functions under this article; and

(2) permit the trustee and State Auditor to examine records of the carriers as may be necessary to carry out this article.

Revised Law

Sec. 1575.455. PUBLIC INSPECTION. A report required by this chapter shall be made available for public inspection in a form that protects the identity of individual claimants. (V.T.I.C. Art. 3.50-4, Sec. 10(c).)

Source Law

(c) All reports required by this article shall be made available for public inspection in a form that protects the identity of individual claimants.

Revised Law

Sec. 1575.456. CONFIDENTIALITY OF RECORDS. (a) Section

825.507, Government Code, applies to information in records in the custody of the system relating to a retiree, active employee, annuitant, or beneficiary under the group program.

(b) The system may disclose to a health or benefit provider information in the records of an individual that the system determines is necessary to administer the group program.

(V.T.I.C. Art. 3.50-4, Sec. 18B.)

Source Law

Sec. 18B. (a) Section 825.507, Government Code, concerning the confidentiality of information in records that are in the custody of the Teacher Retirement System of Texas, applies to information in records that are in the custody of the retirement system regarding retirees, active employees, annuitants, or beneficiaries under the Texas Public School Employees Group Insurance Program.

(b) The retirement system may disclose to health and benefit providers information in the records of an individual that the retirement system determines to be necessary to administer the program.

[Sections 1575.457-1575.500 reserved for expansion]

SUBCHAPTER K. EXPULSION FOR FRAUD

Revised Law

Sec. 1575.501. EXPULSION FOR FRAUD. After notice and hearing as provided by this subchapter, the board of trustees may expel from participation in the group program a retiree, active employee, dependent, surviving spouse, or surviving dependent child who:

(1) submits a fraudulent claim or application for coverage under the group program; or

(2) defrauds or attempts to defraud a health benefit plan offered under the group program. (V.T.I.C. Art. 3.50-4, Sec. 18A(a).)

Source Law

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

Revised Law

Sec. 1575.502. HEARING. On receipt of a complaint or on its own motion, the board of trustees may call and hold a hearing to

determine whether an individual has acted in the manner described by Section 1575.501. (V.T.I.C. Art. 3.50-4, Sec. 18A(b).)

Source Law

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

Revised Law

Sec. 1575.503. CONTESTED CASE. A proceeding under this subchapter is a contested case under Chapter 2001, Government Code. (V.T.I.C. Art. 3.50-4, Sec. 18A(c).)

Source Law

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

Revisor's Note

Section 18A(c), V.T.I.C. Article 3.50-4, refers to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The relevant part of that statute was codified in 1993 as Chapter 2001, Government Code. The revised law is drafted accordingly.

Revised Law

Sec. 1575.504. EXPULSION AT CONCLUSION OF HEARING. At the conclusion of the hearing under Section 1575.502, if the board of trustees determines that the individual acted in the manner described by Section 1575.501, the board shall expel the individual from participation in the group program. (V.T.I.C. Art. 3.50-4, Sec. 18A(d).)

Source Law

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

Revised Law

Sec. 1575.505. EFFECT OF EXPULSION. An individual expelled from participation in the group program may not be covered by a health benefit plan offered under the group program for a period determined by the board of trustees, not to exceed five years, beginning on the date the expulsion takes effect. (V.T.I.C.

Art. 3.50-4, Sec. 18A(f).)

Source Law

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

Revisor's Note

Section 18A(f), V.T.I.C. Article 3.50-4, refers to "any health insurance plan." The revised law substitutes "health benefit plan" for "health insurance plan" because "health benefit plan" is the defined term and it is clear that the legislature intended the provision to apply to all health benefit plans offered.

Revised Law

Sec. 1575.506. APPEAL. An appeal of a determination by the board of trustees under this subchapter is under the substantial evidence rule. (V.T.I.C. Art. 3.50-4, Sec. 18A(e).)

Source Law

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

[Sections 1575.507-1575.800 reserved for expansion]

SUBCHAPTER R. COVERAGE OF ACTIVE EMPLOYEES OF  
PARTICIPATING SCHOOL DISTRICTS

Revised Law

Sec. 1575.801. PARTICIPATION BY PUBLIC SCHOOL DISTRICTS.

(a) A public school district may elect to participate in the group program.

(b) A district that participates in the group program must accept the schedule of costs adopted by the board of trustees.

(c) The sum of premiums and administrative fees received from participating school districts and the active employees of the participating school districts must cover all expenses of school district employee participation in the group program.

(V.T.I.C. Art. 3.50-4, Secs. 7A(a) (part), (c) (part).)

Source Law

Sec. 7A. (a) A public school district may elect to participate in the program provided under this article. A district that elects to participate must accept the schedule of costs adopted by the trustee. . . .

(c) . . . The sum of premiums and administrative fees

received from participating school districts and active employees must cover all expenses of school district employee participation in the program.

Revised Law

Sec. 1575.802. BOARD OF TRUSTEES REGULATION OF PARTICIPATION BY SCHOOL DISTRICTS. (a) The board of trustees by rule shall provide:

(1) eligibility requirements for participation by a school district in the group program;

(2) restrictions on the ability of a school district to begin or discontinue participation in the group program;

(3) administrative fees to be paid by participating school districts to cover the board's administrative costs in extending the group program to active employees; and

(4) requirements to minimize the effects of adverse selection on the group program.

(b) The eligibility requirements under Subsection (a)(1) may include criteria based on size.

(c) The restrictions under Subsection (a)(2) may include:

(1) a minimum period of participation; and

(2) limited periods for elections to begin or discontinue participation. (V.T.I.C. Art. 3.50-4, Sec. 7A(b).)

Source Law

(b) The trustee by rule shall provide:

(1) eligibility requirements for participation by a school district, which may include criteria based on size;

(2) restrictions on the ability of a school district to begin or discontinue participation, which may include a minimum period of participation and limited periods for elections to begin or discontinue participation;

(3) administrative fees to be paid by participating school districts to cover the trustee's administrative costs in extending the program to active employees; and

(4) requirements to minimize the effects of adverse selection on the program.

Revised Law

Sec. 1575.803. PARTICIPATION BY ACTIVE EMPLOYEES AND DEPENDENTS. (a) An active employee of a participating school district may elect to participate in the group program.

(b) A school district may not offer a financial incentive to an active employee for declining to participate in the group program.

(c) An active employee of a participating school district is entitled to obtain coverage for dependents in the same manner as a participating retiree. (V.T.I.C. Art. 3.50-4, Sec. 7A(d).)

Source Law

(d) Participation by an active employee of a participating school district is optional with the employee. A school district may not offer a financial incentive to an active employee for declining to participate in the program. An active employee is entitled to obtain coverage for dependents in the same manner as a participating retiree.

Revised Law

Sec. 1575.804. ALTERNATIVE HEALTH BENEFIT PLAN FOR ACTIVE EMPLOYEES. A school district that participates in the group program may offer an alternative health benefit plan to its active employees during the period of its participation if the board of trustees approves the plan as providing contributions, participation, and a design that are in accordance with sound group benefit underwriting principles. (V.T.I.C. Art. 3.50-4, Sec. 7A(a) (part).)

Source Law

(a) . . . A district may offer an alternative health benefit plan to its active employees during the period of its participation in the program if the trustee approves the plan as providing contributions, participation, and a design that are in accordance with sound group benefit underwriting principles.

Revised Law

Sec. 1575.805. OPTIONAL GROUP COVERAGES FOR ACTIVE EMPLOYEES. (a) The board of trustees shall provide optional group coverages for active employees participating in the group program.

(b) The coverages may be combined with or similar to, but separate from, coverages provided to retirees. (V.T.I.C. Art. 3.50-4, Sec. 7A(c) (part).)

Source Law

(c) The trustee shall provide optional group coverages for active employees participating in the program. The coverages may be combined with or similar to, but separate from, coverages provided to retirees. . . .

Revised Law

Sec. 1575.806. SCHOOL DISTRICT CONTRIBUTION FOR ACTIVE EMPLOYEES. (a) Each participating school district shall contribute for each of its employees covered under the group program an amount equal to at least 75 percent of the cost for the employee only.

(b) The district shall certify to the board of trustees the

amount the district will contribute monthly.

(c) The board of trustees shall determine if the monthly contribution is sufficient to underwrite the plan for the district based on sound group benefit underwriting principles. A determination by the board under this subsection is final.

(d) Each employee covered under the group program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of the employer contribution. (V.T.I.C. Art. 3.50-4, Secs. 7A(e), (f).)

Source Law

(e) Each participating school district shall contribute for each district employee covered by the program an amount equal to not less than 75 percent of the cost for the employee only of the plans of group coverages authorized by the trustee for active employees. The district shall certify to the trustee the amount the district will contribute monthly toward the cost of coverage. The trustee shall determine if the amount is sufficient to underwrite the plan for the district based on sound group benefit underwriting principles. A determination by the trustee under this subsection is final.

(f) Each employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of employer contributions.

Revised Law

Sec. 1575.807. ADDITIONAL STATE CONTRIBUTIONS AUTHORIZED. The state may contribute to the fund an amount in addition to the contribution required by Section 1575.202 to assist in the expansion of the group program to active employees of participating school districts. (V.T.I.C. Art. 3.50-4, Sec. 7A(h).)

Source Law

(h) The state may make contributions to the fund in addition to those required by Section 16(b) of this article for the purpose of assisting in the expansion of the program to active employees.

Revisor's Note

(End of Chapter)

(1) Section 7A(g), V.T.I.C. Article 3.50-4, refers to the deposit of certain fees that expired after the 1996-1997 school year. The revised law omits the provision as executed. The omitted law reads:

(g) The trustee shall deposit in the fund all fees collected under Section 44(d), Chapter 812, Acts of the 73rd

Legislature, 1993, except that portion used to conduct the survey required by Section 44. The trustee shall continue to collect the fee through the 1996-1997 school year, after which time the fee expires.

(2) Section 7A(i), V.T.I.C. Article 3.50-4, refers to the enrollment of active school district employees beginning with the 1996-1997 school year. The revised law omits the provision as executed. The omitted law reads:

(i) The trustee shall begin enrollment in the program for active employees to be effective beginning with the 1996-1997 school year.

(3) Section 20, V.T.I.C. Article 3.50-4, provides that coverage under a plan authorized under Article 3.50-4 begins September 1, 1986. The revised law omits the provision as executed. The omitted law reads:

Sec. 20. Coverage under the plan or plans authorized by this article shall begin September 1, 1986.

CHAPTER 1576. GROUP LONG-TERM CARE INSURANCE FOR  
PUBLIC SCHOOL EMPLOYEES

|                |   |      |
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CHAPTER 1576. GROUP LONG-TERM CARE INSURANCE FOR PUBLIC SCHOOL  
EMPLOYEES

Revised Law

Sec. 1576.001. DEFINITIONS. In this chapter:

(1) "Active employee" has the meaning assigned by Section 1575.002.

(2) "Board of trustees" means the board of trustees of the Teacher Retirement System of Texas.

(3) "Retiree" has the meaning assigned by Section 1575.004.

(4) "Surviving spouse" has the meaning assigned by Section 1575.003. (V.T.I.C. Art. 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, Subsec. (a)(2).)

Source Law

(2) "Active employee," "retiree," "surviving spouse," and "trustee" have the meanings assigned by Section 2, Article 3.50-4, Insurance Code.

Revisor's Note

Subsection (a)(2), V.T.I.C. Article 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, defines "trustee" for purposes of this chapter as having the meaning assigned by Section 2, V.T.I.C. Article 3.50-4. That section defines "trustee" as meaning the "Teacher Retirement System of Texas." For clarity and convenience, the revised law substitutes "board of trustees" for "trustee" as the defined term, and sets out the text of the definition provided by Section 2, V.T.I.C. Article 3.50-4, instead of a cross-reference to that section. The substitution of "board of trustees" for "trustee" is also made throughout this chapter to reflect the change made in this section.

Revised Law

Sec. 1576.002. ESTABLISHMENT OF PROGRAM. (a) The board of trustees may establish a group long-term care insurance program to provide long-term care insurance coverage for:

- (1) an active employee or retiree;
- (2) the spouse of an active employee or retiree, including a surviving spouse;
- (3) a parent or grandparent of an active employee or retiree; and
- (4) a parent of the spouse of an employee or retiree, including a parent of a surviving spouse.

(b) The board of trustees may not implement a group long-term care insurance program unless any cost or administrative burden associated with the development of, implementation of, or communications about the program is incidental. (V.T.I.C. Art. 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, Subsecs. (b), (c) (part).)

Source Law

(b) The trustee may establish a group long-term care insurance program to provide long-term care insurance coverage for:

- (1) an active employee or retiree;
- (2) a spouse of an active employee or retiree, including a surviving spouse;
- (3) a parent or grandparent of an active employee or retiree; and
- (4) the parent of a spouse of an employee or retiree, including the parent of a surviving spouse.

(c) . . . The trustee may not implement the group long-term care insurance program under this section unless any cost or administrative burden associated with the development of, implementation of, or communications about the program is incidental.

Revised Law

Sec. 1576.003. ADMINISTERING FIRM. The board of trustees may select an administering firm to administer the group long-term care insurance program under contract with the board. (V.T.I.C. Art. 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, Subsec. (c) (part).)

Source Law

(c) The trustee may select an administering firm to administer the program under contract to the trustee. . . .

Revised Law

Sec. 1576.004. PREMIUMS. The administering firm shall bill each program participant directly for premiums and any other program costs. Each participant is responsible for required payments. (V.T.I.C. Art. 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, Subsec. (c) (part).)

Source Law

(c) . . . The administering firm shall bill each program participant directly for premiums and any other program cost, and the program participant is responsible for the required payment. . . .

Revised Law

Sec. 1576.005. PROGRAM NOT PART OF OTHER GROUP COVERAGES.

(a) The group long-term care insurance program is not part of the group coverages offered under Chapter 1575.

(b) The state may not contribute any part of the premiums for coverage offered under this chapter. (V.T.I.C. Art. 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, Subsec. (d).)

Source Law

(d) The group long-term care insurance program is not part of the group coverages offered under Article 3.50-4, Insurance Code, and the state may not contribute any part of the premiums for coverage offered under this article.

Revised Law

Sec. 1576.006. RULES. The board of trustees may adopt rules as necessary to implement this chapter, including rules specifying the coverage to be offered under the group long-term care insurance program. (V.T.I.C. Art. 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, Subsec. (e).)

Source Law

(e) The trustee may adopt rules as necessary to implement this article, including rules specifying the coverage to be offered under the group long-term care insurance program.

Revisor's Note  
(End of Chapter)

Subsection (a)(1), V.T.I.C. Article 3.50-4A, as added by Section 2, Chapter 372, Acts of the 76th Legislature, Regular Session, 1999, provides a definition of "administering firm." The revised law omits the definition as unnecessary because the substance of the definition is included in the operative terms of the statute. The omitted law reads:

Art. 3.50-4A. (a) In this article:

(1) "Administering firm" means a firm designated by the trustee to administer the group long-term care insurance program under this article.

CHAPTER 1577. REQUIRED AVAILABILITY OF INSURANCE  
FOR SCHOOL DISTRICT EMPLOYEES AND RETIREES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1577.001. DEFINITIONS 1859

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[Sections 1577.003-1577.050 reserved for expansion]

SUBCHAPTER B. COVERAGES

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[Sections 1577.056-1577.100 reserved for expansion]

SUBCHAPTER C. AWARD OF CONTRACTS

Sec. 1577.101. CONTRACTS TO PROVIDE COVERAGES 1863

Sec. 1577.102. COMPETITIVE BIDDING REQUIREMENTS; RULES 1863

Sec. 1577.103. CONTRACT AWARD; CONSIDERATIONS 1863

Sec. 1577.104. SELECTION OF CONTRACTORS 1864

[Sections 1577.105-1577.150 reserved for expansion]

SUBCHAPTER D. PREMIUMS

Sec. 1577.151. RESPONSIBILITY FOR PREMIUMS 1865

Sec. 1577.152. PAYMENT OF PREMIUMS 1865

[Sections 1577.153-1577.200 reserved for expansion]

SUBCHAPTER E. SCHOOL DISTRICT EMPLOYEES AND RETIREES  
OPTIONAL INSURANCE TRUST FUND

Sec. 1577.201. DEFINITION 1865

Sec. 1577.202. SCHOOL DISTRICT EMPLOYEES AND RETIREES  
OPTIONAL INSURANCE TRUST FUND;  
ADMINISTRATION 1866

Sec. 1577.203. PAYMENTS INTO FUND 1866

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CHAPTER 1577. REQUIRED AVAILABILITY OF INSURANCE  
FOR SCHOOL DISTRICT EMPLOYEES AND RETIREES  
SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1577.001. DEFINITIONS. In this chapter:

(1) "Board of trustees" means the board of trustees of the Teacher Retirement System of Texas.

(2) "Employee" means an individual who:

(A) is a participating member of the system; and

(B) does not participate in a group insurance program provided under Chapter 1551 or 1601.

(3) "Retiree" means:

(A) an individual who:

(i) has taken a service retirement under the system with at least 10 years of service credit in the system for service in public schools in this state; and

(ii) is not eligible to participate in a group insurance program provided under Chapter 1551 or 1601; or

(B) an individual who:

(i) has taken a disability retirement under the system and is entitled to receive an annuity from the system based on the individual's service; and

(ii) is not eligible to participate in a group insurance program provided under Chapter 1551 or 1601.

(4) "System" means the Teacher Retirement System of Texas. (V.T.I.C. Art. 3.50-4A, Sec. 1, as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27; New.)

Source Law

Art. 3.50-4A

Sec. 1. In this article:

(1) "Employee" means a person who is a participating member of the Teacher Retirement System of Texas and is not participating in a group insurance program under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code).

(2) "Retiree" means a person who:

(A) has retired under the Teacher Retirement System of Texas with at least 10 years of credit for service in public schools of this state or has retired under that system for

disability and is entitled to receive an annuity from the system based on the person's service; and

(B) is not eligible to participate in the group insurance program provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code).

(3) "Trustee" means the Teacher Retirement System of Texas.

#### Revisor's Note

(1) Section 1(3), V.T.I.C. Article 3.50-4A, as added by Section 27, Chapter 1540, Acts of the 76th Legislature, Regular Session, 1999, defines "trustee" to mean the "Teacher Retirement System of Texas." For clarity and convenience, the revised law substitutes "board of trustees" for "trustee" as the defined term and refers to the "board of trustees" of the Teacher Retirement System of Texas. The substitution of "board of trustees" for "trustee" is also made throughout this chapter to reflect the change made in this section.

(2) The definition of "system" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

#### Revised Law

Sec. 1577.002. RULES. The board of trustees may adopt rules necessary to administer this chapter. (V.T.I.C. Art. 3.50-4A, Sec. 3(b), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

#### Source Law

(b) The trustee may adopt other rules necessary to administer the program provided under this article.

[Sections 1577.003-1577.050 reserved for expansion]

### SUBCHAPTER B. COVERAGES

#### Revised Law

Sec. 1577.051. OPTIONAL PERMANENT LIFE INSURANCE. The board of trustees shall offer employees and retirees optional permanent life insurance coverage. (V.T.I.C. Art. 3.50-4A, Sec. 2(a) (part), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

#### Source Law

Sec. 2. (a) The trustee shall [contract with one or more carriers authorized to provide life insurance in this state to] offer employees and retirees optional permanent life insurance coverage.

Revised Law

Sec. 1577.052. OPTIONAL LONG-TERM CARE INSURANCE. (a) The board of trustees shall offer employees and retirees optional long-term care insurance coverage.

(b) The long-term care insurance must provide coverage for home, community, and institutional care. (V.T.I.C. Art. 3.50-4A, Sec. 2(b) (part), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(b) The trustee shall [contract with one or more carriers authorized to provide long-term care insurance in this state to offer] employees and retirees optional long-term care insurance coverage. The long-term care insurance coverage shall include home, community, and institutional care.

