

## Subchapter 4— State and Public School Life and Health Insurance Board

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A.C.R.C. Notes. Acts 1991, No. 867, § 1, provided:

“The Governor may, by executive order, transfer the State Employees Insurance Section of the Department of Finance and Administration to the State Insurance Department at such time as he determines it to be in the best interest of the State Employees Insurance Program.”

Acts 1995, No. 1206, § 9, provided:

“The State Employees Insurance Advisory Committee created by Arkansas Code 21-5-401 is abolished effective July 1, 1995. Arkansas Code 21-5-402, 21-5-403, 21-5-404, 21-5-405, 21-5-406, 21-5-407, 21-5-408, 21-5-409 are repealed. All rights, powers and duties of that Committee are transferred to the board created under the provisions of this act. The Public School Insurance Advisory Committee created by Arkansas Code 6-17-1102 is abolished effective July 1, 1995. Arkansas Code 6-17-1101, 6-17-1103, 6-17-1104, 6-17-1105, 6-17-1106, 6-17-1107, 6-17-1108 and 6-17-1110 are repealed. All rights, powers and duties of that Committee are transferred to the board created under the provisions of this act. Any funding or contracts now in force or authorized by the 1995 Regular Session of the General Assembly shall be carried forward to the Arkansas State Employees/Public School Personnel Board until the expiration of the contracts.”

Acts 2001, No. 776, § 1, provided:

“STATE EMPLOYEE BONUS.

(a) On the effective date of this act, or as near thereto as possible, each state agency, board, commission and institution shall provide a bonus of four hundred fifty dollars (\$450.00) to each employee who meets the following conditions:

“(1) the employee is scheduled to work at least 1,000 hours per year; and

"(2) the employee must be on the agency's, board's, commission's or institution's payroll for the previous two (2) pay periods or be on leave without pay; and

"(3) the employee must participate in the State Employees Insurance program.

"(b) The funds received by the employee from this act shall not be used when determining retirement benefits for the employee."

Acts 2011, No. 855, § 1, provided:

"Legislative Findings.

"The General Assembly finds that:

"(1) Morbid obesity causes many medical problems and costly health complications, such as diabetes, hypertension, heart disease, and stroke;

"(2) The cost of managing the complications of morbid obesity, largely due to inadequate treatment, far outweighs the cost of expeditious, effective medical treatment;

"(3) Guidelines developed by the National Institutes of Health, the American Society for Bariatric Surgery, the American Obesity Association, and Shape Up America and embraced by the American Medical Association and the American College of Surgeons recommend that patients who are morbidly obese receive responsible, affordable medical treatment for their obesity; and

"(4) The diagnosis and treatment of morbid obesity should be a clinical decision made by a physician based on evidence-based guidelines."

Acts 2011, No. 855, § 2, provided:

"Definitions. As used in this subchapter:

"(1) 'Body mass index' means body weight in kilograms divided by height in meters squared; and

"(2)(A) 'Morbid obesity' means a weight that is at least two (2) times the ideal weight for frame, age, height, and gender of an individual as determined by an examining physician.

"(B) Morbid obesity may be measured as a body mass index:

"(i) Equal to or greater than thirty-five kilograms per meter squared (35 kg/m<sup>2</sup>) with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

"(ii) Greater than forty (40) kilograms per meter squared (40 kg/m<sup>2</sup>)."

Acts 2011, No. 855, § 3, provided:

"Pilot Program on coverage for morbid obesity diagnosis and treatment.

"(a)(1) A state and public school employees health benefit plan that is offered, issued, or renewed on or after January 1, 2012, shall offer coverage for the diagnosis and treatment of morbid obesity.

"(2) The coverage for morbid obesity offered under subdivision (a)(1) of this section includes without limitation coverage for bariatric surgery including:

"(A) Gastric bypass surgery;

"(B) Adjustable gastric banding surgery;

"(C) Sleeve gastrectomy surgery, and

"(D) Duodenal switch biliopancreatic diversion.

“(b) A state and public school employees health benefit plan shall offer the benefits under this section to the same extent as for other medically necessary surgical procedures under the enrollee's or insured's contract or policy with the entity.

“(c) The coverage for morbid obesity diagnosis and treatment offered under this subchapter does not diminish or limit benefits otherwise allowable under a state and public school employees health benefit plan.”

Acts 2011, No. 855, § 4, provided: “Rules. The State and Public School Life and Health Insurance Board shall adopt rules to implement this subchapter.”

Acts 2011, No. 855, § 5, provided: “This act shall become null and void and cease to have any effect at midnight on December 31, 2017.”

Cross References. Damages adjudged against state officers and employees, payment by state, § 21-9-201 et seq.

Preambles. Acts 1977, No. 389, contained a preamble which read:

“Whereas, the General Assembly hereby finds and recognizes that there has been a dramatic increase in the medical care cost in the past few years and that this cost will continue to rise at the rate of approximately twenty percent (20%) a year for the next two years; and

“Whereas, the State Employees Insurance Committee will make a concerted effort to maintain the current cost to the State employees; and

“Whereas, the proposed legislation will provide a twenty percent (20%) increase in the State's contribution for each year of the 1977-1979 biennium; and

“Whereas, the increased contribution will not be used unless it becomes necessary to keep the plan sound;

“Now, therefore....

Acts 1979, No. 323, contained a preamble which read:

“Whereas, the General Assembly hereby finds and recognizes that there has been a dramatic increase in the medical care cost in the past few years and that this cost will continue to rise at the rate of approximately twenty percent (20%) a year for the next two years; and

“Whereas, the State Employees Insurance Committee will make a concerted effort to maintain the current cost to the State employees; and

“Whereas, the proposed legislation will provide a twenty percent (20%) increase in the State's contribution for each year of the 1979-1981 biennium; and

“Whereas, the increased contribution will not be used unless it becomes necessary to keep the plan sound;

“Now, therefore....”

Acts 1981, No. 838, contained a preamble which read:

“Whereas, the General Assembly hereby finds and recognizes that there has been a dramatic increase in the medical care cost in the past few years and that this cost will continue to rise at the rate of approximately twenty percent (20%) a year for the next two years; and

“Whereas, the State Employees Insurance Committee will make a concerted effort to maintain the current cost to the State employees; and

“Whereas, the proposed legislation will provide a twenty percent (20%) increase in the State's contribution for each year of 1981-1983 biennium; and

“Whereas, the increased contribution will not be used unless it becomes necessary to keep the plan sound;

"Now, therefore...."