Revised Law

Sec. 1577.053. OPTIONAL DISABILITY INSURANCE. The board of trustees shall offer employees optional insurance coverage against short-term or long-term loss of salary because of disability. (V.T.I.C. Art. 3.50-4A, Sec. 2(c) (part), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(c) The trustee shall [contract with one or more carriers authorized to provide disability insurance in this state to offer] employees optional insurance against short-term or long-term loss of salary because of disability.

Revised Law

Sec. 1577.054. AVAILABILITY OF COVERAGE. The board of trustees shall offer the insurance coverages provided under this chapter to:

- (1) employees through their employers; and
- (2) retirees through the board's administration of the system. (V.T.I.C. Art. 3.50-4A, Sec. 4(a), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

Sec. 4. (a) The trustee shall offer the coverages provided under this article to employees through their employers and to retirees through the trustee's administration of the retirement system.

Revised Law

Sec. 1577.055. OPEN ENROLLMENT PERIODS. Insurance coverages provided under this chapter shall be made available periodically during open enrollment periods as determined by the board of

trustees. (V.T.I.C. Art. 3.50-4A, Sec. 2(e), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(e) Insurance coverage provided under this section shall be made available periodically during open enrollment periods determined by the trustee.

[Sections 1577.056-1577.100 reserved for expansion]

SUBCHAPTER C. AWARD OF CONTRACTS

Revised Law

Sec. 1577.101. CONTRACTS TO PROVIDE COVERAGES. The board of trustees shall contract with one or more carriers authorized to provide the applicable type of insurance to provide each type of coverage required by Subchapter B. (V.T.I.C. Art. 3.50-4A, Secs. 2(a), (b) (part), (c), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

Sec. 2. (a) The trustee shall contract with one or more carriers authorized to provide life insurance in this state to offer employees and retirees optional permanent life insurance coverage.

(b) The trustee shall contract with one or more carriers authorized to provide long-term care insurance in this state to offer employees and retirees optional long-term care insurance coverage. . . .

(c) The trustee shall contract with one or more carriers authorized to provide disability insurance in this state to offer employees optional insurance against short-term or long-term loss of salary because of disability.

Revised Law

Sec. 1577.102. COMPETITIVE BIDDING REQUIREMENTS; RULES. (a) A contract to provide benefits under this chapter may be awarded only through competitive bidding under rules adopted by the board of trustees.

(b) The rules may provide criteria for determining whether a carrier is qualified. (V.T.I.C. Art. 3.50-4A, Sec. 2(d) (part), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(d) In contracting for any benefits under this article, competitive bidding shall be required under rules adopted by the trustee. The rules may provide criteria to determine qualified carriers. . . .

Revised Law

Sec. 1577.103. CONTRACT AWARD; CONSIDERATIONS. (a) In awarding a contract under this chapter, the board of trustees is not required to select the lowest bid and may consider any relevant criteria, including a bidder's:

- (1) ability to service contracts;
- (2) past experiences; and
- (3) financial stability.

(b) If the board of trustees awards a contract to a bidder whose bid deviates from that advertised, the board shall record the deviation and fully justify the reason for the deviation in the minutes of the next board meeting. (V.T.I.C. Art. 3.50-4A, Sec. 2(d) (part), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(d) . . . The trustee is not required to select the lowest bid but also may consider ability to service contracts, past experiences, financial stability, and other relevant criteria. If the trustee awards a contract to an entity whose bid deviates from that advertised, the deviation shall be recorded and the reasons for the deviation shall be fully justified in the minutes of the next meeting of the trustee.

Revised Law

Sec. 1577.104. SELECTION OF CONTRACTORS. (a) The board of trustees shall adopt rules for the selection of contractors under this chapter.

(b) The rules must require a contractor to:

- (1) administer enrollment, adjudicate claims, and coordinate services under the insurance coverage; and
- (2) account for premiums collected and disbursed under the insurance coverage. (V.T.I.C. Art. 3.50-4A, Sec. 3(a), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

Sec. 3. (a) The trustee shall adopt rules for the selection of contractors under this article. The rules must require the contractors to administer enrollment, adjudication of claims, and coordination of services under the insurance coverages and require the contractors to account for premiums collected and disbursed under the coverages.

[Sections 1577.105-1577.150 reserved for expansion]

SUBCHAPTER D. PREMIUMS

Revised Law

Sec. 1577.151. RESPONSIBILITY FOR PREMIUMS. The

participants in a plan of insurance coverage provided under this chapter are responsible for the full cost of premiums. (V.T.I.C. Art. 3.50-4A, Sec. 4(b), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(b) The full cost of premiums in a plan of insurance coverage provided under this article is the responsibility of the enrollees.

Revised Law

Sec. 1577.152. PAYMENT OF PREMIUMS. (a) An employee participating in a plan of insurance coverage provided under this chapter shall pay premiums by payroll deduction remitted by the employee's employer at the times and in the manner determined by the board of trustees.

(b) A retiree participating in a plan of insurance coverage provided under this chapter shall pay premiums by deduction from the retiree's monthly retirement annuity. (V.T.I.C. Art. 3.50-4A, Secs. 4(c), (d), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(c) An employee participating in a plan of insurance coverage provided under this article shall pay premiums by payroll deduction remitted by the employee's employer at the times and in the manner provided by the trustee.

(d) A retiree participating in a plan of insurance coverage provided under this article shall pay premiums by deduction from the retiree's monthly retirement annuity.

[Sections 1577.153-1577.200 reserved for expansion]

SUBCHAPTER E. SCHOOL DISTRICT EMPLOYEES AND RETIREES  
OPTIONAL INSURANCE TRUST FUND

Revised Law

Sec. 1577.201. DEFINITION. In this subchapter, "fund" means the school district employees and retirees optional insurance trust fund. (New.)

Revisor's Note

The definition of "fund" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 1577.202. SCHOOL DISTRICT EMPLOYEES AND RETIREES  
OPTIONAL INSURANCE TRUST FUND; ADMINISTRATION. (a) The school district employees and retirees optional insurance trust fund is a trust fund with the comptroller.

(b) The board of trustees shall administer the fund on behalf of the participants in the plans of insurance coverage provided under this chapter. (V.T.I.C. Art. 3.50-4A, Sec. 5(a), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

Sec. 5. (a) The school district employees and retirees optional insurance trust fund is created as a trust fund with the comptroller and shall be administered by the trustee on behalf of the participants in the plans of insurance coverage provided under this article.

Revisor's Note

Section 5(a), V.T.I.C. Article 3.50-4A, as added by Section 27, Chapter 1540, Acts of the 76th Legislature, Regular Session, 1999, states that the school district employees and retirees optional insurance trust fund "is created." The revised law omits the reference to the creation of the fund because that provision is executed.

Revised Law

Sec. 1577.203. PAYMENTS INTO FUND. The following shall be credited to the fund:

(1) premiums from participants in plans of insurance coverage provided under this chapter;

(2) money recovered under contracts for providing insurance coverage under this chapter; and

(3) investment and depository income of the fund.

(V.T.I.C. Art. 3.50-4A, Sec. 5(b), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(b) Premiums paid by enrollees, amounts recovered under contracts for the implementation of the program provided by this article, and investment and depository income of the fund shall be credited to the fund.

Revised Law

Sec. 1577.204. PAYMENTS FROM FUND. Money in the fund may be used only to provide insurance coverage under this chapter, including the payment of administration expenses. (V.T.I.C. Art. 3.50-4A, Sec. 5(c), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(c) Money in the fund may be used only for the purpose of providing the program of insurance coverage provided under this article, including the expenses of administering the program.

Revised Law

Sec. 1577.205. INVESTMENT OF FUND. The board of trustees may invest the fund in the manner provided by Section 67(a)(3), Article XVI, Texas Constitution. (V.T.I.C. Art. 3.50-4A, Sec. 5(d), as added Acts 76th Leg., R.S., Ch. 1540, Sec. 27.)

Source Law

(d) The trustee may invest the fund in the manner provided by Section 67(a)(3), Article XVI, Texas Constitution.

CHAPTER 1578. PURCHASE OF INSURANCE BY ASSOCIATION OF  
TEACHERS AND SCHOOL ADMINISTRATORS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1578.001. APPLICABILITY OF CHAPTER 1868

Sec. 1578.002. AUTHORITY TO ISSUE 1868

[Sections 1578.003-1578.050 reserved for expansion]

SUBCHAPTER B. PURCHASE OF INSURANCE

Sec. 1578.051. AUTHORITY TO OBTAIN INSURANCE 1868

Sec. 1578.052. PAYMENT OF PREMIUM 1869

Sec. 1578.053. MINIMUM REQUIREMENTS TO OBTAIN POLICY 1869

Sec. 1578.054. AMOUNT OF INSURANCE 1870

CHAPTER 1578. PURCHASE OF INSURANCE BY ASSOCIATION OF  
TEACHERS AND SCHOOL ADMINISTRATORS  
SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1578.001. APPLICABILITY OF CHAPTER. This chapter applies only to a voluntary association that is:

(1) composed of teachers or school administrators of public or private primary or secondary schools, colleges, or universities; and

(2) incorporated under federal law or a law of this state on a nonprofit membership basis. (V.T.I.C. Art. 3.51-3 (part).)

Source Law

Art. 3.51-3. Any voluntary association of school administrators and/or teachers in public and/or private schools, colleges or universities, which association is organized on a non-profit membership basis and is incorporated under the laws of the United States or of this state, . . . .

Revised Law

Sec. 1578.002. AUTHORITY TO ISSUE. Notwithstanding any other law, an insurance company authorized to engage in the business of insurance in this state may issue a group policy to a voluntary association in accordance with this chapter. (V.T.I.C. Art. 3.51-3 (part).)

Source Law

Art. 3.51-3. . . . any insurance company authorized to do business in this state is hereby authorized to issue such policies to any such association under the terms and conditions set out in this Act, any contrary or inconsistent provisions in any other statute notwithstanding. . . .

[Sections 1578.003-1578.050 reserved for expansion]

SUBCHAPTER B. PURCHASE OF INSURANCE

Revised Law

Sec. 1578.051. AUTHORITY TO OBTAIN INSURANCE. (a) A voluntary association may obtain for any class of the association's membership and for the class's dependents a group policy of:

- (1) life insurance;
- (2) health insurance;
- (3) accident insurance;
- (4) accidental death or dismemberment insurance; or
- (5) hospital, surgical, or medical expense insurance.

(b) The association may obtain a separate policy for each type of insurance listed under Subsection (a).

(c) The association is the policyholder. (V.T.I.C. Art. 3.51-3 (part).)

Source Law

Art. 3.51-3. [Any voluntary association] . . . is hereby authorized to procure contracts of insurance covering any class or classes of its membership and their dependents under a policy or policies of group life, health, accident, accidental death or dismemberment, and hospital, surgical and/or medical expense insurance; and . . . . Separate policies may be obtained for one or more of the aforementioned risks, and the association shall be deemed the policyholder. . . .

Revised Law

Sec. 1578.052. PAYMENT OF PREMIUM. A voluntary association that obtains a group policy under this chapter shall pay the premium for the policy wholly or partly from money:

- (1) contributed by the association; or
- (2) contributed by the insured association members for that purpose. (V.T.I.C. Art. 3.51-3 (part).)

Source Law

Art. 3.51-3. . . . The premium for the policy shall be paid by the policyholder either wholly or partly from the association's funds, or partly from such funds and partly from

funds contributed by insured members, or from funds wholly contributed by the insured members. . . .

Revised Law

Sec. 1578.053. MINIMUM REQUIREMENTS TO OBTAIN POLICY. (a) A voluntary association may obtain a group policy under this chapter only if the policy will cover at least 25 association members on the date of issue.

(b) If the premium for the group policy is paid wholly or partly from money contributed by association members for that purpose, the policy on the date of issue must cover at least the lesser of 75 percent of the eligible members or 400 members, excluding any member whose evidence of individual insurability is not satisfactory to the insurer, who elect to make the required contributions and to be insured under the policy. (V.T.I.C. Art. 3.51-3 (part).)

Source Law

Art. 3.51-3. . . . The policy must cover at least twenty-five members at date of issue, and if any part or all of the premiums are to be derived from funds contributed by the insured members specifically for their insurance, the policy may be placed in force only if at least seventy-five per centum (75%) of the then eligible members or a minimum of four hundred members (whichever is less, and excluding any as to whom evidence of individual insurability is not satisfactory to the insurer) elect to make the required contributions and become insured thereunder. . . .

Revised Law

Sec. 1578.054. AMOUNT OF INSURANCE. The amount of insurance under a policy issued under this chapter must be based on a plan that precludes individual selection by the voluntary association or an insured association member. (V.T.I.C. Art. 3.51-3 (part).)

Source Law

Art. 3.51-3. . . . The amounts of insurance under the policy must be based on some plan precluding individual selection either by the insured members or by the association.

[Chapters 1579-1600 reserved for expansion]

CHAPTER 1601. UNIFORM INSURANCE BENEFITS ACT  
FOR EMPLOYEES OF THE UNIVERSITY OF TEXAS SYSTEM  
AND THE TEXAS A&M UNIVERSITY SYSTEM  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1601.001. SHORT TITLE 1873

Sec. 1601.002. PURPOSES 1873

- Sec. 1601.003. GENERAL DEFINITIONS 1875
- Sec. 1601.004. DEFINITION OF DEPENDENT 1877
- Sec. 1601.005. DEFINITION OF CARRIER 1878
- Sec. 1601.006. APPLICABILITY OF DEFINITIONS 1880
- Sec. 1601.007. SYSTEM MAY DEFINE OTHER WORDS 1880
- Sec. 1601.008. EXEMPTION FROM EXECUTION 1880
- Sec. 1601.009. EXEMPTION FROM TAXATION AND FEES 1880
- Sec. 1601.010. CERTAIN COMBINING OF CARRIERS NOT  
RESTRAINT OF TRADE 1881

[Sections 1601.011-1601.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION AND IMPLEMENTATION

- Sec. 1601.051. ADMINISTRATION AND IMPLEMENTATION 1882
- Sec. 1601.052. RULEMAKING AUTHORITY 1882
- Sec. 1601.053. GENERAL DUTIES RELATING TO COVERAGE 1883
- Sec. 1601.054. COMPETITIVE BIDDING REQUIRED 1883
- Sec. 1601.055. IDENTIFICATION OF ADMINISTRATIVE  
COSTS IN BIDS 1884
- Sec. 1601.056. INFORMATION ON BIDDERS AND BIDDING  
CONTRACTS 1884
- Sec. 1601.057. SELECTION OF BIDS 1885
- Sec. 1601.058. SELECTION OF HEALTH MAINTENANCE  
ORGANIZATIONS 1885
- Sec. 1601.059. CERTIFICATE OF COVERAGE 1885
- Sec. 1601.060. ACCOUNTING BY CARRIER PROVIDING  
PURCHASED COVERAGE 1886
- Sec. 1601.061. SPECIAL RESERVE 1887
- Sec. 1601.062. REPORTS AND RECORDS BY ADMINISTERING  
CARRIER 1888
- Sec. 1601.063. ASSISTANCE IN REQUESTING MONEY 1889

[Sections 1601.064-1601.100 reserved for expansion]

SUBCHAPTER C. COVERAGE AND PARTICIPATION

- Sec. 1601.101. PARTICIPATION ELIGIBILITY: EMPLOYEES 1889
- Sec. 1601.102. PARTICIPATION ELIGIBILITY: RETIREES 1890
- Sec. 1601.103. RIGHT TO COVERAGE 1892
- Sec. 1601.104. AUTOMATIC COVERAGE 1893
- Sec. 1601.105. WAIVER 1893
- Sec. 1601.106. OPTIONAL COVERAGE 1893
- Sec. 1601.107. COVERAGE FOR DEPENDENTS 1894
- Sec. 1601.108. COVERAGE OPTIONS FOR CERTAIN SURVIVING  
SPOUSES 1894
- Sec. 1601.109. COVERAGE FOR AIDS, HIV, OR SERIOUS  
MENTAL ILLNESS 1895

[Sections 1601.110-1601.150 reserved for expansion]

SUBCHAPTER D. GROUP COVERAGES

- Sec. 1601.151. AUTHORITY TO SELF-INSURE; EXEMPTION  
FROM OTHER INSURANCE LAWS 1897
- Sec. 1601.152. CAFETERIA PLAN 1897

- Sec. 1601.153. SYSTEMS MAY JOIN IN PROCURING  
INSURANCE 1899
- Sec. 1601.154. LONG-TERM CARE COVERAGE 1900
- Sec. 1601.155. REINSURANCE 1901
- [Sections 1601.156-1601.200 reserved for expansion]
- SUBCHAPTER E. PAYMENTS, CONTRIBUTIONS, AND COSTS
- Sec. 1601.201. PAYMENT FOR OPTIONAL OR BASIC COVERAGE 1901
- Sec. 1601.202. FEES FOR CAFETERIA PLAN 1902
- Sec. 1601.203. PAYMENT FOR COVERAGE FOR DEPENDENTS 1902
- Sec. 1601.204. AUTHORIZATION OF EMPLOYEE DEDUCTION 1903
- Sec. 1601.205. EMPLOYEE PAYMENTS FOR PARTICIPATION IN  
CAFETERIA PLAN 1903
- Sec. 1601.206. PAYMENT BY RETIRED EMPLOYEE 1904
- Sec. 1601.207. SYSTEM CONTRIBUTIONS 1904
- Sec. 1601.208. AMOUNT OF SYSTEM CONTRIBUTION 1905
- Sec. 1601.209. ORDER OF PRECEDENCE OF PAYMENT TO  
SURVIVORS 1906
- Sec. 1601.210. PROVISION OF NECESSARY INFORMATION 1907
- [Sections 1601.211-1601.250 reserved for expansion]
- SUBCHAPTER F. CAFETERIA PLAN FUND
- Sec. 1601.251. SYSTEM CAFETERIA PLAN FUND 1907
- Sec. 1601.252. USE OF FUND 1908
- Sec. 1601.253. INVESTMENT OF MONEY IN FUND 1908
- [Sections 1601.254-1601.300 reserved for expansion]
- SUBCHAPTER G. ADVISORY COMMITTEE
- Sec. 1601.301. ADVISORY COMMITTEE 1909
- Sec. 1601.302. ELECTION OF MEMBERS 1909
- Sec. 1601.303. QUALIFICATIONS OF MEMBERS 1909
- Sec. 1601.304. TERMS 1910
- Sec. 1601.305. OFFICERS 1910
- Sec. 1601.306. VACANCY 1910
- Sec. 1601.307. DUTIES OF COMMITTEE 1911
- Sec. 1601.308. EXPENSES; PAYMENT BY EMPLOYEES 1911

CHAPTER 1601. UNIFORM INSURANCE BENEFITS ACT  
FOR EMPLOYEES OF THE UNIVERSITY OF TEXAS SYSTEM  
AND THE TEXAS A&M UNIVERSITY SYSTEM  
SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1601.001. SHORT TITLE. This chapter may be cited as the State University Employees Uniform Insurance Benefits Act. (V.T.I.C. Art. 3.50-3, Sec. 1.)

Source Law

Art. 3.50-3

Sec. 1. This Act shall be known and may be cited as the "Texas State College and University Employees Uniform Insurance Benefits Act."

Revisor's Note

Section 1, V.T.I.C. Article 3.50-3, provides that the title of the article is the "Texas State College and University Employees Uniform Insurance Benefits Act." The revised law omits the reference to "College" because none of the institutions to which the article applies are colleges.