Acts 1983, No. 469, contained a preamble which read:

"Whereas, the General Assembly hereby finds and recognizes that there has been a dramatic increase in the cost of medical care in the past few years and that this cost will continue to rise for the next two years; and

"Whereas, the State Employees Insurance Advisory Committee will make a concerted effort to maintain the current cost to the State employees; and

"Whereas, the proposed legislation will provide an increase in the State's contribution for each year of 1983-1985 biennium; and

"Whereas, the increased contribution will not be used unless it becomes necessary to keep the plan sound;

"Now, therefore...."

Effective Dates. Acts 1972 (Ex. Sess.), No. 48, § 17: Feb. 18, 1972. Emergency clause provided:

"It is hereby found and determined by the Sixty-Eighth General Assembly, meeting in Extraordinary Session that the State of Arkansas does not have a life and/or disability insurance program for the State Employees, and that a program of this nature would greatly enhance the morale and well-being of the employees of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval."

Acts 1973, No. 72, §§ 2, 4: July 1, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that under Amendment No. 7 to the Arkansas Constitution, acts without an emergency clause become effective 90 days after final adjournment of the General Assembly; that due to the unusually heavy workload of the Sixty-Ninth General Assembly it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the Session might result in this Act not becoming effective until after July 1, 1973 unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1973. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 842, § 4: Apr. 16, 1973. Emergency clause provided: "The General Assembly finds that a change in the administrative organization of the State Employees Insurance Section is necessary to secure the more efficient functioning of the said Section. An emergency is therefore declared to exist, and this Act, being necessary for the public health, welfare, and safety, shall be effective from and after its passage and approval."

Acts 1975, No. 156, § 2: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential that the State of Arkansas offer and provide insurance programs that will effectively serve the needs of state employees; that such insurance programs are of great assistance in recruiting permanent personnel for the various state agencies; that under Amendment No. 7 to the Arkansas Constitution, acts without an emergency clause become effective 90 days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the Session might result in this Act not becoming effective

until after July 1, 1975, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1975. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1975."

Acts 1975, No. 575, § 4: Mar. 27, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is urgent need to clarify the present law relating to the membership of the State Employees Insurance Advisory Committee; that under the present State Employees Group Insurance Law the Administrative personnel of the State Police Retirement, and Members of the Teacher Retirement System who have retired or who hereafter retire and draw benefits under said systems are not eligible to participate in the State Employees Group Insurance Plan and that the law should be revised to permit participation by such retired employees at the earliest possible date; and that this Act is designed to accomplish these worthwhile purposes and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 389, § 3: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential that the State of Arkansas offer and provide insurance programs that will effectively serve the needs of State employees; that such insurance programs are of great assistance in recruiting permanent personnel for the various State agencies; that under Amendment No. 7 to the Arkansas Constitution, acts without an emergency clause become effective 90 days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the Session might result in this Act not becoming effective until after July 1, 1977, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1977. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1977."

Acts 1979, No. 323, § 3: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential that the State of Arkansas offer and provide insurance programs that will effectively serve the needs of State employees; that such insurance programs are of great assistance in recruiting permanent personnel for the various State agencies; that under Amendment No. 7 to the Arkansas Constitution, acts without an emergency clause become effective 90 days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the Session might result in this Act not becoming effective until after July 1, 1979, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1979. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1979."

Acts 1981, No. 749, § 9: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the immediate passage of this Act is necessary to prevent irreparable harm to the proper administration and provision of essential government programs. Therefore, an emergency is hereby declared to exist, and this Act being

necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1981, No. 838, § 10: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential that the State of Arkansas offer and provide insurance programs that will effectively serve the needs of State employees; that such insurance programs are of great assistance in recruiting permanent personnel for the various State agencies; that under Amendment No. 7 to the Arkansas Constitution, acts without an emergency clause become effective 90 days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the Session might result in this Act not becoming effective until after July 1, 1981, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1981. Therefore, an emergency is hereby declared to exist and this Act being necessary for immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1983, No. 423, § 7: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that the immediate passage of this Act is necessary to prevent irreparable harm to the proper administration and provision of essential government programs. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1983."

Acts 1983, No. 469, § 3: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential that the State of Arkansas offer and provide insurance programs that will effectively serve the needs of State employees; that such insurance programs are of great assistance in recruiting permanent personnel for the various State agencies; that under Amendment No. 7 to the Arkansas Constitution, acts without an emergency clause become effective 90 days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution and that an extension of the Session might result in this Act not becoming effective until after July 1, 1983, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1983. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from July 1, 1983."

Acts 1983, No. 582, § 3: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that it is essential to the administration of the State Employees Insurance Program that premiums and reports be received when due from State Agencies. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1985 (1st Ex. Sess.), No. 35, § 4: June 26, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present laws relating to State Group Health Insurance does not specifically authorize retired instructors and administrative staff of vocational-technical schools and retired members of the Vocational-Technical Division to participate in the State group health insurance plan; that this oversight should be corrected immediately in order to avoid hardship and inequity to such personnel; that this Act is designed