Revised Law

Sec. 1601.002. PURPOSES. The purposes of this chapter are to:

- (1) provide uniformity in the basic group life, accident, and health benefit coverages for all system employees;
- (2) enable the systems to attract and retain competent and able employees by providing employees with basic life, accident, and health benefit coverages comparable to those commonly provided in private industry and to employees of a state agency other than a system, including a public college or university whose employees are covered under Chapter 1551;
- (3) foster, promote, and encourage employment by and service to the systems as a career profession for individuals of high standards of competence and ability;
- (4) recognize and protect the investment of the systems in each employee by promoting and preserving economic security and good health among employees;
- (5) foster and develop high standards of employer-employee relationships between the systems and their employees; and
- (6) recognize the long and faithful service and dedication of employees and encourage them to remain in service until eligible for retirement by providing health benefits and other group benefits for them. (V.T.I.C. Art. 3.50-3, Sec. 2.)

Source Law

Sec. 2. It is hereby declared that the policy and purposes of this Act are:

- (a) to provide uniformity in the basic group life, accident, and health insurance coverages for all employees of Texas institutions;
- (b) to enable Texas institutions to attract and retain competent and able employees by providing them with basic life, accident, and health insurance coverages comparable to those commonly provided in private industry and those provided employees of other agencies of the State of Texas and Texas public colleges and universities under the Texas Employees Uniform Group Insurance Benefits Act;
- (c) to foster, promote, and encourage employment by and service to the institutions of Texas as a career profession for persons of high standards of competence and ability;
- (d) to recognize and protect the investment of the

Texas institutions in each employee by promoting and preserving economic security and good health among employees of the Texas institutions;

(e) to foster and develop high standards of employer-employee relationships between the Texas institutions and their employees; and

(f) to recognize the long and faithful service and dedication of employees of the Texas institutions and to encourage them to remain in service until eligible for retirement by providing health insurance and other group insurance benefits for such employees.

#### Revisor's Note

Section 2, V.T.I.C. Article 3.50-3, refers to "insurance coverages." It is clear that the language is intended to encompass any of the group coverages offered through the uniform program, including health benefit plans that may be offered by a health maintenance organization as provided by Section 4(b)(4)(D), V.T.I.C. Article 3.50-3, revised in this chapter as Section 1601.058. Some of the coverage provided may not be insurance coverage. For example, coverage offered by a health maintenance organization is not insurance coverage. As a result, throughout this chapter the revised law omits the reference to "insurance" in this context.

#### Revised Law

Sec. 1601.003. GENERAL DEFINITIONS. In this chapter:

(1) "Administering carrier" means a carrier or organization that is:

(A) qualified to engage in business in this state; and

(B) designated by a system to administer services, benefits, insurance coverages, or requirements in accordance with this chapter.

(2) "Basic coverage" means coverage, including health benefit coverage, that meets the basic coverage standards required under Section 1601.053(a)(1).

(3) "Cafeteria plan" means a plan defined and authorized by Section 125, Internal Revenue Code of 1986.

(4) "Group life, accident, or health benefit plan" means a group agreement, policy, contract, or arrangement provided by an administering carrier, including:

(A) a group insurance policy or contract;

(B) a life, accident, medical, dental, or hospital service agreement;

(C) a membership or subscription contract; or

(D) any other similar group arrangement.

(5) "Optional coverage" means group coverage other than the basic coverage.

(6) "Service" means personal service to a system for which an employee is credited in accordance with rules adopted by the system.

(7) "System" means The University of Texas System or The Texas A&M University System.

(8) "The Texas A&M University System" means the entities governed under Chapters 85 through 88, Education Code, including the Texas Veterinary Diagnostic Laboratory.

(9) "The University of Texas System" means the entities listed or described by Section 65.02, Education Code.

(10) "Uniform program" means an employees uniform insurance benefits program provided under this chapter. (V.T.I.C. Art. 3.50-3, Secs. 3(a)(1), (5), (6), (7), (11), (14), (15), (17), (18), (19) (as amended Acts 76th Leg., R.S., Ch. 1057); New.)

#### Source Law

(1) "Administering carrier" shall mean any carrier or organization, qualified to do business in Texas, designated by an institution to administer any services, benefits, insurance coverages, or requirements in accordance with this Act.

(5) "Employer" shall mean the institutions defined in Subdivision (7) of this section.

(6) "Group life, accident, or health insurance plan" shall mean any group insurance policy or contract, life, accident, medical, dental, or hospital service agreement, membership or subscription contract, or similar group arrangement provided by an administering carrier.

(7) "Institution" shall mean The University of Texas System or The Texas A&M University System.

(11) "Service" shall mean any personal services of any employee creditable in accordance with rules and regulations promulgated by the institution.

(14) "Cafeteria plan" means a plan as defined and authorized by Section 125, Internal Revenue Code of 1986 (26 U.S.C. Sec. 125).

(15) "The University of Texas System" means the entities listed or described in Section 65.02, Education Code.

(17) "The Texas A&M University System" means the entities governed under Chapters 85 through 88, Education Code, and includes the Texas Veterinary Diagnostic Laboratory.

(18) "Basic coverage" means health insurance coverage and other coverages that meet the basic coverage standards established under Section 4(b)(1) of this Act.

(19) "Optional coverage" means group coverages other than basic coverage.

#### Revisor's Note

(1) Sections 3(a)(5) and (7), V.T.I.C. Article 3.50-3, provide the definitions of "employer" and "institution." The revised law substitutes "system" for both "employer" and "institution" for clarity and to avoid confusion with the term "institution of higher education," which is used throughout the chapter.

(2) Section 3(a)(11), V.T.I.C. Article 3.50-3, refers to "rules and regulations." Throughout this chapter, the reference to "regulations" is omitted from the revised law when used in conjunction with "rules" because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

(3) The definition of "uniform program" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

#### Revised Law

Sec. 1601.004. DEFINITION OF DEPENDENT. (a) In this chapter, "dependent," with respect to an individual eligible to participate in the uniform program under Section 1601.101 or 1601.102, means the individual's:

- (1) spouse;
- (2) unmarried child younger than 25 years of age; and
- (3) child of any age who lives with or has the child's care provided by the individual on a regular basis if the child is mentally retarded or physically incapacitated to the extent that the child is dependent on the individual for care or support, as determined by the system.

(b) In this section:

- (1) "Child" includes:
  - (A) an adopted child; and
  - (B) a stepchild, foster child, or other child who is in a parent-child relationship with an individual who is eligible to participate in the uniform program under Section 1601.101 or 1601.102.

(2) "Spouse" has the meaning assigned by the Family Code. (V.T.I.C. Art. 3.50-3, Sec. 3(a)(8).)

#### Source Law

(8) "Dependent" shall mean the spouse, as defined in the Texas Family Code, of an employee or retired employee, and an unmarried child under 25 years of age including: (A) an adopted child, (B) a stepchild, foster child, or other child who is in a regular parent-child relationship, (C) any such child, regardless

of age, who lives with or whose care is provided by an employee or retired employee on a regular basis, if such child is mentally retarded or physically incapacitated to such an extent as to be dependent upon the employee or retired employee for care or support, as the institution shall determine.

#### Revisor's Note

Section 3(a)(8), V.T.I.C. Article 3.50-3, refers to an "employee" and "retired employee." Throughout this chapter, the revised law substitutes "individual eligible to participate in the uniform program under Section 1601.101 or 1601.102" for those terms because Sections 1601.101 and 1601.102 of this chapter delineate participation eligibility requirements for employees and retired employees.

#### Revised Law

Sec. 1601.005. DEFINITION OF CARRIER. In this chapter, "carrier" means:

- (1) an insurance company that is authorized by the department to provide under this code any of the types of insurance coverages, benefits, or services provided for in this chapter, and that:
  - (A) has an adequate surplus;
  - (B) has a successful operating history; and
  - (C) has had successful experience, as determined by the department, in providing and servicing any of the types of group coverage provided for in this chapter;
- (2) a corporation operating under Chapter 842 that provides any of the types of coverage, benefits, or services provided for in this chapter and that:
  - (A) has a successful operating history; and
  - (B) has had successful experience, as determined by the department, in providing and servicing any of the types of group coverage provided for in this chapter; or
- (3) any combination of carriers described by Subdivisions (1) and (2) on terms the system prescribes. (V.T.I.C. Art. 3.50-3, Secs. 3(a)(3), (10) (part).)

#### Source Law

(3) "Carrier" shall mean a qualified carrier as defined in this Act.

(10) "Qualified carrier" shall mean:

(A) any insurance company authorized to do business in this state by the Texas Department of Insurance to provide any of the types of insurance coverages, benefits, or services provided for in this Act under any of the insurance laws of the State of Texas, which has an adequate surplus, a successful operating history, and which has had successful

experience in providing and servicing any of the types of group coverage provided for in this Act as determined by the Texas Department of Insurance;

(B) any corporation operating under Chapter 20 of the Texas Insurance Code which provides any of the types of coverage, benefits, or services provided for in this Act, which has a successful operating history, and which has had successful experience in providing and servicing any of the types of group coverage provided for in this Act as determined by the Texas Department of Insurance; or

(C) any combination of carriers as herein defined, upon such terms and conditions as may be prescribed by the institution; . . . .

Revisor's Note

Section 3(a)(10)(C), V.T.I.C. Article 3.50-3, refers to the "terms and conditions" the system may prescribe. The reference to "conditions" is omitted from the revised law because "conditions" is included in the meaning of "terms."

Revised Law

Sec. 1601.006. APPLICABILITY OF DEFINITIONS. The definition of a term defined by this subchapter and the use of the terms "employee" and "retired employee" as described by Sections 1601.101 and 1601.102 apply to this chapter unless a different meaning is plainly required by the context in which the term appears. (V.T.I.C. Art. 3.50-3, Sec. 3(a) (part).)

Source Law

Sec. 3. (a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this Act shall have the following meanings:

. . . .

Revised Law

Sec. 1601.007. SYSTEM MAY DEFINE OTHER WORDS. A system may define by rule a word or term necessary in the administration of this chapter. (V.T.I.C. Art. 3.50-3, Sec. 3(b).)

Source Law

(b) In addition to the foregoing definitions, the institution shall have authority to define by rule any words and terms necessary in the administration of this Act.

Revised Law

Sec. 1601.008. EXEMPTION FROM EXECUTION. All insurance benefits and other payments and transactions made under this chapter to a participant under this chapter are exempt from execution, attachment, garnishment, or any other process.

(V.T.I.C. Art. 3.50-3, Sec. 9(a).)

Source Law

Sec. 9. (a) All insurance benefits and other payments and transactions made pursuant to the provisions of this Act to any employee or retired employee covered under the provisions of this Act shall be exempt from execution, attachment, garnishment, or any other process whatsoever.

Revised Law

Sec. 1601.009. EXEMPTION FROM TAXATION AND FEES. Premiums on a policy, an insurance contract, or an agreement established under this chapter with a health maintenance organization are not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee. (V.T.I.C. Art. 3.50-3, Sec. 9(b).)

Source Law

(b) Premiums on policies, insurance contracts, or agreements with health maintenance organizations established under this Act are not subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

Revised Law

Sec. 1601.010. CERTAIN COMBINING OF CARRIERS NOT RESTRAINT OF TRADE. Carriers combining to bid, underwrite, or both bid and underwrite, a group life, accident, or health benefit plan for the uniform program are not in violation of Chapter 15, Business & Commerce Code. (V.T.I.C. Art. 3.50-3, Sec. 3(a)(10) (part).)

Source Law

[(10)]

(C) . . . provided, however, that for purposes of this Act carriers combining for the purpose of bidding and/or underwriting this program shall not be considered in violation of Chapter 15, Business & Commerce Code.

Revisor's Note

(End of Subchapter)

Section 3(a)(9), V.T.I.C. Article 3.50-3, defines "[p]resident." Section 3(a)(12), V.T.I.C. Article 3.50-3, defines "[a]ctive employee plan." Section 3(a)(13), V.T.I.C. Article 3.50-3, defines "[r]etired employee plan." The revised law omits these definitions because the defined terms are not used in the source law for this chapter or in the revision. The omitted definitions read:

(9) "President" shall mean the duly authorized chief

official of any institution covered under the provisions of this Act or such other official as may be designated by a governing board to carry out the provisions of this Act.

(12) "Active employee plan" shall mean a plan or program of group life, accident, or health insurance for active employees as determined by the institution as provided in this Act.

(13) "Retired employee plan" shall mean a plan or program of group insurance as determined by the institution as defined in this Act for all retired employees as defined in this Act.

[Sections 1601.011-1601.050 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATION AND IMPLEMENTATION

##### Revised Law

Sec. 1601.051. ADMINISTRATION AND IMPLEMENTATION. A system shall:

- (1) implement a uniform program for the benefit of its employees and retired employees; and
- (2) determine basic procedural and administrative practices for insurance coverage provided under this chapter. (V.T.I.C. Art. 3.50-3, Secs. 4(a) (part), (b) (part).)

##### Source Law

Sec. 4. (a) . . . Each institution shall implement the program for the benefit of its employees and retired employees.

(b) Each institution shall:

. . .

(3) determine basic procedural and administrative practices for insurance coverages to be provided under the provisions of this Act.

. . .

##### Revisor's Note

Section 4(a), V.T.I.C. Article 3.50-3, refers to the creation of the "Texas State College and University Employees Uniform Insurance Benefits Program." The revised law omits the reference to the creation of the program because that provision is executed. The omitted law reads:

(a) A Texas State College and University Employees Uniform Insurance Benefits Program is hereby created. . . .

##### Revised Law

Sec. 1601.052. RULEMAKING AUTHORITY. A system shall adopt rules consistent with this chapter as it considers necessary to

implement this chapter and its purposes. (V.T.I.C. Art. 3.50-3, Sec. 4(b) (part).)

Source Law

(b) Each institution shall:

. . . .

(5) adopt rules and regulations consistent with the provisions of this Act and its purpose as it deems necessary to carry out the statutory responsibilities.

. . . .

Revised Law

Sec. 1601.053. GENERAL DUTIES RELATING TO COVERAGE. (a) A system shall:

(1) determine basic coverage standards that must be comparable to those commonly provided:

(A) in private industry; and

(B) to employees of another agency or an institution of higher education in this state under Chapter 1551; and

(2) establish procedures to allow each covered employee and retired employee to obtain prompt action regarding claims pertaining to coverages provided under this chapter.

(b) In designing a coverage plan, a system may consider existing local conditions. (V.T.I.C. Art. 3.50-3, Sec. 4(b) (part).)

Source Law

(b) Each institution shall:

(1) determine basic coverage standards which shall be comparable to those commonly provided in private industry and those provided employees of other agencies and institutions of higher education of the State of Texas under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code). The institution may design a plan around existing local conditions.

. . . .

(6) establish procedures to allow each covered employee and retired employee to obtain prompt action regarding claims pertaining to insurance provided under this Act.

Revised Law

Sec. 1601.054. COMPETITIVE BIDDING REQUIRED. A system shall submit the uniform program, including any agreement under which a carrier is engaged to administer a self-insured program, for competitive bidding at least every six years. (V.T.I.C. Art. 3.50-3, Sec. 4(b) (part).)

Source Law

[(b) Each institution shall:]

. . .

(4) submit its program, including any agreement under which a firm is engaged to administer a self-insured program, to competitive bidding at least once every six years. . . .

Revised Law

Sec. 1601.055. IDENTIFICATION OF ADMINISTRATIVE COSTS IN BIDS. A system shall include in its respective bid documents for the various coverages a provision calling for each bidder to identify the system's administrative costs as a distinguishable figure and to enumerate the services the bidder will render in exchange for the administrative costs. (V.T.I.C. Art. 3.50-3, Sec. 4(b) (part).)

Source Law

[(b) Each institution shall:]

. . .

(2) include in its respective bid documents for the various coverages a provision calling for each bidder to identify its administrative cost as a distinguishable figure and to enumerate what services the bidder will render in exchange for the administrative costs so identified.

. . .

Revised Law

Sec. 1601.056. INFORMATION ON BIDDERS AND BIDDING CONTRACTS. (a) The department shall, on request by a system, provide a list of all carriers:

(1) authorized to engage in business in this state; and

(2) eligible to bid on insurance coverage provided under this chapter.

(b) The department shall, on request by a system, examine and evaluate a bidding contract and certify the contract's actuarial soundness to the system not later than the 15th day after the date of the request. (V.T.I.C. Art. 3.50-3, Sec. 4(b) (part).)

Source Law

[(b)]

(4) . . . It is further provided that:

(A) The Texas Department of Insurance shall provide, by request of the institution, a list of all carriers authorized to do business in the State of Texas and who will be eligible to bid on the insurance coverage or coverages provided

in this Act.

(B) The Texas Department of Insurance shall, upon request by the institution, examine and evaluate the bidding contracts and certify their actuarial soundness to the institution within 15 days from the date of request.

Revised Law

Sec. 1601.057. SELECTION OF BIDS. (a) A system is not required to select the lowest bid under Section 1601.054 but shall take into consideration other relevant criteria, such as ability to service contracts, past experience, and financial stability.

(b) If a system selects a carrier whose bid differs from that advertised, the governing board of the system shall fully justify and record the reasons for the deviation in the minutes of the next meeting of the governing board. (V.T.I.C. Art. 3.50-3, Sec. 4(b) (part).)

Source Law

[(b)]

[(4)]

(C) The institution is not required to select the lowest bid, but shall take into consideration other factors such as ability to service contracts, past experience, financial stability, and other relevant criteria. Should the institution select a carrier whose bid differs from that advertised, the reasons for such deviation shall be fully justified and recorded in the minutes of the next meeting of the governing board of the institution.

Revised Law

Sec. 1601.058. SELECTION OF HEALTH MAINTENANCE ORGANIZATIONS. A system shall select and contract for services performed by health maintenance organizations that are approved by this state to offer health care services in specific areas of the state to eligible employees and retired employees. (V.T.I.C. Art. 3.50-3, Sec. 4(b) (part).)

Source Law

[(b)]

[(4)]

(D) The institution shall select and contract for services performed by health maintenance organizations that are approved by the State of Texas to offer health-care services to eligible employees and retired employees in a specific area of the state.

Revised Law

Sec. 1601.059. CERTIFICATE OF COVERAGE. A system shall ensure that each employee and retired employee participating under this chapter is issued a certificate of coverage that states:

- (1) the benefits to which the participant is entitled;
- (2) to whom the benefits are payable;
- (3) to whom a claim must be submitted; and
- (4) the provisions of the plan document, in summary form, that principally affect the participant. (V.T.I.C. Art. 3.50-3, Sec. 5.)

Source Law

Sec. 5. Each institution shall assure that each employee and retired employee insured under this Act is issued a certificate of insurance or plan description setting forth the benefits to which the employee or retired employee is entitled, to whom the benefits are payable, to whom the claims shall be submitted, and summarizing the provisions of the policy or contract principally affecting the employee or retired employee.

Revised Law

Sec. 1601.060. ACCOUNTING BY CARRIER PROVIDING PURCHASED COVERAGE. (a) A carrier providing coverage purchased under this chapter to a system shall provide an accounting for each line of coverage to the system not later than the 120th day after the end of each plan year.

(b) The accounting must be in a form acceptable to the system.

(c) The accounting for each line of coverage must state:

- (1) the cumulative amount of contributions remitted to the carrier under the coverage;
- (2) the total of all mortality and other claims, charges, losses, costs, contingency reserve for pending and unreported claims, and expenses incurred; and
- (3) the amounts of the allowance for a reasonable profit, contingency reserve, and all other administrative charges.

(d) Information provided under Subsection (c) must be provided:

- (1) for the period from the coverage's date of issue to the end of the plan year; and
- (2) for the plan year covered by the report. (V.T.I.C. Art. 3.50-3, Sec. 8(a).)

Source Law

Sec. 8. (a) Carriers providing any policy purchased under this Act shall provide an accounting to the institution not later

than 120 days after the end of each policy year. The accounting for each line of coverage shall set forth, in a form acceptable to the institution:

(1) the cumulative amount of premiums actually remitted to the carrier under the policy from its date of issue to the end of the policy year, the amount of premiums actually remitted under the policy for each year from the anniversary date to the end of that policy year;

(2) the total of all mortality and other claims, charges, losses, costs, contingency reserve for pending and unreported claims and expenses incurred for each of the periods corresponding to each of the periods heretofore described in Subsection (a)(1) of this section;

(3) the amounts of the allowance for a reasonable profit, contingency reserves, and all other administrative charges corresponding to each of the periods as heretofore described in Subsection (a)(1) of this section.

#### Revised Law

Sec. 1601.061. SPECIAL RESERVE. (a) A carrier issuing a group coverage plan under this chapter may hold as a special reserve for a system an amount that equals the amount by which the total amount described by Section 1601.060(c)(1) exceeds the sum of the corresponding amounts described by Sections 1601.060(c)(2) and (3).

(b) The system may use money in the special reserve at its discretion, including for:

(1) providing additional coverage for participating employees or retired employees;

(2) offsetting necessary rate increases; or

(3) reducing contributions to the coverage by participating employees or retired employees.

(c) A special reserve held by a carrier for a system earns interest at a rate determined each plan year by the carrier and approved by the system as consistent with the rate generally used by the carrier for similar funds held under other group coverages. (V.T.I.C. Art. 3.50-3, Sec. 8(b).)

#### Source Law

(b) Any excess of the total of Subsection (a)(1) of this section over the corresponding sum of Subsections (a)(2) and (a)(3) of this section may be held by the carrier issuing the policy as a special reserve. Such reserve may be used at the discretion of the institution for, but not limited to, providing additional coverage for participating employees or retired employees, offsetting necessary premium rate increases, or to reduce participating employee or retired employee premium contributions to the coverage. Any reserve held by the carrier

would bear interest at a rate determined each policy year by the carrier and approved by the institution as being consistent with the rate generally used by the carrier for similar funds held under other group insurance policies.

Revisor's Note

Section 8(b), V.T.I.C. Article 3.50-3, refers to the special reserve being used "for but not limited to" certain purposes. "But not limited to" is omitted from the revised law as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 311.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

Revised Law

Sec. 1601.062. REPORTS AND RECORDS BY ADMINISTERING CARRIER. Each contract entered into under this chapter between a system and an administering carrier must:

- (1) require the administering carrier to provide reasonable reports that the system determines are necessary for the system to perform its functions under this chapter; and
- (2) permit the system and representatives of the state auditor to examine records of the administering carrier as necessary to accomplish the purposes of this chapter. (V.T.I.C. Art. 3.50-3, Sec. 15.)

Source Law

Sec. 15. Each contract entered into under this Act shall contain provisions requiring administering carriers to

- (1) furnish such reasonable reports as the institution determines to be necessary to enable it to carry out its functions under this Act; and
- (2) permit the institution and representatives of the state auditor to examine records of the carriers as may be necessary to carry out the purpose of this Act.

Revised Law

Sec. 1601.063. ASSISTANCE IN REQUESTING MONEY. The Legislative Budget Board and the Governor's Budget and Planning Office shall:

- (1) establish procedures to ensure that each system requests appropriate money to support its uniform program; and
- (2) present appropriate budget recommendations to the legislature. (V.T.I.C. Art. 3.50-3, Sec. 13 (part).)

Source Law

Sec. 13. . . . The Legislative Budget Board and the Governor's Budget and Planning Office will establish procedures

to insure that eligible institutions request appropriate funds to support this program and shall present appropriate budget recommendations to the legislature. . . .

[Sections 1601.064-1601.100 reserved for expansion]

SUBCHAPTER C. COVERAGE AND PARTICIPATION

Revised Law

Sec. 1601.101. PARTICIPATION ELIGIBILITY: EMPLOYEES.

(a) An individual who is employed by the governing board of a system, who performs service, other than as an independent contractor, for the system, and who is described by this section is eligible to participate as an employee in the uniform program.

(b) An individual is eligible to participate in the uniform program as provided by Subsection (a) if the individual receives compensation for services performed for the system, is eligible to be a member of the Teacher Retirement System of Texas, and either:

(1) is expected to work at least 20 hours per week and to continue in the employment for a term of at least 4-1/2 months; or

(2) is appointed for at least 50 percent of a standard full-time appointment.

(c) An individual is eligible to participate in the uniform program as provided by Subsection (a) if the individual:

(1) receives compensation for services performed for the system;

(2) is employed at least 20 hours a week only; and

(3) is not permitted to be a member of the Teacher Retirement System of Texas because the individual is solely employed by the system in a position that as a condition of employment requires the individual to be enrolled as a student in the system in graduate-level courses. (V.T.I.C. Art. 3.50-3, Sec. 3(a)(4).)

Source Law

(4)(A) "Employee" shall mean any person employed by a governing board of an institution:

(i) who receives his compensation for services rendered to an institution, is eligible for participation in the Teacher Retirement System of Texas, and is expected to work at least 20 hours per week and to continue in the employment for a term of at least 4-1/2 months or is appointed for at least 50 percent of a standard full-time appointment; or

(ii) who receives his compensation for services rendered as provided in this subdivision but is not permitted to be a member of the Teacher Retirement System of

Texas because he is solely employed by an institution of higher education that as a condition of employment requires the employee to be enrolled as a student in the institution in graduate-level courses and who is employed at least 20 hours a week.

(B) Persons performing personal services for such institutions as independent contractors shall never be considered employees for purposes of this Act.

Revised Law

Sec. 1601.102. PARTICIPATION ELIGIBILITY: RETIREES. (a) An individual who retires in a manner described by this section is eligible to participate as a retired employee in the uniform program.

(b) An individual is eligible to participate in the uniform program as provided by Subsection (a) if:

(1) the individual has at least three years of service with a system for which the individual was eligible to participate in the uniform program under Section 1601.101;

(2) the individual's last state employment before retirement was with that system; and

(3) the individual retires under the jurisdiction of:

(A) the Teachers Retirement System of Texas under Subtitle C, Title 8, Government Code;

(B) the Employees Retirement System of Texas; or

(C) subject to Subsection (c):

(i) the optional retirement program established by Chapter 830, Government Code; or

(ii) any other federal or state statutory retirement program to which the system has made employer contributions.

(c) An individual retiring in the manner described by Subsection (b)(3)(C) is a retired employee only if the individual meets all applicable requirements for retirement, including service and age requirements, adopted by the system comparable to the requirements for retirement under the Teachers Retirement System of Texas.

(d) An individual is eligible to participate in the uniform program as provided by Subsection (a) if the individual:

(1) meets the minimum requirements under Subsection (b) except that the last state employment before retirement is not at the employing system; and

(2) does not meet the requirements for an annuitant under Section 1551.102.

(e) An individual is eligible to participate in the uniform program as provided by Subsection (a) if the individual retired under Subtitle C, Title 8, Government Code, before September 1, 1991, with at least five and less than 10 years of service.

(V.T.I.C. Art. 3.50-3, Secs. 3(a)(2), (c).)

Source Law

(2)(A) "Retired employee" shall mean a former employee as defined in this Act who has at least three years' service as an eligible employee with an employing institution, whose last state employment before retirement was with that employing institution, and who retires or has retired under a retirement provision under the jurisdiction of:

(i) the Teachers Retirement System of Texas, pursuant to Subtitle C, Title 8, Government Code;

(ii) the Optional Retirement Program, Chapter 830, Government Code; provided, however, that the employee has met service requirements, age requirements, and other applicable requirements as may be promulgated by the institution comparable to the requirements for retirement under the Teachers Retirement System of Texas;

(iii) the Employees Retirement System of Texas; or

(iv) any other federal or state statutory retirement program to which the institution has made employer contributions; provided, however, that the employee has met service requirements, age requirements, and other applicable requirements as may be promulgated by the institution comparable to the requirements for retirement under the Teachers Retirement System of Texas.

(B) A former employee is eligible to be classified as a retired employee at an employing institution if the former employee:

(i) meets the minimum requirements established under Paragraph (A) of this subdivision to qualify as a retired employee except that the last state employment before retirement is not at the employing institution; and

(ii) does not meet the requirements for a retired employee under Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

(c) Notwithstanding Subsection (a)(2) of this section, a person who, before September 1, 1991, retired under Subtitle C, Title 8, Government Code, with at least five but less than 10 years of service is a retired employee for purposes of this Act.

Revisor's Note

Section 3(2), V.T.I.C. Article 3.50-3, refers to meeting "the requirements for a retired employee" under Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code). The revised law substitutes "annuitant" for "retired employee" for consistency with the

terminology used in Article 3.50-2, which is revised in this code as Chapter 1551.

Revised Law

Sec. 1601.103. RIGHT TO COVERAGE. An individual eligible to participate in the uniform program under Section 1601.101 or 1601.102 may not be denied enrollment in any coverage provided under this chapter. (V.T.I.C. Art. 3.50-3, Sec. 11(a) (part).)

Source Law

Sec. 11. (a) No eligible employee or eligible retired employee shall be denied enrollment in any of the coverages provided by this Act; . . . .

Revised Law

Sec. 1601.104. AUTOMATIC COVERAGE. (a) A system shall automatically provide the basic coverage to each full-time employee unless the employee has:

- (1) waived participation in the basic coverage; or
- (2) selected an optional coverage plan.

(b) An employee or retired employee who is automatically covered under this section may subsequently:

- (1) retain the basic coverage or waive participation in the basic coverage; and
- (2) apply for any other coverage provided under this chapter within applicable standards.

(c) Automatic coverage as described under this section begins on the first date of employment. (V.T.I.C. Art. 3.50-3, Secs. 11(b) (part), (c).)

Source Law

(b) From the first day of employment, the institution shall automatically provide basic coverage for each active full-time employee who has not waived basic coverage or selected optional coverages. . . .

(c) Each employee or retired employee who is automatically covered under this section may subsequently retain or waive the basic coverage plan and may make application for any other coverages provided under this Act within applicable standards.

Revised Law

Sec. 1601.105. WAIVER. An employee or retired employee may waive in writing any coverage provided under this chapter. (V.T.I.C. Art. 3.50-3, Sec. 11(a) (part).)

Source Law

(a) . . . provided, however, that the employee or retired employee may waive in writing any or all such coverages.

Revised Law

Sec. 1601.106. OPTIONAL COVERAGE. A system shall provide optional coverage in accordance with Section 1601.201. (V.T.I.C. Art. 3.50-3, Sec. 11(b) (part).)

Source Law

(b) . . . [If the cost of an active employee's or retired employee's basic coverage exceeds the amount appropriated by the legislature for an employee or retired employee,] the institution must provide optional coverage [at no cost to the employee or retired employee]. . . .

Revised Law

Sec. 1601.107. COVERAGE FOR DEPENDENTS. An individual who is eligible to participate in the uniform program under Section 1601.101 or 1601.102 is entitled to secure for a dependent of the individual any group coverages provided under this chapter for dependents under rules adopted by the applicable system. (V.T.I.C. Art. 3.50-3, Sec. 17(a) (part).)

Source Law

Sec. 17. (a) Any employee or retired employee shall be entitled to secure for his dependents any uniform group insurance coverages provided for such dependents under the rules and regulations to be promulgated by each institution. . . .

Revised Law

Sec. 1601.108. COVERAGE OPTIONS FOR CERTAIN SURVIVING SPOUSES. (a) This section applies only to the surviving spouse of:

(1) an individual eligible to participate in the uniform program under Section 1601.101 who had at least five years of service on the date of the individual's death, including at least three years of service as an eligible employee with the employing system; or

(2) an individual eligible to participate in the uniform program under Section 1601.102.

(b) A surviving spouse to whom this section applies may elect to retain any of the following coverages in effect on the date of the participant's death:

(1) the surviving spouse's authorized coverages; and

(2) authorized coverages for any eligible dependent of the deceased participant.

(c) The coverage is at the group rate for other participants. (V.T.I.C. Art. 3.50-3, Sec. 17(b).)

Source Law

(b) This subsection applies to the surviving spouse of an

employee who had at least five years of service on the date of the employee's death, including at least three years of service as an eligible employee with the employing institution, or the surviving spouse of a retired employee. A surviving spouse subject to this subsection may elect to retain the decedent's authorized coverages and may also retain authorized coverages for any eligible dependent, at the group rate for employees, if, on the date of the death, those coverages were in effect for the spouse or dependent.

#### Revised Law

Sec. 1601.109. COVERAGE FOR AIDS, HIV, OR SERIOUS MENTAL ILLNESS. (a) In this section, "serious mental illness" has the meaning assigned by Section 1, Article 3.51-14.

(b) A system may not contract for or provide for group insurance or HMO coverage or provide self-insured coverage, that:

(1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control and Prevention of the United States Public Health Service, or human immunodeficiency virus infection; or

(2) provides coverage for serious mental illness that is less extensive than the coverage provided for any other physical illness. (V.T.I.C. Art. 3.50-3, Secs. 3(a)(16); 3(a)(19), as amended Acts 76th Leg., R.S., Ch. 944; 4C.)

#### Source Law

[Sec. 3(a)]

(16) "Serious mental illness" means the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual (DSM) III-R:

- (A) schizophrenia;
- (B) paranoid and other psychotic disorders;
- (C) bipolar disorders (mixed, manic, and depressive);
- (D) major depressive disorders (single episode or recurrent); and
- (E) schizo-affective disorders (bipolar or depressive).

(19) "Serious mental illness" has the meaning assigned by Section 1, Article 3.51-14, Insurance Code.

Sec. 4C. An institution, in contracting for group insurance or health maintenance organization coverage or in self-insuring its own coverage, may not contract for or provide in that coverage:

(1) an exclusion or limitation on coverage or services for acquired immune deficiency syndrome, as defined by the

Centers for Disease Control of the United States Public Health Service, or human immunodeficiency virus infection; or

(2) provides coverage for serious mental illness that is less extensive than the coverage provided for any other physical illness.

#### Revisor's Note

(1) Section 3(a)(16), V.T.I.C. Article 3.50-3, defines "serious mental illness" to mean certain psychiatric illnesses. Section 3(a)(19), V.T.I.C. Article 3.50-3, defines "serious mental illness" to have the meaning assigned by Section 1, V.T.I.C. Article 3.51-14, which includes a more extensive listing of psychiatric illnesses than those included by Section 3(a)(16). Section 2, Chapter 944, Acts of the 76th Legislature, Regular Session, 1999, redesignated Section 3(a)(16) as Section 3(a)(19) and broadened the substance of the definition by assigning to the term, "serious mental illness," the listing of psychiatric illnesses contained in Section 1, V.T.I.C. Article 3.51-14. During the same legislative session, Section 1, Chapter 1057, Acts of the 76th Legislature, Regular Session, 1999, made a technical, nonsubstantive correction to the definition of "serious mental illness" in Section 3(a)(16). It is clear that the intent of the 76th Legislature to broaden the substantive definition of "serious mental illness" in Chapter 944 is not affected by the intent in Chapter 1057 to make a technical, nonsubstantive change to that definition. Section 311.025(b), Government Code (Code Construction Act), applicable to the revised law, provides that "if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each." The revised law is drafted accordingly.

(2) Section 3(a)(19), V.T.I.C. Article 3.50-3, refers to the "Centers for Disease Control of the United States Public Health Service." The revised law substitutes the current name for these centers, the "Centers for Disease Control and Prevention of the United States Public Health Service."

[Sections 1601.110-1601.150 reserved for expansion]

#### SUBCHAPTER D. GROUP COVERAGES

##### Revised Law

Sec. 1601.151. AUTHORITY TO SELF-INSURE; EXEMPTION FROM OTHER INSURANCE LAWS. (a) Notwithstanding any other provisions of this chapter, the governing board of a system may:

(1) self-insure a plan provided under this chapter;  
and

(2) hire a carrier to administer the system's uniform program.

(b) A plan for which a system provides coverage on a

self-insured basis is exempt from any other insurance law of this state that does not expressly apply to that plan or this chapter.

(c) Expenses for the administration of a self-insured plan may come from the contributions of employees and the state after payments for any coverage provided under this chapter have been made. (V.T.I.C. Art. 3.50-3, Secs. 4(d), 14 (part).)

Source Law

[Sec. 4]

(d) Notwithstanding any other provisions of this Act, the governing boards providing programs of benefits under this Act are authorized to self-insure the programs and may, at their discretion, engage a firm to administer the program. Any plan of coverages for which an institution does not purchase insurance but provides coverage on a self-insured basis is exempt from any other insurance law of this state unless the law expressly applies to that plan or this Act.

Sec. 14. . . . however, expenses for the administration of the self-insured plan as provided in Section 4(d) of this Act may come from the contributions of employees and the state after payments for any coverages provided for under this Act have been made. . . .

Revised Law

Sec. 1601.152. CAFETERIA PLAN. (a) The governing board of a system may develop, implement, and administer a cafeteria plan.

(b) The governing board may include in the cafeteria plan any benefit that may be included in a cafeteria plan under federal law.

(c) The governing board may cooperate and work with and enter into a necessary contract or agreement with an independent and qualified agency, person, or entity to:

(1) develop, implement, or administer a cafeteria plan; or

(2) assist in those activities.

(d) The governing board may adopt an order terminating the cafeteria plan and providing a procedure for the orderly withdrawal of the system and its employees from the cafeteria plan if the governing board determines that a cafeteria plan adopted under this section is no longer advantageous to the system and its employees. (V.T.I.C. Art. 3.50-3, Sec. 4(e).)

Source Law

(e) The governing board of each institution providing benefits under this Act may design, develop, adopt, implement, and administer a cafeteria plan. The governing board may include in a cafeteria plan any benefit that may be included in a

cafeteria plan under federal law. In addition to other authority granted to a governing board by this Act, the governing board may cooperate and work with and may enter into necessary contracts and agreements with one or more independent and qualified agencies, persons, or entities to design, develop, adopt, implement, or administer or to assist in the design, development, adoption, implementation, or administration of a cafeteria plan under this Act. A cafeteria plan may be designed, developed, adopted, implemented, and administered by or on behalf of an institution. If the governing board determines that a cafeteria plan adopted under this subsection is no longer advantageous to the institution and its employees, the governing board may adopt an order terminating the cafeteria plan and providing a procedure for the orderly withdrawal of the institution and its employees from that plan.

#### Revisor's Note

(1) Section 4(e), V.T.I.C. Article 3.50-3, refers to the "design" and "development" of a cafeteria plan. The references to "design" are omitted from the revised law because in the context of the source law "design" is included in the meaning of "development."

(2) Section 4(e), V.T.I.C. Article 3.50-3, refers to the authority of a system to "adopt" and "implement" a cafeteria plan. The references to "adopt" are omitted from the revised law because in the context of the source law "adopt" is included in the meaning of "implement."

#### Revised Law

Sec. 1601.153. SYSTEMS MAY JOIN IN PROCURING INSURANCE. The systems may join together to procure one or more group contracts with an insurance company authorized to engage in business in this state to insure the employees and retired employees of each participating system. (V.T.I.C. Art. 3.50-3, Sec. 4(f) (part).)

#### Source Law

(f) An institution may join with another institution to procure one or more group contracts with any insurance company authorized to do business in this state, insuring the employees and retired employees of each participating institution. . . .

#### Revisor's Note

Section 4(f), V.T.I.C. Article 3.50-3, provides, in the first sentence of that subsection, that the systems may join together to procure certain group insurance contracts. The second sentence of Section 4(f) states the purpose of that authorization. The revised law omits the second sentence as unnecessary because the provision is nonsubstantive and because the legislative purpose in enacting the subsection is clear from

the other substantive provisions revised in this section. The omitted law reads:

(f) . . . The purpose of this authorization is to provide institutions of higher education with the ability to obtain the benefits of economy and improved coverages for their employees and retired employees which may occur through increased purchasing economies for larger groups of employees.