to correct this undesirable situation and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 711, § 3: Mar. 20, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly of the State of Arkansas that the current prohibition against an agency continuing contributions to health insurance programs for employees who are leave with pay because of a work related injury is creating a severe financial hardship for employees who have been injured on the job. Therefore, in order to address this serious problem, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 127, § 5: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law establishing the amount of contribution made by the State to help defray the cost of state employee's life and health insurance expires on June 30, 1991; that this Act establishes the contribution level to begin upon the expiration of the current law; and that this Act should therefore go into effect on July 1, 1991. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 904, § 5: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the effectiveness of this act on July 1, 1993 is essential to the operation of the State Employees Insurance Plan and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1993 could work irreparable harm upon the proper administration of this essential governmental program. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 580, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that this act increases the state's contribution to the State Employees Insurance Plan; that this act should go into effect on the first day of the next fiscal year; and that unless this emergency clause is adopted this act will not go in effect until after the beginning of the next fiscal year. Therefore an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1206, § 14: Apr. 11, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to the effective and efficient management of the state employee and the public school personnel health insurance programs that a single board be established to administer the programs and that this act is designed to accomplish this purpose and should be given effect on a specific date in order to assure a smooth transition to the single board concept. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 183, § 8: Feb. 17, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Insurance and Commerce and in its place established the House Interim Committee and Senate Interim Committee on Insurance and Commerce; that various sections of the Arkansas Code refer to the Joint Interim Committee on Insurance and Commerce and should be corrected to refer to the House and Senate Interim Committees on Insurance and Commerce; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 843, § 5: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that appropriate health care insurance coverage and benefits be provided state employees and that it is essential to the effective and efficient management of the state employee and public school personnel health insurance program that maximum monthly contributions by the State of Arkansas for life and health insurance premiums are authorized for the next and subsequent bienniums. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."



Acts 1999, No. 1280, § 19: Apr. 9, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that provisions contained in this bill be enacted into law. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1171, § 2: Mar. 28, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the State and Public School Life and Health Insurance Plan does not provide retirees on other health insurance plans with the option to return to coverage under the state's plan after retirement; that providing this option to state employees and state retirees will provide extra motivation and work incentives for Arkansas public employees; that providing this option will not cost the State and Public School Life and Health Insurance Plan since there are no associated employer costs with this coverage; and that providing this option is immediately needed for retirees who may suffer financially if insurance coverage is not extended. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1752, § 3: Apr. 18, 2001. Emergency clause provided: "It is found and determined by the General Assembly that a person retiring from certain institutions of higher education during 2001 will experience uncertainty regarding their eligibility for group health insurance coverage; that providing immediate eligibility for health insurance benefits to those retirees is necessary for the preservation of the public peace, health and safety. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1814, § 5: Apr. 18, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that many state and public school employees participate in benefits offered through a cafeteria plan; that many state and public school employees participate in voluntary health, disability and other insurance programs; that the Employee Benefits Division of the Department of Finance and Administration is charged with the responsibility of administering these plans; that the existing law governing these plans is in need of clarification in order to allow the Employee Benefits Division to obtain bids for these programs at the lowest possible rates; that state and public school employees are in need of obtaining these programs at the lowest possible rates; and, that this act is necessary in order to achieve those objectives. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become

effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 826, § 4: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that unreimbursed expenses are being withdrawn from the State Employees Benefits Trust Fund of the State and Public School Employees Insurance Fund; that this act is needed to prevent confusion and uncertainty concerning these funds; and that this act is immediately necessary to recover costs to the State Employees Benefits Trust Fund of the State and Public School Employees Insurance Fund as required by law. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

21-5-401. Legislative intent.

Statute text

It is the purpose of this subchapter to:

- (1) Create a single board to select health insurance and life insurance plan coverages for state and public school employees and retirees;
- (2) Develop self-funded health programs to enhance the ability to control premiums and utilize managed care capabilities if feasible and in the best interest of plan members; and
- (3) Enable a single board to:
  - (A) Set and manage policies for the health insurance and life insurance programs of state and public school employees;
  - (B) Work in a concerted effort toward a common goal of parity between public school and state employee insurance programs;
  - (C) Improve the quality of health care services under the programs;
  - (D) Increase participants' understanding of program features; and
  - (E) Slow the rate of growth in health care expenses under the programs.

History

History. Acts 1995, No. 1206, § 1; 1999, No. 1280, § 1; 2007, No. 1009, § 1.

Annotations

A.C.R.C. Notes. Acts 1995, No. 1206, § 9, provided, in part:

"The State Employees Insurance Advisory Committee created by Arkansas Code 21-5-401 is abolished effective July 1, 1995."

Publisher's Notes. Former § 21-5-401, concerning the State Employees Insurance Advisory Committee, was deemed to be repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, § 1; A.S.A. 1947, § 12-3101.

Amendments. The 1999 amendment, in (1), substituted "set policy and select plans and coverages for" for "manage," and inserted "and life," "health care options, and utilize" and "and in the best interest of state employees and public school personnel"; and substituted "set and manage policies for" for "manage" in (3).

The 2007 amendment rewrote the section.

## Case Notes

### Recommendations Not Rule-Making.

#### Recommendations Not Rule-Making.

Recommendations by a state board as to the adoption of a mail order service and change in the reimbursement rates of a pharmacy service plan for state and public school employees did not constitute "rule-making" within § 25-15-202(8) and (9) of the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and accordingly, the notice and hearing provisions therein did not have to be complied with; such recommendations were within the board's legislatively mandated duties pursuant to this section. *Ark. Pharmacist's Ass'n v. Ark. State & Pub. Sch. Life*, 352 Ark. 1, 98 S.W.3d 27 (2003).

### 21-5-402. Members.

#### Statute text

(a)(1) There is created the State and Public School Life and Health Insurance Board, composed of the following twelve (12) voting members:

(A) A state employee who is eligible to participate in the insurance program under this subchapter to be appointed by the Governor;

(B) A certified classroom teacher to be appointed by the Governor;

(C) The Insurance Commissioner or his or her designee;

(D) The Commissioner of Education or his or her designee;

(E) The Director of the Department of Finance and Administration or his or her designee;

(F) One (1) member who is engaged in employee benefits management or risk management in private industry to be appointed by the Governor;

(G) Two (2) additional member positions that shall be filled by a retired teacher and by a retired state employee appointed by the Governor;

(H) One (1) public school administrator to be appointed by the Governor;

(I) The Executive Director of the Arkansas State Board of Pharmacy or his or her state employee pharmacist designee;

(J) The Director of Health Facility Services of the Department of Health or his or her designee; and

(K) One (1) member who is a licensed health care provider appointed by the Governor.

(2) However, any appointee who has a conflict of interest shall be disqualified to serve.

(b)(1) All members appointed by the Governor shall be appointed for terms of four (4) years but may be reappointed for additional terms.

(2)(A) Vacancies in the Governor-appointed positions shall be filled by appointment of the Governor for the unexpired term.

(B) Members appointed by the Governor shall serve at the will of the Governor.