Revised Law

Sec. 1601.154. LONG-TERM CARE COVERAGE. (a) A system may join with a board of trustees that administers the uniform program established under Chapter 1551 or the group program established under Chapter 1575 to provide long-term care insurance coverage.

(b) Each participating board of trustees and the governing board of the system must mutually agree to join together for this purpose, subject to terms that are beneficial to all participants.

(c) A system may not participate in an agreement under this section unless any cost or administrative burden associated with the development or implementation of or communications about the long-term care coverage plan is incidental. (V.T.I.C. Art. 3.50-3, Sec. 4(g).)

Source Law

(g) An institution may join with the trustee of the program established under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or the trustee of the program established under Article 3.50-4, Insurance Code, to provide long-term care insurance coverage. Each participating trustee and the governing board of the institution must mutually agree to join together for this purpose, subject to terms that are beneficial to all participants. An institution may not participate in an agreement under this subsection unless any cost or administrative burden associated with the development of, implementation of, or communications about the long-term care coverage program is incidental.

Revisor's Note

Section 4(g), Article 3.50-3, refers to the "trustee" of the program established under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or the "trustee" of the program established under Article 3.50-4, Insurance Code. The revised law substitutes "board of trustees" for "trustee" because that is the term used in Chapters 1551 and 1575 to describe the board of trustees of the programs established under those statutes.

Revised Law

Sec. 1601.155. REINSURANCE. A system may arrange with an administering carrier issuing a policy under this chapter for the reinsurance of portions of the total amount of insurance under the policy with other carriers that elect to participate in the reinsurance. (V.T.I.C. Art. 3.50-3, Sec. 7.)

Source Law

Sec. 7. The institutions may arrange with any administering carrier or carriers issuing any policy or policies under this Act for the reinsurance of portions of the total amount of insurance under such policy or policies with other qualified carriers which elect to participate in the reinsurance.

[Sections 1601.156-1601.200 reserved for expansion]

SUBCHAPTER E. PAYMENTS, CONTRIBUTIONS, AND COSTS

Revised Law

Sec. 1601.201. PAYMENT FOR OPTIONAL OR BASIC COVERAGE. (a) A system shall provide optional coverage at no cost to an employee or retired employee if the cost of the employee's or retired employee's basic coverage exceeds the amount appropriated by the legislature for an employee or retired employee. For a participant who chooses the basic coverage rather than optional coverages, a system may:

(1) for an individual eligible to participate in the uniform program under Section 1601.101, deduct from or reduce the monthly compensation of the participant; or

(2) for an individual eligible to participate in the uniform program under Section 1601.102, require appropriate payment.

(b) The deduction or reduction under Subsection (a) may not exceed one-half of the amount that exceeds the state's contribution, and the system shall pay any difference. (V.T.I.C. Art. 3.50-3, Sec. 11(b) (part).)

Source Law

(b) . . . If the cost of an active employee's or retired employee's basic coverage exceeds the amount appropriated by the legislature for an employee or retired employee, the institution must provide optional coverage at no cost to the employee or retired employee. If the employee or retired employee chooses the basic coverage rather than optional coverage, the institution may deduct from or reduce the monthly compensation of the employee, or, for a retired employee, require appropriate payment, up to one-half of the amount that exceeds the state's contribution for an employee, and the institution shall pay the difference.

Revised Law

Sec. 1601.202. FEES FOR CAFETERIA PLAN. (a) The governing board of a system may establish a monthly fee in an amount set by the board to be paid by each employee who elects to participate in a cafeteria plan for the purpose of paying the expenses of administering the cafeteria plan.

(b) If the governing board establishes a monthly fee, each employee who participates in the cafeteria plan must authorize payment of the fee by executing a separate payroll deduction agreement or as part of a salary reduction agreement, as determined by the governing board. (V.T.I.C. Art. 3.50-3, Sec. 14B(b) (part).)

Source Law

(b) The governing board may establish a monthly charge to be paid by each employee who elects to participate in a cafeteria plan adopted under this Act for the purpose of paying the expenses of administering the cafeteria plan. The governing board shall establish the amount of the monthly charge. If the governing board establishes a monthly charge, each employee who participates in the cafeteria plan shall authorize payment of the charge by executing a payroll deduction agreement or as part of the salary reduction agreement, as determined by the governing board. . . .

Revised Law

Sec. 1601.203. PAYMENT FOR COVERAGE FOR DEPENDENTS. Contributions for coverages for a dependent of an individual eligible to participate in the uniform program under Section 1601.101 or 1601.102 required of the participant that exceed the amount of system contributions shall be paid:

- (1) by a deduction from the monthly compensation of the participant;
- (2) by a reduction of the monthly compensation of the participant in the appropriate amount; or
- (3) in the form and manner the system determines.

(V.T.I.C. Art. 3.50-3, Sec. 17(a) (part).)

Source Law

[Sec. 17. (a) Any employee or retired employee shall be entitled to secure for his dependents any uniform group insurance coverages provided for such dependents under the rules and regulations to be promulgated by each institution.] Premium payments required of the employee or retired employee in excess of employer contributions shall be deducted from the monthly pay of the employee, or the employee's monthly pay shall be reduced in the appropriate amount, or paid in such manner and form as the institution shall determine.

Revised Law

Sec. 1601.204. AUTHORIZATION OF EMPLOYEE DEDUCTION. (a) Except for a participant who participates in a cafeteria plan, each individual eligible to participate in the uniform program under Section 1601.101 must authorize a deduction from the participant's monthly compensation in an amount equal to the difference between:

- (1) the total cost for coverages for which the participant applies; and
  - (2) the amount contributed by the system.
- (b) The authorization must be:
- (1) in writing or performed electronically; and
  - (2) in a form satisfactory to the system. (V.T.I.C. Art. 3.50-3, Sec. 12(b) (part).)

Source Law

(b) Except for a participant in a cafeteria plan, each employee shall authorize, in writing or electronically, and in a form satisfactory to the institution, a deduction from his monthly compensation of the difference between the total cost of premiums and the amount contributed therefor by the institution or agency. . . .

Revised Law

Sec. 1601.205. EMPLOYEE PAYMENTS FOR PARTICIPATION IN CAFETERIA PLAN. (a) If an employee elects to participate in a cafeteria plan, the employee must execute a salary reduction agreement under which the employee's monthly compensation will be reduced in an amount equal to the difference between:

- (1) the amount appropriated for that purpose in the General Appropriations Act or the system's budget; and
- (2) the cost of the employee's selected coverages for which the employee is eligible to pay under the cafeteria plan.

(b) The employee must execute a salary reduction agreement for any portion of the cost that is not covered by state or system appropriations and cafeteria plan contributions. (V.T.I.C. Art. 3.50-3, Sec. 12(b) (part).)

Source Law

. . . An employee who is participating in a cafeteria plan shall execute a salary reduction agreement under which his monthly compensation will be reduced in an amount that is equal to the difference between the amount appropriated by the General Appropriations Act or the institution's budget and the cost of the employee's selected coverages for which he is eligible to pay under the cafeteria plan. Also, the electing employee shall execute a salary deduction agreement for any portion of the cost that is not covered by state or institutional appropriations and

cafeteria plan contributions.

Revised Law

Sec. 1601.206. PAYMENT BY RETIRED EMPLOYEE. An individual eligible to participate in the uniform program under Section 1601.102 must execute an agreement and make appropriate contributions in a manner analogous to the requirements adopted under Sections 1601.204 and 1601.205 for an individual eligible to participate in the uniform program under Section 1601.101. (V.T.I.C. Art. 3.50-3, Sec. 12(c).)

Source Law

(c) A retired employee shall execute agreements and make appropriate contributions in a manner analogous to the requirements adopted under Subsection (b) of this section for an active employee.

Revised Law

Sec. 1601.207. SYSTEM CONTRIBUTIONS. A system shall contribute monthly to the cost of each participant's coverage provided under this chapter an amount:

(1) if the participants are compensated from amounts appropriated in the General Appropriations Act, equal to or greater than the amount appropriated for that purpose in the Act; or

(2) if the participants are compensated from amounts appropriated by the governing board of the system in its official operating budget, an amount equal to the amount appropriated for a participant under the General Appropriations Act. (V.T.I.C. Art. 3.50-3, Sec. 12(a).)

Source Law

Sec. 12. (a) Each institution and agency covered under the provisions of this Act shall contribute monthly to the cost of each insured employee's and retired employee's coverage no less than the amount appropriated therefor by the legislature in the General Appropriations Act. An amount equal to the amount appropriated for an employee and retired employee under the General Appropriations Act shall be appropriated for each employee and retired employee by the governing board of the institution in its respective official operating budget, if the institution's employees are compensated from funds appropriated by such budgets rather than by the General Appropriations Act.

Revisor's Note

Section 12(a), V.T.I.C. Article 3.50-3, refers to "each institution and agency covered under the provisions of this Act." Article 3.50-3 does not apply to an "institution or agency" other

than those covered under the definition of "system" in Section 1601.003. Throughout this chapter, the revised law substitutes "system" for "institution or agency covered under the provisions of this Act" or similar language.

Revised Law

Sec. 1601.208. AMOUNT OF SYSTEM CONTRIBUTION. Not later than November 1 preceding each regular session of the legislature, each system shall certify to the Legislative Budget Board and the budget division of the Governor's Budget and Planning Office the amount necessary to pay the contributions of the system for the coverages provided under this chapter to each employee and retired employee of the system. (V.T.I.C. Art. 3.50-3, Sec. 13 (part).)

Source Law

Sec. 13. Certification shall be submitted on or before the first day of November next preceding each regular session of the legislature; the institutions and agencies covered under the provisions of this Act shall certify to the Legislative Budget Board and budget division of the Governor's Budget and Planning Office the amount necessary to pay employer contributions for each active and retired employee from the effective date of this Act. . . .

Revisor's Note

The revised law omits the reference in Section 13, V.T.I.C. Article 3.50-3, to the certification of contributions "from the effective date of this Act" because that provision is executed.

Revised Law

Sec. 1601.209. ORDER OF PRECEDENCE OF PAYMENT TO SURVIVORS.  
(a) The amount of group life coverages and group accidental death and dismemberment coverages in force for a participant on the date the participant dies shall be paid, on the establishment of a valid claim, to a person surviving the death in the following order of precedence:

(1) to the beneficiary designated by the participant in a signed and witnessed writing received before death by the appropriate office of the applicable system; or

(2) if a beneficiary is not designated under Subdivision (1), in accordance with the death benefit provisions of Subtitle C, Title 8, Government Code.

(b) For purposes of Subsection (a)(1), a designation, change, or cancellation of a beneficiary in a document, including a will, that is not executed and filed in the manner described by that subsection is not valid. (V.T.I.C. Art. 3.50-3, Sec. 10.)

Source Law

Sec. 10. The amount of group life insurance and group

accidental death and dismemberment insurance in force on an employee or retired employee at the date of his death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of his death, in the following order:

(a) to the beneficiary or beneficiaries designated by the employee or retired employee in a signed and witnessed writing received before death in the appropriate office of the institution. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

(b) if no beneficiary is designated in accordance with Subsection (a) of this section, payment shall be made in accordance with the death benefit provisions of Subtitle C, Title 8, Government Code.

#### Revised Law

Sec. 1601.210. PROVISION OF NECESSARY INFORMATION. The Teacher Retirement System of Texas, Optional Retirement Program carriers, and Employees Retirement System of Texas shall provide to each system information the system considers necessary to provide retired employees with the coverages and system contributions provided under this chapter. (V.T.I.C. Art. 3.50-3, Sec. 13 (part).)

#### Source Law

Sec. 13. . . . The Teacher Retirement System of Texas, Optional Retirement Program carriers, and Employees Retirement System of Texas shall furnish each institution such information as may be deemed necessary by the institution to provide retired employees with the coverages and employer contributions provided under the Act.

[Sections 1601.211-1601.250 reserved for expansion]

### SUBCHAPTER F. CAFETERIA PLAN FUND

#### Revised Law

Sec. 1601.251. SYSTEM CAFETERIA PLAN FUND. (a) The governing board of each system may establish and administer a cafeteria plan fund.

(b) The following shall be credited to the cafeteria plan fund of a system:

(1) salary reduction payments for benefits included in a cafeteria plan adopted under this chapter, other than group coverage plans under the uniform program;

(2) appropriations by the state for the administration of a cafeteria plan; and

(3) a monthly fee established under Section 1601.202.

(V.T.I.C. Art. 3.50-3, Secs. 14B(a) (part), (b) (part).)

Source Law

Sec. 14B.(a) The governing board of each institution may establish a cafeteria plan fund that shall be administered by the governing board. Salary reduction payments for benefits included in a cafeteria plan adopted under this Act other than coverages under the Texas State College and University Employees Uniform Insurance Benefits Program and appropriations by the state for the administration of a cafeteria plan adopted under this Act shall be paid into the fund. . . .

[(b) The governing board may establish a monthly charge to be paid by each employee who elects to participate in a cafeteria plan adopted under this Act for the purpose of paying the expenses of administering the cafeteria plan.] . . . The monthly charge shall be paid into the cafeteria plan fund.

Revised Law

Sec. 1601.252. USE OF FUND. The cafeteria plan fund of a system is available without fiscal year limitation:

(1) for all payments for any benefits included in a cafeteria plan adopted by the system under this chapter other than group coverage plans under the uniform program; and

(2) for payment of expenses of administering the cafeteria plan. (V.T.I.C. Art. 3.50-3, Sec. 14B(a) (part).)

Source Law

(a) . . . The fund is available without fiscal year limitation:

(1) for all payments for any benefits included in a cafeteria plan adopted under this Act other than coverages under the Texas State College and University Employees Uniform Insurance Benefits Program; and

(2) to pay expenses for administering the cafeteria plan adopted under this Act.

Revised Law

Sec. 1601.253. INVESTMENT OF MONEY IN FUND. (a) The governing board of a system may invest the money in the system's cafeteria plan fund.

(b) The earnings, including interest, and the proceeds from the sale of the investments become a part of the fund. (V.T.I.C. Art. 3.50-3, Sec. 14B(c).)

Source Law

(c) The governing board may invest and reinvest any of the money in the cafeteria plan fund. The interest on, earnings of, and the proceeds from the sale of the investments become a part

of the fund.

Revisor's Note

Section 14B(c), V.T.I.C. Article 3.50-3, refers to the power of the governing board of a system to "invest and reinvest." The revised law omits the reference to "reinvest" because the power to invest includes the power to reinvest.

[Sections 1601.254-1601.300 reserved for expansion]

SUBCHAPTER G. ADVISORY COMMITTEE

Revised Law

Sec. 1601.301. ADVISORY COMMITTEE. An advisory committee for each system shall be selected, serve, and perform duties as provided by this subchapter. (V.T.I.C. Art. 3.50-3, Sec. 4(c) (part).)

Source Law

(c) An advisory committee for each institution shall be selected, serve, and perform duties as hereinafter described:

. . .

Revised Law

Sec. 1601.302. ELECTION OF MEMBERS. One member of the advisory committee shall be elected from each of the components, units, or agencies of the system:

- (1) at times designated by the system; and
- (2) in accordance with general guidelines for the election provided by the system. (V.T.I.C. Art. 3.50-3, Sec. 4(c)(1).)

Source Law

(1) Selection. One member of the advisory committee shall be elected from each of the components, units, or agencies of the institution at such times as designated by the institution and in accordance with general guidelines for such elections provided by the institution.

Revised Law

Sec. 1601.303. QUALIFICATIONS OF MEMBERS. (a) A member of a system's advisory committee must be an employee of the system.

(b) A member must:

- (1) demonstrate mature judgment, special abilities, and sincere interest in employee coverage plans; and
- (2) be able to represent the needs of all employees of the component, unit, or agency the member represents with respect to an action of the advisory committee. (V.T.I.C. Art. 3.50-3, Sec. 4(c)(2).)

Source Law

(2) Qualifications of members. The members of the advisory committee shall be chosen from among employees as defined in this Act. The persons so elected shall demonstrate mature judgement, special abilities, and sincere interests in employee insurance programs and be able to represent the needs of all employees of the component, unit, or agency represented with regard to advisory committee actions.

Revised Law

Sec. 1601.304. TERMS. A member of the advisory committee is elected for a two-year term, subject to reelection. (V.T.I.C. Art. 3.50-3, Sec. 4(c)(3) (part).)

Source Law

(3) Terms of membership. Members of the advisory committee elected under the terms of this Act shall serve for a period of two years, subject to reelection. . . .

Revised Law

Sec. 1601.305. OFFICERS. Annually, the members of a system's advisory committee shall elect a presiding officer and other necessary officers. (V.T.I.C. Art. 3.50-3, Sec. 4(c)(3) (part).)

Source Law

(3) . . . At the initial meeting of the advisory committee, and subsequently each year, the members who are elected shall elect a chairman and other such officers as may be necessary. . . .

Revisor's Note

Section 4(c)(3), V.T.I.C. Article 3.50-3, refers to the election of officers of the advisory committee "[a]t the initial meeting of the advisory committee." The revised law omits the reference to the election of officers at the initial meeting of the advisory committee because that provision is executed.

Revised Law

Sec. 1601.306. VACANCY. The chief executive officer of a component, unit, or agency of a system shall appoint to the system's advisory committee an employee of the component, unit, or agency to fill the remainder of a vacated term of a member who is an employee of the component, unit, or agency. (V.T.I.C. Art. 3.50-3, Sec. 4(c)(3) (part).)

Source Law

(3) . . . A vacancy shall be filled by an employee of

the same component, unit, or agency from which the vacancy occurred, being appointed by the chief executive officer of the component, unit, or agency for the balance of the vacated term.

Revised Law

Sec. 1601.307. DUTIES OF COMMITTEE. (a) The advisory committee of a system shall cooperate and work with the governing board of the system in coordinating and correlating the administration of the uniform program among the various components, units, and agencies of the system.

(b) Members of the advisory committee shall cooperate and work with the governing board of the system as advisors in the development, implementation, coordination, and administration of the uniform program among the various components, units, and agencies of the system.

(c) The advisory committee shall provide a channel for open communication of ideas and suggestions regarding coverages, eligibility, claims, procedures, bidding, administration, and any other aspect of employee plan benefits. (V.T.I.C. Art. 3.50-3, Sec. 4(c)(4).)

Source Law

(4) Duties. (A) The advisory committee shall cooperate and work with the governing board of the institution in coordinating and correlating the administration of the group insurance program among the various components, units, and agencies. Members of the advisory committee shall cooperate and work with the governing board of the institution as advisors in development, implementation, coordination, and administration of the group insurance programs among the various components, units, and agencies.

(B) The advisory committee shall provide a channel for open communication of ideas and suggestions regarding coverages, eligibility, claims, procedures, bidding, administration, and all other aspects of employee insurance benefits.

Revised Law

Sec. 1601.308. EXPENSES; PAYMENT BY EMPLOYEES. (a) A member's service on the advisory committee of a system is in addition to the duties of the member's state office or employment.

(b) An expense incurred by an advisory committee member in performing a duty as a member of the committee shall be paid from money made available for that purpose to the system of which the member is an employee or officer.

(c) Employees shall pay the expenses of an advisory committee established under this subchapter from:

(1) the amount of employer contributions due the employees; or

(2) the amount of additional contributions due for selected coverages under this chapter. (V.T.I.C. Art. 3.50-3, Sec. 14 (part).)

Source Law

Sec. 14. Employee covered under the provisions of this Act shall be required to pay out of the amount of employer contributions due him or out of the amount of his additional premiums due for selected coverages the expenses of the committees established in this Act; . . . The duties of each member of the advisory committees shall be considered additional duties to those required of his other state office or employment, and all expenses incurred by any such member in performing his duties as a member of the committee shall be paid out of funds made available for those purposes to the institution of which the member is an employee or officer.

Revisor's Note

(End of Chapter)

(1) The first two sentences of Section 16, V.T.I.C. Article 3.50-3, state that a report is subject to "applicable open-record statutes of the State of Texas" but that the release of information in conflict with the rights of individuals under federal and state privacy statutes is not required. The open records statutes are found in Chapter 552, Government Code. The revised law omits these sentences as unnecessary because Section 552.022(1), Government Code, states that a report prepared by a governmental body is public information. As such, it is subject to the open records law without an express statement to that effect. In addition, Section 552.101, Government Code, provides that the release of certain information is not required if it is information considered to be confidential by law, whether the law is constitutional, statutory, or by judicial decision. The third sentence of Section 16, V.T.I.C. Article 3.50-3, states that meetings necessary to administer the article are subject to the "applicable provisions of state open-meetings statutes." The open meetings statutes are codified in Chapter 551, Government Code. The revised law omits that portion of Section 16 referring to the open meetings law as unnecessary because Section 551.002, Government Code, provides an open meetings requirement that applies to the meetings of a governmental body, and the systems under Article 3.50-3 are included within the definition of "governmental body" in Section 551.001, Government Code. The omitted law reads:

Sec. 16. Any reports which shall be required by action of an

institution or an advisory committee that has been established under the Act shall be a matter of open record, available for review under the provisions of applicable open-record statutes of the State of Texas. This shall not be interpreted to require the release of any records pertaining to individuals insured under the provisions of this Act, the release of which would be in conflict with the rights of these individuals under federal and state privacy statutes. Meetings which are necessary for the administration of the Act shall be subject to applicable provisions of state open-meetings statutes.

(2) The revised law omits the references in Section 18, V.T.I.C. Article 3.50-3, to the effective date of the act and to the initial deadline for providing coverage because those provisions are executed. The omitted law reads:

Sec. 18. This Act shall become effective September 1, 1977, and basic coverages shall be provided by each institution covered under this Act beginning no later than September 1, 1979.

(3) The revised law omits Section 19, V.T.I.C. Article 3.50-3, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. Those provisions state that a provision of a statute is severable from each other provision of the statute that can be given effect. The omitted law reads:

Sec. 19. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act in all its particulars and as to all other persons and circumstances shall be valid and of full force and effect, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision, and to this end the provisions of this Act are declared to be severable.

(4) Section 20, V.T.I.C. Article 3.50-3, repeals all laws in conflict with that article. The revised law omits this provision as unnecessary because, under general rules of statutory construction, a statute automatically has the effect of repealing prior conflicting enactments. The provision is, of course, ineffective to repeal subsequent legislation. The omitted law reads:

Sec. 20. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only.

CHAPTER 1625. TRANSFER BETWEEN CERTAIN GOVERNMENTAL  
PROGRAMS

- Sec. 1625.001. DEFINITIONS 1915  
Sec. 1625.002. INAPPLICABILITY OF PREEXISTING CONDITIONS  
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CHAPTER 1625. TRANSFER BETWEEN CERTAIN GOVERNMENTAL  
PROGRAMS

Revised Law

Sec. 1625.001. DEFINITIONS. In this chapter:

(1) "Board of trustees" has the meaning assigned by Section 1551.003.

(2) "Institution of higher education" means a senior college or university, medical or dental unit, technical institute, or agency of higher education under the policy direction of a single governing board. The term does not include a public junior college. (V.T.I.C. Art. 3.50-5, Subsecs. (a)(2), (3).)

Source Law

Art. 3.50-5. (a) In this article:

(2) "Institution of higher education" means a senior college or university, medical or dental unit, technical institute, or agency of higher education under the policy direction of a single governing board, but does not include a public community/junior college.

(3) "Trustee" has the meaning assigned by Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

Revisor's Note

(1) Subsection (a)(2), V.T.I.C. Article 3.50-5, defines "institution of higher education" and provides that the term does not include a "public community/junior college." The revised law omits the reference to a "public community college" because the statutory name for those colleges is "public junior college." See Section 61.003, Education Code, and Chapter 130, Education Code.

(2) Subsection (a)(3), V.T.I.C. Article 3.50-5, defines "trustee" for purposes of Article 3.50-5 as having the meaning assigned by Section 3, V.T.I.C. Article 3.50-2. That section defines "trustee" as "the Board of Trustees provided for in Chapter 815, Government Code, to administer the Employees Retirement System of Texas." Section 3, V.T.I.C. Article 3.50-2, is revised as Section 1551.003 and defines "board of trustees." Accordingly, the revised law substitutes "board of trustees" for

"trustee" throughout this chapter.

(3) Subsection (a)(1), V.T.I.C. Article 3.50-5, defines the "administrative council" as the administrative council created under V.T.I.C. Article 3.50-3. Section 4, V.T.I.C. Article 3.50-3, previously provided for an administrative council. However, the administrative council was effectively abolished by the amendment of Section 4 by Section 11.121, Chapter 242, Acts of the 72nd Legislature, Regular Session, 1991. The powers and duties of the administrative council were assigned to the institutions of higher education to which Article 3.50-3 applies and to those institutions' governing boards. See Sections 11.121-11.123, Chapter 242, Acts of the 72nd Legislature, Regular Session, 1991. Accordingly, the definition of "administrative council" is omitted from the revised law as obsolete, and the term is omitted throughout this chapter. The omitted law reads:

(1) "Administrative council" means the administrative council created under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code).

#### Revised Law

Sec. 1625.002. INAPPLICABILITY OF PREEXISTING CONDITIONS REQUIREMENT. A person, including a covered dependent, who obtains insurance, benefits, or any type of health care services coverage under Chapter 1551 or 1601 may transfer from an institution of higher education or other state agency to which either law applies to another institution of higher education or state agency to which either law applies without being required to comply with any preexisting conditions requirement. (V.T.I.C. Art. 3.50-5, Subsecs. (b), (c).)

#### Source Law

(b) A person, including covered dependents, who obtains insurance, benefits, or any type of health care services coverage under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) may transfer from one institution of higher education, agency, or department covered by those laws to another institution of higher education, agency, or department covered by those laws without being required to comply with any preexisting conditions requirement.

(c) Subsection (b) of this article applies regardless of whether the transfer is between one institution of higher education and another institution of higher education, an institution of higher education and a state department or agency, or a state department or agency and an institution of higher education.

Revised Law

Sec. 1625.003. RULES. The board of trustees and the governing boards of institutions of higher education may adopt rules necessary to implement this chapter. (V.T.I.C. Art. 3.50-5, Subsec. (d).)

Source Law

(d) The administrative council, the trustee, and the governing boards or bodies of institutions of higher education may adopt rules that are necessary to implement this article.

Revisor's Note

Subsection (d), V.T.I.C. Article 3.50-5, refers to the "governing boards or bodies" of institutions of higher education. Throughout this chapter, references to a "governing body" are omitted from the revised law because in this context, the term is included within the meaning of "governing board." See Section 61.003(9), Education Code.

Revised Law

Sec. 1625.004. MEMORANDUM OF UNDERSTANDING. The board of trustees and the governing boards of institutions of higher education may enter into memoranda of understanding with one another to implement this chapter. (V.T.I.C. Art. 3.50-5, Subsec. (e).)

Source Law

(e) The administrative council, the trustee, and the governing boards or bodies of institutions of higher education may enter into memoranda of understanding with each other to carry out the purpose of this article.

Revised Law

Sec. 1625.005. UNIFORM PROCEDURES. The governing board of an institution of higher education and the board of trustees may:

(1) adopt uniform procedures to implement a transfer under this chapter; and

(2) impose conditions necessary to ensure the efficient operation of the programs over which each has jurisdiction. (V.T.I.C. Art. 3.50-5, Subsec. (f).)

Source Law

(f) The administrative council and the trustee may adopt uniform procedures to carry out the transfers under this article and may impose such conditions and limitations as necessary to assure the efficient operation of the programs over which each has jurisdiction.

Revisor's Note

(1) Subsection (f), V.T.I.C. Article 3.50-5, refers to the "administrative council," meaning the administrative council created under V.T.I.C. Article 3.50-3. The revised law substitutes a reference to the governing board of an institution of higher education for the reason stated in Revisor's Note (3) to Section 1625.001.

(2) Subsection (f), V.T.I.C. Article 3.50-5, refers to "conditions and limitations." The reference to "limitations" is omitted from the revised law because "limitations" is included within the meaning of "conditions."

APPENDIX A

CONFORMING AMENDMENTS

SECTION 4. CONFORMING AMENDMENT. Article 1.10, Insurance Code, is amended to read as follows:

Art. 1.10. CERTAIN DUTIES OF THE DEPARTMENT. In addition to the other duties required of the department, the department shall perform duties as follows:

2. File Articles of Incorporation and Other Papers. File and preserve in its office all acts or articles of incorporation of insurance companies and all other papers required by law to be deposited with the Department and, upon application of any party interested therein, furnish certified copies thereof upon payment of the fees prescribed by law.

3. Shall Calculate Reserve. For every company transacting any kind of insurance business in this State, for which no basis is prescribed by law, the Department shall calculate the reinsurance reserve upon the same basis prescribed in Section 862.102 [~~Article 6.01~~] of this code as to companies transacting fire insurance business.

4. To Calculate Re-insurance Reserve. On the thirty-first day of December of each and every year, or as soon thereafter as may be practicable, the Department shall have calculated in the Department the re-insurance reserve for all unexpired risks of all insurance companies organized under the laws of this state, or transacting business in this state, transacting any kind of insurance other than life, fire, marine, inland, lightning or tornado insurance, which calculation shall be in accordance with the provisions of Paragraph 3 hereof.

5. When a Company's Surplus is Impaired. No impairment of the capital stock of a stock company shall be permitted. No impairment of the surplus of a stock company, or of the minimum required aggregate surplus of a mutual, Lloyd's, or reciprocal insurer, shall be permitted in excess of that provided by this section. Having charged against a company other than a life insurance company, the reinsurance reserve, as prescribed by the laws of this State, and adding thereto all other debts and claims against the company, the Commissioner shall, (i) if it is

determined that the surplus required by Section 822.054, 822.202, 822.203, 822.205, 822.210, 822.211, or 822.212 [~~Article 2.02 or 2.20~~] of this code of a stock company doing the kind or kinds of insurance business set out in its Certificate of Authority is impaired to the extent of more than fifty (50%) per cent of the required surplus for a capital stock insurance company, or is less than the minimum level of surplus required by Commissioner promulgated risk-based capital and surplus regulations, or (ii) if it is determined that the required aggregate surplus of a reciprocal or mutual company, or the required aggregate of guaranty fund and surplus of a Lloyd's company, other than a life insurance company, doing the kind or kinds of insurance business set out in its Certificate of Authority is impaired to the extent of more than twenty-five per cent (25%) of the required aggregate surplus, or is less than the minimum level of surplus required by Commissioner promulgated risk-based capital and surplus regulations, the Commissioner shall order the company to remedy the impairment of surplus to acceptable levels specified by the Commissioner or to cease to do business within this State. The Commissioner shall thereupon immediately institute such proceedings as may be necessary to determine what further actions shall be taken in the case.

6. Shall Publish Results of Investigation. The Department shall publish the result of an examination of the affairs of any company whenever the Commissioner deems it for the interest of the public.

~~[15. See That No Company Does Business. The Commissioner shall see that no company is permitted to transact the business of life insurance in this State whose charter authorizes it to do a fire, marine, lightning, tornado, or inland insurance business, and that no company authorized to do a life insurance business in this State be permitted to take fire, marine or inland risks.]~~

~~[16. Admit Mutual Companies. The Commissioner shall admit into this State mutual insurance companies engaged in cyclone, tornado, hail and storm insurance which are organized under the laws of other states and which have Two Million (\$2,000,000.00) Dollars assets in excess of liabilities.]~~

17. Voluntary Deposits. (a) In the event any insurance company organized and doing business under the provisions of this Code shall be required by any other state, country or province as a requirement for permission to do an insurance business therein to make or maintain a deposit with an officer of any state, country, or province, such company, at its discretion, may voluntarily deposit with the Comptroller such securities as may be approved by the Commissioner of Insurance to be of the type and character authorized by law to be legal investments for such company, or cash, in any amount sufficient

to enable it to meet such requirements. The Comptroller is hereby authorized and directed to receive such deposit and hold it exclusively for the protection of all policyholders or creditors of the company wherever they may be located, or for the protection of the policyholders or creditors of a particular state, country or province, as may be designated by such company at the time of making such deposit. The company may, at its option, withdraw such deposit or any part thereof, first having deposited with the Comptroller, in lieu thereof, other securities of like class and of equal amount and value to those withdrawn, which withdrawal and substitution must be approved by the Commissioner of Insurance. The proper officer of each insurance company making such deposit shall be permitted at all reasonable times to examine such securities and to detach coupons therefrom, and to collect interest thereon, under such reasonable rules and regulations as may be prescribed by the Comptroller and the Commissioner of Insurance. Any deposit so made for the protection of policyholders or creditors of a particular state, country or province shall not be withdrawn, except by substitution as provided above, by the company, except upon filing with the Commissioner of Insurance evidence satisfactory to him that the company has withdrawn from business, and has no unsecured liabilities outstanding or potential policyholder liabilities or obligations in such other state, country or province requiring such deposit, and upon the filing of such evidence the company may withdraw such deposit at any time upon the approval of the Commissioner of Insurance. Any deposit so made for the protection of all policyholders or creditors wherever they may be located shall not be withdrawn, except by substitution as provided above, by the company except upon filing with the Commissioner of Insurance evidence satisfactory to him that the company does not have any unsecured liabilities outstanding or potential policy liabilities or obligations anywhere, and upon filing such evidence the company may withdraw such deposit upon the approval of the Commissioner of Insurance. For the purpose of state, county and municipal taxation, the situs of any securities deposited with the Comptroller hereunder shall be in the city and county where the principal business office of such company is fixed by its charter.

(b) Any voluntary deposit held by the Comptroller or the Department heretofore made by any insurance company in this State, and which deposit was made for the purpose of gaining admission to another state, may be considered, at the option of such company, to be hereinafter held under the provisions of this Act.

(c) When two or more companies merge or consolidate or enter a total reinsurance contract by which the ceding company is dissolved and its assets acquired and

liabilities assumed by the surviving company, and the companies have on deposit with the Comptroller two or more deposits made for identical purposes under this section or Article 4739, Revised Statutes, as amended, and now repealed, all such deposits, except the deposit of greatest amount and value, may be withdrawn by the new surviving or reinsuring company, upon proper showing of duplication of such deposits and that the company is the owner thereof.

(d) Any company which has made a deposit or deposits under this section or Article 4739, Revised Statutes, as amended and now repealed, shall be entitled to a return of such deposits upon proper application therefor and a showing before the Commissioner that such deposit or deposits are no longer required under the laws of any state, country or province in which such company sought or gained admission to do business upon the strength of a certificate of such deposit.

(e) Upon being furnished a certified copy of the Commissioner's order issued under Subsection (c) or (d) above, the Comptroller shall release, transfer and deliver such deposit or deposits to the owner as directed in said order.

18. Complaint File. The Department shall keep an information file about each complaint filed with the Department concerning an activity that is regulated by the Department or Commissioner.

19. Notice of Complaint Status. If a written complaint is filed with the Department, the Department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

20. Electronic Transfer of Funds. The Commissioner shall adopt rules for the electronic transfer of any taxes, fees, guarantee funds, or other money owed to or held for the benefit of the state and for which the Department has the responsibility to administer under this code or another insurance law of this state. The Commissioner shall require the electronic transfer of any amounts held or owed in an amount exceeding \$500,000.

SECTION 5. CONFORMING AMENDMENT. Article 1.10C, Insurance Code, is amended to read as follows:

Art. 1.10C. ACCESS TO CERTAIN CRIMINAL HISTORY RECORD INFORMATION. ~~[(e)]~~ The department may deny a license to an applicant for any license, permit, ~~[certificate of authority, certificate of registration,]~~ or other authorization issued by the board to engage in an activity regulated under this code who fails to provide a complete set of fingerprints on request and may deny a certificate of authority to an insurance company whose corporate officers fail to provide complete sets of fingerprints on request.

SECTION 6. CONFORMING AMENDMENT. Article 1.11, Insurance

Code, is amended to read as follows:

Art. 1.11. FILING OR DEPOSIT OF CERTAIN DOCUMENTS OR PAYMENTS WITH DEPARTMENT [~~MAY CHANGE FORM OF ANNUAL STATEMENT~~].

~~[(a) The commissioner may, from time to time, make such changes in the forms of the annual statements required of insurance companies of any kind, as shall seem to it best adapted to elicit a true exhibit of their condition and methods of transacting business. Such form shall elicit only such information as shall pertain to the business of the company.]~~

If any [~~annual statement,~~] report, financial statement, or payment required to be filed or deposited in the offices of the commissioner, or any report, tax return, or payment required to be filed or deposited in the offices of the comptroller, is delivered by the United States Postal Service to the offices of the commissioner or comptroller, as required, after the prescribed date on which the [~~annual statement,~~] report, financial statement, tax return, or payment is to be filed, the date of the United States Postal Service postmark stamped on the cover in which the document is mailed, or any other evidence of mailing authorized by the United States Postal Service reflected on the cover in which the document is mailed, shall be deemed to be the date of filing, unless otherwise specifically made an exception to this general statute.

~~[(b) Each domestic, foreign, and alien insurer authorized to transact insurance in this state, at the time it files its annual statement with the State Board of Insurance, shall file with the National Association of Insurance Commissioners a copy of its annual statement, along with any changes in substance and form, including a requirement that the submission be in computer compatible format, or additional filings, if any, as may be prescribed by the State Board of Insurance. The information filed shall include the signed jurat page and the actuarial certification, as required by the state of domicile. Any amendments and additions to the annual statement subsequently filed with the State Board of Insurance also shall be filed with the National Association of Insurance Commissioners. The expense for preparing and furnishing such annual statement and other filings to the National Association of Insurance Commissioners shall be that of the insurer. There shall be no other costs or expenses of any kind levied, charged, or assessed against the insurer relating to such filings. The Board may deem foreign insurers that are domiciled in a state that has a law substantially similar to this section to be in compliance with this section. This section is applicable to all companies regulated by the State Board of Insurance including domestic and foreign, stock and mutual life, health, and accident insurance companies; domestic and foreign, stock and mutual, fire and casualty insurance companies; Mexican casualty companies;~~

~~domestic and foreign Lloyd's plan insurers; domestic and foreign reciprocal or interinsurance exchanges; domestic and foreign fraternal benefit societies; domestic and foreign title insurance companies; attorney's title insurance companies; stipulated premium insurance companies; nonprofit legal service corporations; health maintenance organizations; statewide mutual assessment companies; local mutual aid associations; local mutual burial associations; exempt associations under Article 14.17 of this code; nonprofit hospital, medical, or dental service corporations including companies subject to Chapter 20 of this code; county mutual insurance companies; and farm mutual insurance companies. The Board may exempt any class of insurers from the requirements of this section if the Board believes the information required by this section will not be useful for regulatory purposes. Reports or other information communicated to the State Board of Insurance by the National Association of Insurance Commissioners from the collection, review, analysis, and dissemination of information developed from the filing of annual statement convention blanks is considered part of the process of examination of insurance companies under Articles 1.15-1.19 of this code and other provisions of this code, and this information is an integral part of those examinations.~~

~~[(c) Included on or attached to page 1 of the annual statement shall be the statement of a qualified actuary, entitled "Statement of Actuarial Opinion," setting forth his or her opinion relating to policy reserves and other actuarial items for life, accident and health, and annuities, or loss and loss adjustment expense reserves for property and casualty risks, as described in the NAIC annual statement instructions as appropriate for the type of risks insured.~~

~~[(d) In this article, "qualified actuary" means a member in good standing of the American Academy of Actuaries or a person who has otherwise demonstrated actuarial competence to the satisfaction of the commissioner of insurance or other insurance regulatory official of the insurer's domiciliary state.]~~

SECTION 7. CONFORMING AMENDMENT. The heading to Article 1.14-2, Insurance Code, is amended to read as follows:

Art. 1.14-2. SURPLUS LINES INSURANCE PREMIUM TAX

SECTION 8. CONFORMING AMENDMENT. Section 12, Article 1.14-2, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) The provisions of Chapter 981 of this code, including provisions relating to the applicability and enforcement of that chapter, rulemaking authority under that chapter, and definitions of terms applicable in that chapter, apply to this section.