(c) A chair and vice chair of the board shall be selected annually by and from the membership of the board and shall serve no more than two (2) years.

## History

History. Acts 1995, No. 1206, §§ 2, 3; 1997, No. 633, § 1; 1999, No. 1280, § 2; 2003, No. 1446, § 1; 2007, No. 1009, § 2.

## Annotations

A.C.R.C. Notes. As enacted by Acts 1995, No. 1206, § 2, subdivision (b)(1) began:

As enacted by Acts 1995, No. 1206, § 3, subsection (c) began:

"The initial chairman and vice chairman of the board shall be designated by the Governor for terms of one year. Subsequent...."

Publisher's Notes. Former § 21-5-402, concerning appointment and terms of committee members, was repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, §§ 2, 3; 1975, No. 575, §§ 1, 2; 1981, No. 749, §§ 1, 2; 1981, No. 838, §§ 3, 4; 1983, No. 668, §§ 1, 2; A.S.A. 1947, §§ 12-3102, 12-3103; Acts 1987, No. 844, §§ 1, 2; 1991, No. 867, § 2.

Amendments. The 1999 amendment rewrote this section.

The 2003 amendment substituted "twelve (12)" for "ten (10)" in the introductory paragraph of (a)(1); made gender neutralization changes throughout (a)(1); inserted present (a)(1)(I) and (J) and redesignated former (a)(1)(I) as present (a)(1)(K); deleted "In addition, there shall be" from the beginning of present (a)(1)(K); added the subdivision designations in (b)(1) and (2); made a stylistic change in (b)(1)(A); and substituted "A chair and vice chair of the board ... two (2) years" for "A chair and a vice chair shall be selected annually from the membership of the board by the Governor, to serve one-year terms" in (c).

The 2007 amendment inserted "who is eligible to participate in the insurance program under this subchapter" in (a)(1)(A); substituted "One (1) member who is" for "Two (2) members who are" in (a)(1)(F); in (a)(1)(G), substituted "Two (2)" for "One (1)" and "positions" for "position," deleted "alternately" following "filled," and deleted the former second sentence; deleted former (b)(1)(A); redesignated former (b)(1)(B) as present (b)(1); and deleted "successor" preceding "members" in (b)(1).

## 21-5-403. Policy-making body only — Reports.

### Statute text

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

(b) The executive director shall report upon request to the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce regarding the state and public school employees and retirees insurance program.

### History

History. Acts 1995, No. 1206, § 8; 1997, No. 183, § 3; 1999, No. 1280, § 3; 2007, No. 1009, § 3.

### Annotations

Publisher's Notes. Former § 21-5-403, concerning compensation of committee members, was repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, § 5; A.S.A. 1947, § 12-3105.

Amendments. The 1999 amendment substituted "State and Public School Life and Health Insurance Board" for "board" in (a); and, in (b), deleted "board through the" preceding "executive" and substituted "upon request" for "at least quarterly."

The 2007 amendment substituted "state and public school employees and retirees" for "state employees and public school personnel" in (b).

#### 21-5-404. Powers — Functions — Duties.

##### Statute text

The State and Public School Life and Health Insurance Board shall have the following powers, functions, and duties:

- (1) To explore various cost-containment measures and funding options;
- (2) To promote competition among vendors and create a systematic formula for measuring competitiveness of programs, quality-of-care delivery, portability, and accessibility to and affordability of health care;
- (3) To prepare a comprehensive analysis of the various health benefit plan options approved by the board to provide coverage to state and public school employees and retirees, including cost, quality, and access differentials among the various plans as well as any other comparisons of the plans;
- (4) To undertake studies and to take any appropriate action that the board determines will promote the financial soundness and overall well-being of the members' health insurance programs;
- (5) To establish and set penalties as allowed under § 21-5-415;
- (6)(A) To develop, with the assistance of the Office of State Procurement of the Department of Finance and Administration, bid specifications and requests for proposals and to evaluate bids and proposals.
  - (B) However, the board shall allow the office to execute all other actions relating to the purchasing procedures in contracting for consultants, third party administrators, providers, or insurance companies on behalf of the programs;
- (7) To evaluate responses to requests for proposals, select contractors for all services, and approve the award of contracts resulting from bids for all health and life insurance offerings for participants;
- (8) To perform plan design, summarize plan document approval, including, but not limited to, lifetime limitations, copayments, deductibles, and eligibility rules;
- (9) To promote increased access to various health plan options and models;
- (10)(A) To direct the office to contract with qualified vendors, as defined by the board, offering the benefit plans prescribed by the board without regard to § 19-11-228 or other statutes requiring competitive bidding.
  - (B) Each contract shall be for a term of at least one (1) year but may be made automatically renewable from term to term in the absence of notice of termination by either party;
- (11)(A) To obtain quality-of-care information from systems, networks, hospitals, and clinical providers to inform plan design, plan management, and consumer decisions.
  - (B) The board shall:

- (i) Use accepted national standards for assessment of quality-of-care information provided by systems, networks, hospitals, and clinical providers;
- (ii) Be empowered to determine the appropriate use of quality-of-care information and scope of system, network, hospital, and clinical provider accountability;
- (iii) Be empowered to request aggregate performance information for patients; and
- (iv) Be empowered to publicly report conclusions of quality-of-care assessment; and

(12) To appoint three (3) subcommittees of the board to study and research health and life plan option benefits, formulary management, quality of care provided, and the financial impact of implementing the recommendations made to the board as follows:

(A)(i) The Benefits Subcommittee shall consist of:

- (a) Three (3) board members;
- (b) Two (2) state employees; and
- (c) Two (2) school district employees.