SECTION 9. CONFORMING AMENDMENT. Article 3.11, Insurance Code, is amended to read as follows:

Art. 3.11. CERTAIN GUARANTEES IN LIFE INSURANCE POLICIES

~~[DIVIDENDS; HOW PAID]. Section 841.253 of this code does [No life insurance company shall declare or pay any dividends to its policyholders, except from the expense loading and profits made by such company; provided, however, any such company not showing a profit may pay dividends on its participating policies from the expense loading on such policies; and provided further, that any payment of dividends from the expense loading shall not be discriminatory as between policyholders. This shall] not prohibit the issuance of life insurance policies guaranteeing, by coupons or otherwise, definite payments or reductions in premiums, but any such guarantee contained in policies or coupons issued after the effective date of this Act shall be treated as a definite contract benefit and so valued according to the reserve requirements of this Chapter using in the case of policies or coupons issued before the date determined under Section 1105.002(a) or (b) of this code, as applicable to the company, [~~prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law)] reserve valuation net premium for such benefits which is a uniform percentage of the gross premiums, provided that any policy containing such a contract benefit may be valued on a basis which provides for not more than one (1) year preliminary term insurance, and using in the case of policies or coupons issued on or after the date determined under Section 1105.002(a) or (b) of this code, as applicable to the company, [~~operative date of Article 3.44a]~~ the commissioners reserve valuation method as defined in Article 3.28. [~~No such company shall declare or pay any dividends to its stockholders, except from the company's earned surplus as defined by the State Board of Insurance.~~] Nothing in this Section with respect to reserves shall apply to any policy issued prior to September 7, 1955.~~~~

SECTION 10. CONFORMING AMENDMENT. Article 3.51-8, Insurance Code, is amended to read as follows:

Art. 3.51-8. CONTINUATION OF [~~GROUP LIFE AND~~] GROUP ACCIDENT AND HEALTH INSURANCE DURING LABOR DISPUTE. No [~~group life insurance policy or~~] group accident and health insurance policy shall be delivered or issued for delivery in this state where the premiums or any part thereof is paid or is to be paid in whole or in part by an employer pursuant to the terms of a collective bargaining agreement unless the policy provides that in the event of a cessation of work by the employees covered by the policy as the result of a labor dispute, the policy upon timely payment of the premium shall continue in effect with respect to all employees insured by the policy on the date of the cessation of work who continue to pay their individual contribution and who assume and pay the contribution due from the employer for the period of cessation of work, under the following conditions:

(a) If the policyholder is not a trustee or the trustees of a fund established or maintained in whole or in part by the employer, the policy shall provide that the employee's individual contribution shall be the rate in the policy, on the date cessation of work occurs, applicable to an individual in the class to which the employee belongs as set forth in the policy. If the policy does not provide for a rate applicable to individuals, the policy shall provide that the employee's individual contribution shall be an amount equal to the amount determined by dividing (1) the total monthly premium in effect under the policy at the date of cessation of work by (2) the total number of persons insured under the policy at such date.

(b) If the policyholder is a trustee or the trustees of a fund established or maintained in whole or in part by the employer, the employee's contribution shall be the amount which he and his employer would have been required to contribute to the trust for such employee if (1) the cessation of work had not occurred and (2) the agreement requiring the employer to make contributions to the trust were in full force.

(c) The policy may provide that the continuation of insurance is contingent upon the collection of individual contributions by the union or unions representing the employees for policies referred to in Subdivision (a) above and by the policyholder or the policyholder's agent with respect to policies referred to in Subdivision (b) above.

(d) The policy may provide that the continuation of insurance on each employee is contingent upon timely payment of contributions by the individual and timely payment of the premium by the entity responsible for collecting the individual contributions.

(e) The policy may provide that each individual premium rate shall be increased by any amount up to 20 percent, or any higher percent which may be approved by the commissioner, of that otherwise shown in the policy during the period of cessation of work in order to provide sufficient compensation to the insurer to cover increased administrative costs and increased mortality and morbidity. If the policy does provide for such an increase, this shall have the effect of increasing the employee's contribution by a like percent.

(f) Nothing in this article shall be deemed to limit any right which the insurer may have in accordance with the terms of the policy to increase or decrease the premium rates before, during, or after such cessation of work if in fact the insurer would have had the right to increase the premium rate had the cessation of work not occurred. If such a premium rate change is made, it shall be effective, notwithstanding any other provisions of this article, on such date as the insurer shall determine in accordance with the terms of the policy.

(g) The policy may contain such other provisions with respect to such continuation of insurance as the Commissioner of Insurance may approve.

(h) The policy may provide that, if a premium is unpaid at the date of cessation of work and such premium became due prior to such cessation of work, the continuation of insurance is contingent upon payment of such premium prior to the date the next premium becomes due under the terms of the policy.

(i) Nothing herein shall be deemed to require the continuation of any loss of time payments included in any such group accident and health insurance policy, nor of any other coverages beyond the time that 75 percent of the employees continue such coverage or as to any individual employee beyond the time that he takes full-time employment with another employer; nor shall anything herein be deemed to require continuation of coverage more than six months after the cessation of work.

SECTION 11. CONFORMING AMENDMENT. Article 3.51-10, Insurance Code, is amended to read as follows:

Art. 3.51-10. NOTICE OF PREMIUM RATE INCREASE. Not less than 30 days before the date on which a premium rate increase takes effect on a group policy of [~~life,~~] health, [~~and~~] accident and health, or [~~a group policy of~~] life, health, and accident insurance delivered or issued for delivery in this state by a life, accident, health or casualty insurance company, mutual life insurance company, mutual insurance company other than life, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or interinsurance exchange, fraternal benefit society, group hospitalization service insurer, or local mutual aid association, the insurer shall give written notice of the premium rate increase to the policyholder or in the instance of a multiple employer trust to the trustee or group policyholder of the amount of such increase and the date on which the increase is to take effect. Such notice is also required for increases in subscriber charges and service fees under group policies or contracts or coverage provided by health maintenance organizations. Notice shall be based upon coverages in effect on the date of the notice and nothing contained herein shall be construed to prevent the insurer or health maintenance organization from negotiating changes in benefits and/or rates at the request of the policyholder after the required notice has been delivered.

SECTION 12. CONFORMING AMENDMENT. Section 8, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-8, Vernon's Texas Insurance Code), is amended to read as follows:

Sec. 8. APPLICATION [~~NON-APPLICATION~~] TO CERTAIN POLICIES.  
(a) Nothing in this Act shall apply to or affect (1) any policy

of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance except as provided in Subsections (B) and (C) of Section 2 and Subdivision (5) of Subsection (F) of Section 1 and in article 3.70-3B; or (4) life insurance endowment or annuity contracts or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value, special benefit, or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract, or (5) any policy written under the provisions of Senate Bill No. 208, Acts of the 51st Legislature, 1949.

(b) This Act applies to a health, accident, sickness, and hospitalization policy issued by a stipulated premium insurer subject to Chapter 884 of this code.

SECTION 13. CONFORMING AMENDMENT. The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding Sections 1A, 1B, and 9Y to read as follows:

Sec. 1A. CITATION OF THIS LAW. This Act may be cited as Chapter 20A, Insurance Code, and the sections contained in this Act may be cited as articles of Chapter 20A, Insurance Code.

Sec. 1B. APPLICABILITY OF DEFINITIONS. In this Act, terms defined by Section 843.002, Insurance Code, have the meanings assigned by that section.

Sec. 9Y. EMERGENCY CARE SERVICES. A health maintenance organization shall pay for emergency care services performed by non-network physicians or providers at the negotiated or usual and customary rate and that the health care plan contains, without regard to whether the physician or provider furnishing the services has a contractual or other arrangement with the entity to provide items or services to covered individuals, the following provisions and procedures for coverage of emergency care services:

(1) any medical screening examination or other evaluation required by state or federal law that is necessary to determine whether an emergency medical condition exists will be provided to covered enrollees in a hospital emergency facility or comparable facility;

(2) necessary emergency care services will be provided to covered enrollees, including the treatment and stabilization of an emergency medical condition; and

(3) services originated in a hospital emergency facility or comparable facility following treatment or

stabilization of an emergency medical condition will be provided to covered enrollees as approved by the health maintenance organization, provided that the health maintenance organization is required to approve or deny coverage of poststabilization care as requested by a treating physician or provider within the time appropriate to the circumstances relating to the delivery of the services and the condition of the patient, but in no case to exceed one hour from the time of the request; the health maintenance organization must respond to inquiries from the treating physician or provider in compliance with this provision in the health maintenance organization's plan.

SECTION 14. CONFORMING AMENDMENT. Section 9(j), Texas Health Maintenance Organization Act (Article 20A.09, Vernon's Texas Insurance Code) (former Subsection (i)), as amended by Chapter 1026, Acts of the 75th Legislature, Regular Session, 1997, is redesignated as Section 9Z, Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), and amended to read as follows:

Sec. 9Z. PROMPT PAYMENT OF CLAIMS. [(j)] A health maintenance organization shall comply with Article 21.55 of the Insurance Code with respect to prompt payment to enrollees. [~~A health maintenance organization shall make payment to a physician or provider for covered services rendered to enrollees of the health maintenance organization not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the health maintenance organization to process the claim or, if applicable, within the number of calendar days specified by written agreement between the physician or provider and the health maintenance organization. For purposes of this subsection, "covered services" means health care services and benefits to which enrollees are entitled under the terms of an applicable evidence of coverage.~~]

SECTION 15. CONFORMING AMENDMENT. Section 4(b), Article 21.54, Insurance Code, is amended to read as follows:

(b) Before offering insurance in this state, a risk retention group shall submit to the commissioner of this state the following:

(1) a statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and such other information, including information on its membership, as the commissioner of this state may require to verify that the group qualifies as a risk retention group under the definition in Subdivision (10) of Section 2 of this article;

(2) a copy of its plan of operation or a feasibility study and revisions of that plan or study submitted to the state in which it is chartered and licensed, provided, however, this

provision relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which:

(A) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(B) was offered before such date by any risk retention group which had been chartered and operating for not less than three years before that date; and

(3) a statement of registration that designates the commissioner as its agent for the purpose of receiving service of legal documents or process as provided by Chapter 804 [~~and that states the risk retention group will remit to the board a fee not to exceed \$50 as established by board regulation for each document served on the commissioner of this state and forwarded to the risk retention group~~].

SECTION 16. CONFORMING AMENDMENT. Article 23.08A(a), Insurance Code, is amended to read as follows:

(a) The State of Texas by and through the commissioner shall annually determine the rate of assessment of a maintenance tax to be paid by a nonprofit legal services corporation subject to Chapter 961 of this code on an annual or semiannual basis. The rate of assessment may not exceed one percent of the correctly reported gross revenues received by all corporations issuing prepaid legal services contracts in this state. The comptroller shall collect the maintenance tax.

SECTION 17. CONFORMING AMENDMENT. Chapter 30, Insurance Code, is amended to read as follows:

#### CHAPTER 30. GENERAL PROVISIONS

Sec. 30.001. PURPOSE OF TITLES 2, 6, 7, AND 8 [~~TITLE~~]. (a) This title and Titles 6, 7, and 8 are [~~is~~] enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in the law codified as Section 323.007, Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this title and Titles 6, 7, and 8 is to make the law encompassed by the titles [~~this title~~] more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to

the greatest extent possible.

Sec. 30.002. CONSTRUCTION [~~OF TITLE~~]. Except as provided by Section 30.003 and as otherwise expressly provided in this code, Chapter 311, Government Code (Code Construction Act), applies to the construction of each provision in this title and in Titles 6, 7, and 8 [~~except as otherwise expressly provided by this title~~].

Sec. 30.003. DEFINITION OF PERSON. The definition of "person" assigned by Section 311.005, Government Code, does not apply to any provision in this title or in Title 6, 7, or 8.

Sec. 30.004. REFERENCE IN LAW TO STATUTE REVISED BY TITLE 2, 6, 7, OR 8. A reference in a law to a statute or a part of a statute revised by this title or by Title 6, 7, or 8 is considered to be a reference to the part of this code [~~title~~] that revises that statute or part of that statute.

SECTION 18. CONFORMING AMENDMENT. Sections 82.002(b) and (c), Insurance Code, are amended to more accurately reflect the source law from which they were derived to read as follows:

(b) This chapter also applies to:

(1) an agent of an entity described by Subsection (a);  
and

(2) an individual or a corporation, association, partnership, or other artificial [a] person who:

- (A) is engaged in the business of insurance;
- (B) holds an authorization; or
- (C) is regulated by the commissioner.

(c) The commissioner's authority under this chapter applies to each form of authorization and each person or entity holding an authorization.

SECTION 19. CONFORMING AMENDMENT. Section 83.001(3), Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

(3) "Unauthorized person" means an individual or a corporation, association, partnership, or other artificial [a] person who directly or indirectly does an act of insurance business that is:

(A) described by Section 101.051 or 101.052; and  
(B) not done in accordance with specific  
authorization of law.

SECTION 20. CONFORMING AMENDMENT. Section 83.002(b), Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

(b) This chapter also applies to:

(1) an agent of an entity described by Subsection (a);  
and

(2) an individual or a corporation, association, partnership, or other artificial [a] person who:

- (A) is engaged in the business of insurance;

(B) holds a permit, certificate, registration, license, or other authority under this code; or

(C) is regulated by the commissioner.

SECTION 21. CONFORMING AMENDMENT. Section 101.001(c), Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

(c) The purpose of this chapter is to subject certain insurers and [~~other~~] persons to the jurisdiction of:

(1) the commissioner and proceedings before the commissioner; and

(2) the courts of this state in suits by or on behalf of the state or an insured or beneficiary under an insurance contract.

SECTION 22. CONFORMING AMENDMENT. Section 101.051(b), Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

(b) The following acts in this state constitute the business of insurance in this state:

(1) making or proposing to make, as an insurer, an insurance contract;

(2) making or proposing to make, as guarantor or surety, a guaranty or suretyship contract as a vocation and not merely incidental to another legitimate business or activity of the guarantor or surety;

(3) taking or receiving an insurance application;

(4) receiving or collecting any consideration for insurance, including:

(A) a premium;

(B) a commission;

(C) a membership fee;

(D) an assessment; or

(E) dues;

(5) issuing or delivering an insurance contract to:

(A) a resident of this state; or

(B) a person authorized to do business in this state;

(6) directly or indirectly acting as an agent for or otherwise representing or assisting an insurer or [~~other~~] person in:

(A) soliciting, negotiating, procuring, or effectuating insurance or a renewal of insurance;

(B) disseminating information relating to coverage or rates;

(C) forwarding an insurance application;

(D) delivering an insurance policy or contract;

(E) inspecting a risk;

(F) setting a rate;

(G) investigating or adjusting a claim or loss;

(H) transacting a matter after the effectuation of the contract that arises out of the contract; or

(I) representing or assisting an insurer or [other] person in any other manner in the transaction of insurance with respect to a subject of insurance that is resident, located, or to be performed in this state;

(7) contracting to provide in this state indemnification or expense reimbursement for a medical expense by direct payment, reimbursement, or otherwise to a person domiciled in this state or for a risk located in this state, whether as an insurer, agent, administrator, trust, or funding mechanism or by another method;

(8) doing any kind of insurance business specifically recognized as constituting insurance business within the meaning of statutes relating to insurance;

(9) doing or proposing to do any insurance business that is in substance equivalent to conduct described by Subdivisions (1)-(8) in a manner designed to evade statutes relating to insurance; or

(10) any other transaction of business in this state by an insurer.

SECTION 23. CONFORMING AMENDMENT. Section 101.052, Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

Sec. 101.052. ADVERTISING RELATING TO MEDICARE SUPPLEMENT POLICIES. With respect to a Medicare supplement policy authorized under Article 3.74, the business of insurance in this state includes using, creating, publishing, mailing, or disseminating in this state an advertisement relating to an act that constitutes the business of insurance under Section 101.051 unless the advertisement is used, created, published, mailed, or disseminated on behalf of an insurer or [other] person who:

(1) is authorized under this code to engage in the business of insurance in this state;

(2) has actual knowledge of the content of the advertisement;

(3) has authorized the advertisement to be used, created, published, mailed, or disseminated on that insurer's or [other] person's behalf; and

(4) is clearly identified by name in the advertisement as the sponsor of the advertisement.

SECTION 24. CONFORMING AMENDMENT. Section 101.053(b), Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

(b) Sections 101.051 and 101.052 do not apply to:

(1) the lawful transaction of surplus lines insurance under Chapter 981 [~~Article 1.14-2~~];

(2) the lawful transaction of reinsurance by insurers;

- (3) a transaction in this state that:
  - (A) involves a policy that:
    - (i) is lawfully solicited, written, and delivered outside this state; and
    - (ii) covers, at the time the policy is issued, only subjects of insurance that are not resident, located, or expressly to be performed in this state; and
  - (B) takes place after the policy is issued;
- (4) a transaction:
  - (A) that involves an insurance contract independently procured through negotiations occurring entirely outside this state;
  - (B) that is reported; and
  - (C) on which premium tax is paid in accordance with this chapter;
- (5) a transaction in this state that:
  - (A) involves group life, health, or accident insurance, other than credit insurance, and group annuities in which the master policy for the group was lawfully issued and delivered in a state in which the insurer or [~~other~~] person was authorized to do insurance business; and
  - (B) is authorized by a statute of this state;
- (6) a management or accounting activity in this state on behalf of a nonadmitted captive insurance company that insures solely directors' and officers' liability insurance for:
  - (A) the directors and officers of the company's parent and affiliated companies;
  - (B) the risks of the company's parent and affiliated companies; or
  - (C) both the individuals and entities described by Paragraphs (A) and (B);
- (7) the issuance of a qualified charitable gift annuity under Chapter 102; or
- (8) a lawful transaction by a servicing company of the Texas workers' compensation employers' rejected risk fund under Section 4.08, Article 5.76-2, as that article existed before its repeal.

SECTION 25. CONFORMING AMENDMENT. Section 101.151, Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

- Sec. 101.151. POWERS OF COMMISSIONER; NOTICE OF HEARING.
- (a) The commissioner may set a hearing on whether to issue a cease and desist order under Section 101.153 if the commissioner has reason to believe that:
    - (1) an insurer or [~~other~~] person has violated or is threatening to violate this chapter or a rule adopted under this chapter; or
    - (2) an insurer or [~~other~~] person acting in violation

of this chapter has engaged in or is threatening to engage in an unfair act.

(b) The commissioner shall serve on the insurer or [~~other~~] person a statement of charges and a notice of hearing in the form provided by Section 2001.052, Government Code, and applicable rules of the commissioner.

SECTION 26. CONFORMING AMENDMENT. Section 101.153, Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

Sec. 101.153. CEASE AND DESIST ORDER. After a hearing held under this subchapter, the commissioner may issue against the insurer or [~~other~~] person charged with a violation an order that requires that the insurer or [~~other~~] person immediately cease and desist from the violation.

SECTION 27. CONFORMING AMENDMENT. Section 101.154, Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

Sec. 101.154. ENFORCEMENT; REFERRAL TO ATTORNEY GENERAL. The commissioner may refer the matter to the attorney general for enforcement if the commissioner has reason to believe that an insurer or [~~other~~] person has:

- (1) violated a cease and desist order issued under this subchapter; or
- (2) failed to pay an assessed penalty.