(ii) The Benefits Subcommittee shall review, evaluate, and investigate benefits, new benefit offerings, and annual insurance rates;

(B)(i) The Drug Utilization and Evaluation Subcommittee shall consist of:

(a) Three (3) pharmacists as follows:

- (1) The Executive Director of the Arkansas State Board of Pharmacy or his or her pharmacist designee;
- (2) The Dean of the University of Arkansas for Medical Sciences College of Pharmacy or his or her pharmacist designee; and
- (3) A pharmacist selected by the Arkansas Pharmacists Association;

(b) Four (4) physicians as follows:

- (1) The Dean of the University of Arkansas for Medical Sciences College of Medicine or his or her physician designee;
- (2) The Associate Medical Director of the University of Arkansas for Medical Sciences Medical Center or his or her physician designee;
- (3) The Medical Director of the Arkansas Poison & Drug Information Center or his or her physician designee; and
- (4) A physician selected by the Arkansas Medical Society;
- (c) One (1) registered nurse who is the Dean of the University of Arkansas for Medical Sciences College of Nursing or his or her registered nurse designee; and
- (d) One (1) state employee and one (1) public school employee appointed by the board, each of whom shall have expertise in accounting, finance, auditing, or insurance.

(ii) The Drug Utilization and Evaluation Subcommittee shall review drugs for formulary management and evaluate the financial impact of its recommendations; and (C)(i) The Quality of Care Subcommittee shall consist of:

- (a) Three (3) board members;
- (b) Two (2) state employees;
- (c) Two (2) school district employees;

- Care;
- (d) One (1) representative from the Arkansas Foundation for Medical
- (e) One (1) representative from the Arkansas Pharmacists Association;
- (f) One (1) representative from the Arkansas Center for Health
- Improvement;
- (g) One (1) representative from the Arkansas Medical Association;
- (h) One (1) representative from the Arkansas Osteopathic Medical
- Association; and
- (i) One (1) representative from the Arkansas Hospital Association.

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

#### History

History. Acts 1995, No. 1206, § 4; 1999, No. 1280, § 4; 2003, No. 1446, § 2; 2005, No. 1308, § 1; 2005, No. 1937, § 1; 2007, No. 1009, § 4.

#### Annotations

A.C.R.C. Notes. Acts 2005, No. 1308, § 1 amended this section to specifically repeal the provisions of the section regarding the Fiscal Subcommittee of the State and Public School Life and Health Insurance Board.

Publisher's Notes. The former § 21-5-404, concerning prohibited activities of committee members, was repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, § 4; A.S.A. 1947, § 12-3104; Acts 1991, No. 867, § 3.

Amendments. The 1999 amendment rewrote this section.

The 2003 amendment added (10).

The 2005 amendment by 1308, in (10) [now (11)], substituted "two (2)" for "three (3)" and deleted "by the formulary management committee" following "recommendations made"; inserted "which" in (A)(i); rewrote (B)(i); added (B)(i)(d); inserted "and evaluate the financial impact of its recommendations" in (B)(ii); and deleted former (10)(C) and made a related change.

The 2005 amendment by 1937 inserted present (10); redesignated former (10) as (11); in present (11), inserted "quality of care provided" and deleted "by the formulary management committee" following "recommendations made"; and added (C).

The 2007 amendment, in (3), inserted "and retirees" and deleted "as will enable the state and school employees to make a well-informed choice of plans"; substituted "members" for "state employee and public school personnel" in (4); added (5) and redesignated the remaining subsections accordingly; deleted "of the various plans" following "participants" in (7); in (10)(A), deleted "all" preceding "qualified" and deleted "health" preceding "benefit"; deleted "uniform" preceding "term" in (10)(B); and made related and stylistic changes.

## 21-5-405. Additional duties.

### Statute text

(a) The State and Public School Life and Health Insurance Board and the executive director shall take a risk management approach in designing the state and public school employees and retirees benefit programs. The board shall ensure that the state and public school employees and retirees benefit programs are maintained on an actuarially sound basis as determined by actuarial standards established by the board.

(b) In addition to the objectives stated in § 21-5-404, the board shall:

- (1) Develop uniform standards of vendor plan funding;
- (2) Promote increased access to various plan options and health care models;
- (3) Promote access to those vendors who will enhance plan options availability in rural

Arkansas and in bordering states;

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

(B) Any state agency or school district that accepts state funds intended to partially defray the cost of health and life insurance for the employees of the state and public schools shall:

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

(ii) Agree to rules of participation as stated in the policies adopted by the board and as defined in the regulations and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration, including, but not limited to, timely eligibility reporting, prepayment of insurance premiums, actuarial adjustment for new enrollees, and any other requirements deemed necessary by the board;

(5) Assure guaranteed issue; and

(6) Ensure an annual enrollment period.

(c) Benefit plan vendors are required to provide detailed information in order to justify rate increases or inadequate performance reporting as defined by the board.

### History

History. Acts 1995, No. 1206, § 5; 1997, No. 1295, § 1; 1999, No. 1280, § 5; 2007, No. 1009, § 5. Annotations

Publisher's Notes. Former § 21-5-405, concerning committee officers and proceedings, was repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, § 7; 1981, No. 749, § 3; 1981, No. 838, § 5; 1983, No. 423, § 1; A.S.A. 1947, § 12-3107; Acts 1991, No. 867, § 4; 1992 (1st Ex. Sess.), No. 27, § 1; 1992 (1st Ex. Sess.), No. 28, § 1. Amendments. The 1999 amendment rewrote this section.

The 2007 amendment substituted "state and public school employees and retirees" for "state employee and public school personnel health" twice in (a); deleted "so as to avoid windfall profits resulting from fully insured nondividend paying funding arrangements" following "funding" in (b)(1); in (b)(3), deleted "managed care by giving preferential treatment, if required, to" preceding "those" and added "and in bordering states"; rewrote (b)(4)(B); deleted "of all plans" following "issue" in (b)(5); deleted "under all plans" following "period" in (b)(6); and added (c).



21-5-406. Executive director — Staff.

Statute text

(a)(1) The State and Public School Life and Health Insurance Board shall choose an executive director with the approval of the Director of the Department of Finance and Administration.

(2) The executive director shall be employed by and serve at the pleasure of the Director of the Department of Finance and Administration. However, the board may recommend the removal of the executive director, but removal shall be subject to the approval of the Director of the Department of Finance and Administration.

(3) The executive director shall employ staff adequate to manage the program within the funds appropriated therefor within the Department of Finance and Administration.

(b) The executive director shall establish internal controls for the fiscal management of the health and life insurance plans.

(c)(1) The executive director and his or her staff shall be located in the Employee Benefits Division of the Department of Finance and Administration.

(2) Premiums collected from employers, participating employees, and retirees for health and life insurance plans shall be collected one (1) month in advance and shall be used solely to pay medical claims, premiums, and direct administrative expenses of the health and life insurance programs.

(d) The executive director shall be charged with the duty of administering the provisions of this subchapter and the rules, regulations, and orders of the division and the board.

(e)(1) The executive director may require all participating entities to appoint health insurance representatives, who will be required to adhere to the policies adopted by the board and the regulations and procedures issued by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration in managing the enrollment and premium payment processes of the agency or school district.

(2) The executive director may request the removal of a representative to ensure necessary internal controls.

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

(B) This may include, but not be limited to:

- (i) Life insurance coverage;
- (ii) Accident coverage;
- (iii) Dental coverage;
- (iv) Disability benefit programs;
- (v) Optional retirement programs;
- (vi) Deferred compensation;
- (vii) Cafeteria plans; and
- (viii) Such other benefit plans, benefit programs, and individual and group benefit coverage that are offered from time to time to members.

(C) This authority shall not include the State Employee Benefit Corporation benefit plan which is in effect on July 1, 1995.

(D) In addition, the executive director and the board may utilize the services of health care consultants and actuaries if necessary as provided for through the appropriation of the division.

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

#### History

History. Acts 1995, No. 1206, §§ 7, 8; 1999, No. 1280, § 6; 2001, No. 1814, §§ 1, 4; 2007, No. 1009, § 6.

#### Annotations

Publisher's Notes. Former § 21-5-406, concerning committee powers and duties, was repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, § 9; 1973, No. 842, § 3; 1975, No. 576, §§ 1, 2; 1981, No. 749, § 5; 1981, No. 838, § 7; 1983, No. 423, §§ 2, 3; A.S.A. 1947, §§ 12-3109, 12-3109.1; Acts 1992 (1st Ex. Sess.), No. 27, § 2; 1992 (1st Ex. Sess.), No. 28, § 2.

Amendments. The 1999 amendment rewrote this section.

The 2001 amendment redesignated former (a) as (a)(1) through (a)(3); inserted "or her" in (b)(1); deleted "of the Department of Finance and Administration" following "Division" in (c)(1) and (d); and added (e).

The 2007 amendment added (b); inserted "shall be collected one (1) month in advance and" in (c)(2); added (e); substituted "state and public school employees, if applicable" for "public school employees and state employees" in (e)(3)(A); substituted "coverage" for "coverages" in (e)(3)(B)(i) through (e)(3)(B)(iii); and substituted "members" for "public school employees and state employees" in (e)(3)(B)(viii).

#### Case Notes

Cited: Ark. Pharmacist's Ass'n v. Ark. State & Pub. Sch. Life, 352 Ark. 1, 98 S.W.3d 27 (2003).

#### 21-5-407. Definitions.

##### Statute text

As used in this subchapter:

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

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

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

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

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

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

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

(7) "Health insurance representative" means an individual appointed by a participating entity to act as an agent for the Employee Benefits Division of the Department of Finance and Administration;

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

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

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

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

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

(13) "Prepayment" means collection of medical or life insurance premiums or both medical and life insurance premiums from the employee and employer one (1) month in advance;

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

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

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

(17) "Retiree" means a retired employee who is eligible under the provisions of § 21-5-411;

(18) "State" means the State of Arkansas; and

(19) "Vendor" means:

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

(B) A corporation, partnership, or other organization licensed to do business and in good standing with the State of Arkansas that is lawfully engaged in administering employer-

or employee-funded benefit plans for employer groups in consideration of an administration fee payable to the vendor.

#### History

History. Acts 1995, No. 1206, § 7; 1999, No. 1280, § 7; 2005, No. 1937, § 2; 2007, No. 1009, § 7; 2009, No. 252, § 2.

#### Annotations

A.C.R.C. Notes. Acts 1999, No. 1280, § 7 changed the catchline of this section from “Authorized to accept funds and employ staff” to “Definitions” and repealed language concerning the authority of the Arkansas State Employee and Public School Personnel Board to apply for and accept grant funds, employ staff, and make purchases.

Publisher's Notes. Former § 21-5-407, concerning the supervisor of the State Employees Insurance Section, was repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, §§ 6, 8; 1973, No. 842, §§ 1, 2; 1981, No. 749, § 4; 1981, No. 838, § 6; A.S.A. 1947, §§ 12-3106, 12-3108.

Amendments. The 1999 amendment rewrote this section.

The 2005 amendment inserted present (1), (5), and (6), and redesignated the remaining subsections accordingly.

The 2007 amendment added (2), (4), (5), (7) through (9), and (11) through (14) and redesignated the remaining subsections accordingly; rewrote (10); inserted “and costs” in (15); substituted “and in good standing with” for “in” in (19); and substituted “employer or employee funded benefit” for “employer funded health benefit” in (19)(B).

The 2009 amendment redesignated (2) as (2)(A) and (B); in (2)(A), inserted “in an alternate retirement plan as defined in § 24-7-801” following “a retiree,” deleted “as defined in § 24-7-801” from the end, and made minor stylistic changes.

#### 21-5-408. Compensation.

##### Statute text

State and Public School Life and Health Insurance Board members may receive from the Department of Finance and Administration expense reimbursement as authorized by law and stipends in accordance with § 25-16-901 et seq.

##### History

History. Acts 1995, No. 1206, § 6; 1997, No. 250, § 213; 1997, No. 1354, § 39; 1999, No. 1280, § 8.

##### Annotations

Publisher's Notes. Former § 21-5-408, concerning cooperation among agencies, was repealed by Acts 1995, No. 1206, § 9. The former section was derived from Acts 1972 (Ex. Sess.), No. 48, § 14; A.S.A. 1947, § 12-3114.

Amendments. The 1999 amendment rewrote this section.

21-5-409. [Repealed.]

#### Annotations

Publisher's Notes. This section, concerning procedure for selecting policies, was repealed by Acts 1995, No. 1206, § 9. The section was derived from Acts 1972 (Ex. Sess.), No. 48, § 11; 1973, No. 574, § 1; 1981, No. 749, § 6; 1981, No. 838, § 8; A.S.A. 1947, §§ 12-3111, 12-3111.1.