SECTION 28. CONFORMING AMENDMENT. Section 101.202, Insurance Code, is amended to more accurately reflect the source law from which it was derived to read as follows:

Sec. 101.202. ATTORNEY'S FEES. (a) In an action against an unauthorized insurer or [~~other~~] unauthorized person on a contract of insurance issued or delivered in this state to a resident of this state or to a corporation authorized to do business in this state, the court may award to the plaintiff a reasonable attorney's fee if:

- (1) the insurer or [~~other~~] person failed, for at least 30 days after a demand made before the commencement of the action, to make payment under the contract's terms; and
- (2) the failure to make the payment was vexatious and without reasonable cause.

(b) An insurer's or [~~other~~] person's failure to defend an action described by Subsection (a) is prima facie evidence that the failure to make payment was vexatious and without reasonable cause.

SECTION 29. CONFORMING AMENDMENT. Chapter 101, Insurance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CERTAIN PROCEEDINGS; BOND  
REQUIREMENTS

Sec. 101.351. DEFINITIONS. (a) In this subchapter, "court proceeding" includes an action or suit.

(b) The definition of "state" assigned by Section 311.005, Government Code, does not apply in this chapter. (New.)

Sec. 101.352. APPLICABILITY. This subchapter applies only to a court or administrative proceeding against an unauthorized person or insurer in which the person or insurer was served under Section 804.107. (V.T.I.C. Art. 1.36, Secs. 11(a) (part), (b) (part).)

Sec. 101.353. BOND REQUIREMENT FOR COURT PROCEEDING. (a) Except as provided by Subsection (c), before an unauthorized person or insurer may file a pleading in a court proceeding to which this subchapter applies, the person or insurer must deposit cash or securities or file a bond with good and sufficient sureties approved by the court in an amount determined by the court as sufficient to pay any final judgment that may be rendered in the proceeding.

(b) An unauthorized person or insurer must file the deposit required by this section with the clerk of the court in which the proceeding is pending.

(c) The court may issue an order waiving the deposit or bond required by this section if the unauthorized person or insurer demonstrates to the court's satisfaction that the person or insurer maintains sufficient available funds or securities in a state in the United States, in trust or otherwise, to satisfy any final judgment that may be rendered in the proceeding. (V.T.I.C. Art. 1.36, Sec. 11(a) (part).)

Sec. 101.354. BOND REQUIREMENT FOR ADMINISTRATIVE PROCEEDING. (a) Except as provided by Subsection (c), before an unauthorized person or insurer may file a pleading in an administrative proceeding of the department to which this subchapter applies, the person or insurer must, if required by statute, deposit cash or securities or file a bond with good and sufficient sureties approved by the commissioner in an amount determined by the commissioner as sufficient to pay any final order that may be entered in the proceeding.

(b) An unauthorized person or insurer must file the deposit required by this section with the chief clerk of the department.

(c) The commissioner may issue an order waiving the deposit or bond required by this section if the unauthorized person or insurer demonstrates to the commissioner's satisfaction that the person or insurer maintains sufficient available funds or securities in a state in the United States, in trust or otherwise, to satisfy any final order that may be entered in the proceeding. (V.T.I.C. Art. 1.36, Sec. 11(a) (part).)

Sec. 101.355. POSTPONEMENT. A court or the commissioner may order any postponement necessary to afford an unauthorized person or insurer a reasonable opportunity to:

(1) comply with Section 101.353 or 101.354, as appropriate; and

(2) defend that court or administrative proceeding.

(V.T.I.C. Art. 1.36, Sec. 11(b) (part).)

Sec. 101.356. MOTION TO QUASH. Sections 101.353 and 101.354 do not prevent an unauthorized person or insurer from filing a motion to quash a writ or to set aside service made under Section 804.107 on the ground that the person or insurer has not engaged in the business of insurance as described by Section 101.051.

(V.T.I.C. Art. 1.36, Sec. 11(c).)

SECTION 30. CONFORMING AMENDMENT. Section 72.001(c), Property Code, is amended to read as follows:

(c) This chapter applies to property held by life insurance companies with the exception of unclaimed proceeds to which Chapter 1109 [~~funds, as defined by Section 3, Article 4.08~~], Insurance Code, applies and that are held by those companies that are subject to Chapter 1109 [~~Article 4.08~~], Insurance Code.

SECTION 31. REPEALER. (a) The following articles of the Insurance Code are repealed: 1.14; 1.14A; 1.28; 1.29; 1.36; 1.38; 2.01; 2.02; 2.03; 2.04; 2.05; 2.06; 2.07; 2.08; 2.09; 2.11; 2.12; 2.13; 2.14; 2.15; 2.16; 2.17; 2.18; 2.19; 2.20; 2.21; 3.01; 3.02; 3.02a; 3.04; 3.05; 3.06; 3.07; 3.08; 3.09; 3.12; 3.13; 3.15; 3.20; 3.20-1; 3.21; 3.22; 3.23; 3.24; 3.24-1; 3.26; 3.27; 3.27-1; 3.27-2; 3.27-3; 3.27-4; 3.42A; 3.44; 3.44a; 3.44b; 3.44c; 3.44d; 3.45; 3.46; 3.47; 3.48; 3.49; 3.50; 3.50-1; 3.50-2A; 3.50-4; 3.50-5; 3.50-6; 3.50-6A; 3.51-4A; 3.52; 3.53; 3.54; 3.55; 3.56-1; 3.57; 3.58; 3.60; 3.61; 3.63; 3.67; 3.68; 3.69; 3.75; 3.95-1; 3.95-1.5; 3.95-1.6; 3.95-1.7; 3.95-2; 3.95-3; 3.95-4; 3.95-4.1; 3.95-4.2; 3.95-4.3; 3.95-4.4; 3.95-4.5; 3.95-4.6; 3.95-4.7; 3.95-4.8; 3.95-4.9; 3.95-4.10; 3.95-5; 3.95-6; 3.95-7; 3.95-8; 3.95-9; 3.95-10; 3.95-11; 3.95-12; 3.95-13; 3.95-14; 3.95-15; 4.08; 5.01-2; 6.01; 6.01-A; 6.02; 6.03; 6.04; 6.05; 6.06; 6.07; 6.08; 6.11; 6.12; 6.13; 6.14; 6.15; 6.16; 8.01; 8.02; 8.03; 8.04; 8.05; 8.06; 8.07; 8.08; 8.09; 8.10; 8.11; 8.12; 8.13; 8.14; 8.15; 8.16; 8.17; 8.18; 8.19; 8.20; 8.21; 8.23; 8.24; 10.01; 10.02; 10.03; 10.03A; 10.03B; 10.03-1; 10.04; 10.05; 10.06; 10.07; 10.08; 10.09; 10.10; 10.11; 10.12; 10.12-1; 10.13; 10.14; 10.15; 10.16; 10.17; 10.18; 10.19; 10.20; 10.21; 10.22; 10.23; 10.25; 10.26; 10.27; 10.28; 10.29; 10.30; 10.31; 10.33; 10.34; 10.35; 10.36; 10.37; 10.37-1; 10.37-2; 10.37-3; 10.38; 10.39; 10.40; 10.41; 10.42; 10.43; 10.44; 10.45; 11.01; 11.02; 11.03; 11.04; 11.05; 11.06; 11.07; 11.08; 11.10; 11.11; 11.12; 11.13; 11.14; 11.15; 11.16; 11.17; 11.18; 11.18-1; 11.19; 11.20; 11.21; 12.01; 12.02; 12.03; 12.04; 12.05; 12.06; 12.07; 12.08; 12.09; 12.10; 12.11; 12.12; 12.13; 12.14; 12.15; 12.16; 12.17; 12.18; 13.01; 13.02; 13.03; 13.04; 13.05; 13.06; 13.07; 13.08; 13.09; 14.01; 14.02; 14.03; 14.04; 14.05; 14.06; 14.07; 14.08; 14.09; 14.10; 14.11; 14.12; 14.13; 14.14; 14.14a; 14.15; 14.16; 14.17; 14.17A; 14.18; 14.19; 14.20; 14.21; 14.22; 14.23; 14.24; 14.25; 14.26; 14.27; 14.28; 14.29; 14.30; 14.31; 14.32; 14.33;

14.35; 14.36; 14.37; 14.37-1; 14.38; 14.39; 14.42; 14.43; 14.44;  
14.45; 14.46; 14.47; 14.48; 14.49; 14.50; 14.51; 14.52; 14.53;  
14.54; 14.55; 14.56; 14.56-1; 14.57; 14.58; 14.59; 14.60; 14.61;  
14.62; 14.63; 14.64; 15.01; 15.02; 15.03; 15.04; 15.05; 15.05-A;  
15.06; 15.07; 15.08; 15.09; 15.10; 15.11; 15.12; 15.13; 15.14;  
15.15; 15.16; 15.17; 15.18; 15.19; 15.19-1; 15.19-2; 15.20;  
15.20-1; 15.21; 15.22; 16.01; 16.02; 16.03; 16.04; 16.05; 16.06;  
16.07; 16.08; 16.09; 16.10; 16.11; 16.12; 16.13; 16.14; 16.15;  
16.16; 16.17; 16.18; 16.19; 16.20; 16.21; 16.22; 16.23; 16.24;  
16.24A; 16.25; 16.26; 16.27; 17.01; 17.02; 17.03; 17.04; 17.05;  
17.06; 17.07; 17.08; 17.09; 17.10; 17.11; 17.12; 17.13; 17.14;  
17.15; 17.16; 17.17; 17.19; 17.20; 17.21; 17.22; 17.23; 17.24;  
17.25; 18.01; 18.01-1; 18.02; 18.03; 18.03-1; 18.04; 18.05;  
18.06; 18.07; 18.08; 18.09; 18.10; 18.11; 18.11-1; 18.12; 18.13;  
18.14; 18.15; 18.16; 18.18; 18.19; 18.21; 18.22; 18.22-1; 18.23;  
18.23A; 18.24; 19.01; 19.02; 19.02A; 19.03; 19.05; 19.06; 19.07;  
19.08; 19.09; 19.10; 19.10-1; 19.11; 19.12; 19.12A; 19.13; 20.01;  
20.02; 20.03; 20.04; 20.05; 20.06; 20.08; 20.09; 20.10; 20.11;  
20.12; 20.13; 20.14; 20.15; 20.16; 20.17; 20.18; 20.19; 20.20;  
20.21; 20C.01; 20C.02; 20C.03; 20C.04; 20C.05; 20C.06; 20C.07;  
20C.08; 20C.09; 20C.10; 20C.11; 20C.12; 20C.13; 20C.14; 20C.15;  
21.22; 21.23; 21.24; 21.25; 21.26; 21.27; 21.34; 21.37; 21.43;  
21.44; 21.45; 21.49-1; 21.49-2C; 21.52F; 22.01; 22.02; 22.03;  
22.04; 22.05; 22.06; 22.07; 22.08; 22.09; 22.10; 22.11; 22.12;  
22.13; 22.14; 22.15; 22.16; 22.17; 22.18; 22.19; 22.20; 22.21;  
22.22; 22.23; 22.23A; 23.01; 23.02; 23.03; 23.04; 23.05; 23.06;  
23.07; 23.08; 23.09; 23.10; 23.11; 23.12; 23.13; 23.14; 23.15;  
23.16; 23.17; 23.18; 23.19; 23.20; 23.21; 23.22; 23.23; 23.24;  
23.25; and 23.26.

(b) The following laws are repealed:

(1) Sections 1, 2, 3, 3A, 4, 5, 6, 6A, 7, 8, 9, 10, 13, 14, 15, 15A, 16, 17, 17A, and 18, Article 1.14-2, Insurance Code;

(2) Section 12a, Chapter 117, Acts of the 54th Legislature, Regular Session, 1955 (Article 2.03-1, Vernon's Texas Insurance Code);

(3) Chapter 113, Acts of the 53rd Legislature, Regular Session, 1953 (Article 3.49-1, Vernon's Texas Insurance Code);

(4) Section 1, Chapter 417, Acts of the 56th Legislature, Regular Session, 1959 (Article 3.49-2, Vernon's Texas Insurance Code);

(5) Article 3.49-3, Insurance Code, as added by Chapter 701, Acts of the 60th Legislature, Regular Session, 1967;

(6) the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code);

(7) Section 3, Chapter 662, Acts of the 76th Legislature, Regular Session, 1999;

(8) the Texas State College and University Employees

Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code);

(9) Article 3.50-4A, Insurance Code, as added by Chapter 372, Acts of the 76th Legislature, Regular Session, 1999;

(10) Article 3.50-4A, Insurance Code, as added by Chapter 1540, Acts of the 76th Legislature, Regular Session, 1999;

(11) Section 1, Chapter 123, Acts of the 60th Legislature, Regular Session, 1967 (Article 3.51-3, Vernon's Texas Insurance Code);

(12) Section 3B(m), Article 3.51-6, Insurance Code;

(13) Sections 1, 2, 3, 4, 5, 6, 6A, 7, 8, 10, 11, 11A, 11B, 12, 12A, 12B, 13, 13A, 13B, 13C, 14, 16, 17, 18, 18B, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, and 38, Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);

(14) Section 18A, Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), as added by Chapter 735, Acts of the 75th Legislature, Regular Session, 1997;

(15) Section 18A, Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), as added by Chapter 1026, Acts of the 75th Legislature, Regular Session, 1997; and

(16) Section B, Article 10.04, Texas Non-Profit Corporation Act (Article 1396-10.04, Vernon's Texas Civil Statutes).

SECTION 32. LEGISLATIVE INTENT. This Act is enacted under Section 43, Article III, Texas Constitution. This Act is intended as a recodification only, and no substantive change in law is intended by this Act.

SECTION 33. EFFECTIVE DATE. This Act takes effect June 1, 2003.

#### APPENDIX B

##### CHAPTER 311. CODE CONSTRUCTION ACT

(current as of end of 77th Legislature, Regular Session, 2001)

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Code Construction Act.

Sec. 311.002. APPLICATION. This chapter applies to:

(1) each code enacted by the 60th or a subsequent legislature as part of the state's continuing statutory revision program;

(2) each amendment, repeal, revision, and reenactment of a code or code provision by the 60th or a subsequent legislature;

(3) each repeal of a statute by a code; and

(4) each rule adopted under a code.

Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in this chapter are not exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of codes.

Sec. 311.004. CITATION OF CODES. A code may be cited by its name preceded by the specific part concerned. Examples of citations are:

- (1) Title 1, Business & Commerce Code;
- (2) Chapter 5, Business & Commerce Code;
- (3) Section 9.304, Business & Commerce Code;
- (4) Section 15.06(a), Business & Commerce Code; and
- (5) Section 17.18(b)(1)(B)(ii), Business & Commerce

Code.

Sec. 311.005. GENERAL DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

- (1) "Oath" includes affirmation.
- (2) "Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.
- (3) "Population" means the population shown by the most recent federal decennial census.
- (4) "Property" means real and personal property.
- (5) "Rule" includes regulation.
- (6) "Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing.
- (7) "State," when referring to a part of the United States, includes any state, district, commonwealth, territory, and insular possession of the United States and any area subject to the legislative authority of the United States of America.
- (8) "Swear" includes affirm.
- (9) "United States" includes a department, bureau, or other agency of the United States of America.
- (10) "Week" means seven consecutive days.
- (11) "Written" includes any representation of words, letters, symbols, or figures.
- (12) "Year" means 12 consecutive months.
- (13) "Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

Sec. 311.006. INTERNAL REFERENCES. In a code:

- (1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of the code; and
- (2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit

without further identification is a reference to a unit of the next larger unit of the code in which the reference appears.

#### SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.

(b) Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the present tense include the future tense.

(b) The singular includes the plural and the plural includes the singular.

(c) Words of one gender include the other genders.

Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members fixed by statute.

(b) A quorum of a public body is a majority of the number of members fixed by statute.

Sec. 311.014. COMPUTATION OF TIME. (a) In computing a period of days, the first day is excluded and the last day is included.

(b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(c) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to a series of numbers or letters, the first and last numbers or letters are included.

Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:

(1) "May" creates discretionary authority or grants permission or a power.

(2) "Shall" imposes a duty.

(3) "Must" creates or recognizes a condition precedent.

(4) "Is entitled to" creates or recognizes a right.

(5) "May not" imposes a prohibition and is synonymous with "shall not."

(6) "Is not entitled to" negates a right.

(7) "Is not required to" negates a duty or condition precedent.

#### SUBCHAPTER C. CONSTRUCTION OF STATUTES

Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In enacting a statute, it is presumed that:

- (1) compliance with the constitutions of this state and the United States is intended;
- (2) the entire statute is intended to be effective;
- (3) a just and reasonable result is intended;
- (4) a result feasible of execution is intended; and
- (5) public interest is favored over any private interest.

Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute is presumed to be prospective in its operation unless expressly made retrospective.

Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the:

- (1) object sought to be attained;
- (2) circumstances under which the statute was enacted;
- (3) legislative history;
- (4) common law or former statutory provisions, including laws on the same or similar subjects;
- (5) consequences of a particular construction;
- (6) administrative construction of the statute; and
- (7) title (caption), preamble, and emergency provision.

Sec. 311.024. HEADINGS. The heading of a title, subtitle, chapter, subchapter, or section does not limit or expand the meaning of a statute.

Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a) Except as provided by Section 311.031(d), if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) Except as provided by Section 311.031(d), if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

(c) In determining whether amendments are irreconcilable, text that is reenacted because of the requirement of Article III, Section 36, of the Texas Constitution is not considered to be irreconcilable with additions or omissions in the same text made by another amendment. Unless clearly indicated to the contrary, an amendment that reenacts text in compliance with that constitutional requirement does not indicate legislative intent that the reenacted text prevail over changes in the same text

made by another amendment, regardless of the relative dates of enactment.

(d) In this section, the date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute.

(e) If the journals or other legislative records fail to disclose which of two or more bills in conflict is latest in date of enactment, the date of enactment of the respective bills is considered to be, in order of priority:

- (1) the date on which the last presiding officer signed the bill;
- (2) the date on which the governor signed the bill; or
- (3) the date on which the bill became law by operation of law.

Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL. (a) If a general provision conflicts with a special or local provision, the provisions shall be construed, if possible, so that effect is given to both.

(b) If the conflict between the general provision and the special or local provision is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

Sec. 311.027. STATUTORY REFERENCES. Unless expressly provided otherwise, a reference to any portion of a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.

Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A uniform act included in a code shall be construed to effect its general purpose to make uniform the law of those states that enact it.

Sec. 311.029. ENROLLED BILL CONTROLS. If the language of the enrolled bill version of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the enrolled bill version controls.

Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a repealing statute does not revive the statute originally repealed nor impair the effect of any saving provision in it.

Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by Subsection (b), the reenactment, revision, amendment, or repeal of a statute does not affect:

- (1) the prior operation of the statute or any prior action taken under it;
- (2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;
- (3) any violation of the statute or any penalty, forfeiture, or punishment incurred under the statute before its

amendment or repeal; or

(4) any investigation, proceeding, or remedy concerning any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature that enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature that enacted the code, the statute controls.

Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute contains a provision for severability, that provision prevails in interpreting that statute.

(b) If any statute contains a provision for nonseverability, that provision prevails in interpreting that statute.

(c) In a statute that does not contain a provision for severability or nonseverability, if any provision of the statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute that can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.

Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to preserve the legislature's interest in managing state fiscal matters through the appropriations process, a statute shall not be construed as a waiver of sovereign immunity unless the waiver is effected by clear and unambiguous language. In a statute, the use of "person," as defined by Section 311.005 to include governmental entities, does not indicate legislative intent to waive sovereign immunity unless the context of the statute indicates no other reasonable construction.

APPENDIX C  
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