21-5-410. Employees — Eligibility.

#### Statute text

(a) Eligible employees shall include:

- (1) All actively employed, eligible employees of participating agencies, boards, commissions, institutions, and constitutional offices;
- (2) Members of the General Assembly;
- (3) Elected constitutional officers;
- (4) Appointed or elected board and commission members who are on a full-time salaried basis; and

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

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

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

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

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

(e) Members are not allowed dual eligibility in either the state insurance plan or the public school insurance plan.

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

#### History

History. Acts 1972 (Ex. Sess.), No. 48, § 13; 1975, No. 575, § 3; 1977, No. 206, § 1; 1983, No. 423, § 4; 1985 (1st Ex. Sess.), No. 35, § 1; A.S.A. 1947, § 12-3113; Acts 2001, No. 1814, §§ 2, 4; 2007, No. 1009, § 8; 2009, No. 252, § 3.

#### Annotations

Amendments. The 2001 amendment substituted "Employees — Eligibility" for "Eligibility of employees generally" in the section head; redesignated former (a) as present (a)(1) through (a)(5); added (c); redesignated former (c) as present (d); and added (e) and (f).

The 2007 amendment, in (a)(1), substituted "eligible" for "permanent" and deleted "eligible" preceding "participating"; redesignated former (a)(5) as present (a)(5)(A); redesignated former (b) as (a)(5)(B) and redesignated the remaining subsections accordingly; substituted "Employee Benefits Division of the Department of Finance and Administration" for "State Employees Insurance Section of the Department of Finance Administration" in (a)(5)(B); substituted "Employees" for "Permanent employees are those whose employment is not seasonal or temporary and" in (c); in (d), inserted "and life" and substituted "two (2) years" for "one (1) year"; and added (e).

The 2009 amendment substituted "An employee is one" for "Employees" in (c).

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

##### Statute text

(a)(1) State and public school employees shall be allowed to continue coverage and, if qualified, to participate in the group health insurance program instituted pursuant to the provisions of this subchapter and other laws enacted to implement the program who are:

(A) Participating members of:

- (i) The Arkansas Public Employees' Retirement System, including the members of the legislative division and the contract personnel of the Arkansas National Guard;
- (ii) The Arkansas Teacher Retirement System;
- (iii) The Arkansas State Highway Employees' Retirement System;
- (iv) The Arkansas Judicial Retirement System; or
- (v) An alternate retirement plan of a qualifying institution under § 24-7-801; and

(B) Retired and drawing benefits under the systems.

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

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

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

(ii) If a retiree declines coverage at the time of retirement due to other employer-sponsored group health insurance coverage, the retiree may make a one-time election to return to the retiree insurance program with proof of continued insurance coverage if the retiree experiences a qualifying event.

(C)(i) Except as provided in subdivision (a)(2)(C)(ii) of this section, an active retiree's failure to make an election during the thirty-one-day election period or an active retiree's election to decline participation in the health program is final.

(ii) If an active retiree declining coverage specifies in writing and provides a letter of creditable employer group coverage to show that the reason for the declination is

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

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

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

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

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

(ii) If an inactive retiree as defined in § 21-5-407 declining coverage specifies in writing that the reason for the declination is because the inactive retiree has coverage through another group health plan and the inactive retiree's coverage is subsequently terminated because of a loss of eligibility, then the inactive retiree and any dependents shall qualify for coverage in a board-sponsored health benefit program upon payment of the appropriate premium as established by the board, provided the inactive retiree applies for coverage within thirty-one (31) days of the loss of eligibility.

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

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

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

(b)(1) Persons who draw retirement benefits under the Arkansas Public Employees' Retirement System, the Arkansas Teacher Retirement System, or the Arkansas State Highway Employees' Retirement System, and retired contract employees of the Arkansas National Guard who wish

to participate in the group insurance program provided for in this subchapter shall pay the retiree amount of the premium or the cost of the policy issued to the retired participant.

(2) The retiree portion of the premium or cost shall be deducted from the retirement benefit checks of the retired participants. If the retirement benefit is not large enough for the premium deduction, the premium shall be paid by monthly bank draft on a designated date prescribed by the Employee Benefits Division.

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

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

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

#### History

History. Acts 1972 (Ex. Sess.), No. 48, § 13; 1975, No. 575, § 3; 1977, No. 206, § 1; 1983, No. 423, § 4; 1985 (1st Ex. Sess.), No. 35, § 1; A.S.A. 1947, § 12-3113; Acts 1987, No. 514, § 1; 1997, No. 1295, § 2; 1999, No. 1280, § 9; 2001, No. 1171, § 1; 2001, No. 1752, §§ 1, 2; 2007, No. 1009, § 9.

#### Annotations

Amendments. The 1999 amendment rewrote this section.

The 2001 amendment by Nos. 1171 and 1752 rewrote (a); in (c), added "technical institutes ... and the Arkansas Rehabilitation Services," and substituted "five (5)" for "ten (10)"; in (e), added "and specified in writing that the reason for the declination was that the"; and made stylistic changes.

The 2007 amendment rewrote the section.



21-5-412. Eligibility of certain elected officers.

Statute text

(a) Members of the General Assembly and the state-elected constitutional officers who have served a sufficient number of years of credited service to be eligible for retirement benefits upon attainment of retirement age, but who have not yet reached retirement age, shall be eligible to continue to participate in state employees, life and health programs upon leaving elective service.

(b)(1) Any person who is leaving the General Assembly or any state-elected constitutional officer who wishes to participate in the state employee's life and disability program provided for in this subchapter shall be offered continuation of coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2)(A) An employee with ten (10) or more years of creditable service under the terms of a retirement plan listed in this section shall qualify for continuation of health insurance coverage offered by the board if that employee is separated from employment because of the expiration of a fixed period of employment.

(B)(i) An elected officer qualifying for continuation of coverage under this subsection shall be considered an "eligible inactive retiree" and shall have thirty-one (31) days from the effective date of termination to elect to continue health insurance coverage under this section by notifying the Employee Benefits Division of the Department of Finance and Administration in writing on forms required by the Employee Benefits Division.

(ii) The eligible inactive retiree shall pay the full amount of the insurance premium.

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

(ii) An eligible inactive retiree who declined coverage and any dependents of the eligible inactive retiree shall qualify for coverage in the board-sponsored health benefit program upon payment of the appropriate premium as established by the board, provided the eligible inactive retiree applied for coverage within thirty-one (31) days of the loss of eligibility if:

(a) The eligible inactive retiree who declined coverage specifies in writing that the reason for the declination is because the eligible inactive retiree has coverage through another group health plan;

(b) The eligible inactive retiree's coverage is subsequently terminated because of a loss of eligibility; and

(c) The eligible inactive retiree provides information from the former insurance company confirming the loss of coverage.

(D)(i) An inactive retiree shall be charged the Consolidated Omnibus Budget Reconciliation Act of 1985 premium determined by the board to be actuarially sound with administrative fees deemed appropriate.

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

## History

History. Acts 1972 (Ex. Sess.), No. 48, § 13; 1975, No. 575, § 3; 1977, No. 206, § 1; 1983, No. 423, § 4; 1985 (1st Ex. Sess.), No. 35, § 1; A.S.A. 1947, § 12-3113; Acts 2007, No. 1009, § 10.

## Annotations

Amendments. The 2007 amendment, in (a), substituted “health” for “disability” and made a minor stylistic change; deleted former (b) and redesignated the remaining subsections accordingly; substituted “be offered continuation of coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA)” for “pay the full amount of the premium or cost of the policy issued to the participant, including the amount which the state is otherwise authorized to pay” in (b)(1); and rewrote (b)(2).

U.S. Code. The Consolidated Omnibus Budget Reconciliation Act of 1985, referred to in (b)(1) and (b)(2)(D)(i), is Pub. L. No. 99-272 and is compiled throughout the United States Code.

## 21-5-413. [Repealed.]

## Annotations

Publisher's Notes. This section, concerning employer contributions, was repealed by Acts 2007, No. 1009, § 11. The section was derived from Acts 1972 (Ex. Sess.), No. 48, § 12; A.S.A. 1947, § 12-3112.

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

### Statute text

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

(b)(1) The State of Arkansas, on behalf of agencies participating in the plans adopted by the state, is authorized to make a monthly contribution equal to the number of budgeted state employee positions multiplied by the monthly contribution authorized by the Chief Fiscal Officer of the State, not to exceed four hundred twenty-five dollars (\$425) monthly for each state employee budgeted position into a fund designated for state employee health benefits, to partially defray the cost of life and health insurance for employees of the state participating in the plan sponsored by the State and Public School Life and Health Insurance Board.

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

## History

History. Acts 1973, No. 72, § 1; 1975, No. 156, § 1; 1977, No. 389, § 1; 1979, No. 323, § 1; 1981, No. 838, §§ 1, 2; 1983, No. 469, §§ 1, 2; 1985, No. 615, § 1; A.S.A. 1947, §§ 12-3115, 12-3115.1; Acts 1987, No. 743, § 1; 1989, No. 21, § 1; 1991, No. 127, § 1; 1991, No. 867, § 5; 1993, No. 904, § 1; 1995, No. 580, § 1; 1995, No. 1206, § 10; 1997, No. 183, § 4; 1997, No. 843, § 1; 1999, No. 1280, § 10; 2001, No. 185, § 1; 2007, No. 1009, § 12.

## Annotations

Amendments. The 1999 amendment substituted "Department of Finance and Administration" for "Arkansas State Employee and Public School Personnel Board" in (a); and rewrote (b). The 2001 amendment redesignated former (b) as present (b)(1) and (b)(2); in (b)(1), substituted "multiplied by" for "times," "three hundred fifty dollars (\$350)" for "two hundred seventy-five dollars (\$275)," and "State and Public School Life and Health Insurance Board" for "board"; and, in (b)(2), substituted "department" for "Department of Finance and Administration" and "for that purpose" for "for such purpose." The 2007 amendment, in (b)(1), substituted "four hundred twenty-five dollars (\$425)" for "three hundred fifty dollars (\$350)" and made minor stylistic changes.

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

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

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

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

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

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

(a) Funds the agency or school district has on deposit with the Treasurer of State; or

(b) Any funds the agency or school district is due from the state.

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

(B) The agency director or school district superintendent may be required to appear before the State and Public School Life and Health Insurance Board to report the reasons for nonpayment or incorrect reporting; and

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

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

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

(A) Require the agency to pay the total amount of the insured's premium; and

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

(2) Penalties will be assessed and invoiced based on the actual number of violations. Invoices will be processed at the beginning of the month following discovery of the infraction.

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

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

(A) Funds the agency or school district has on deposit with the Treasurer of State; or

(B) Any funds the agency or school district is due from the state.

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

(c) The division may correct any error regarding an insured's benefits according to existing documentation without authorization or prior notification to the agency or school district.  
History

History. Acts 1972 (Ex. Sess.), No. 48, § 8; 1973, No. 842, § 2; 1981, No. 749, § 4; 1981, No. 838, § 6; 1983, No. 582, § 1; A.S.A. 1947, § 12-3108; Acts 1997, No. 1295, § 3; 2003, No. 826, § 2; 2007, No. 1009, § 13.

Annotations

Amendments. The 2003 amendment added the subdivision designations in (a); rewrote present (a)(1), (b)(1) and (d)(1); inserted "per insured" in (d)(2); rewrote (e); and added (f) and (g). The 2007 amendment rewrote the section.

21-5-416. Annual performance audits.

Statute text

The Legislative Joint Auditing Committee shall annually conduct a performance audit of the entity administering claims and of the Employee Benefits Division of the Department of Finance and Administration.

History

History. Acts 1981, No. 749, § 7; 1981, No. 838, § 9; A.S.A. 1947, § 12-3109.2; Acts 2003, No. 826, § 3.

Annotations

Amendments. The 2003 amendment substituted “Employee Benefits Division” for “State Employees Insurance Section.”

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

Statute text

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

History

History. Acts 1989, No. 711, § 1; 2007, No. 1009, § 14.

Annotations

Amendments. The 2007 amendment substituted “shall remit the employer's contribution to the Employee Benefits Division” for “may remit the employer's contribution to a health insurance program,” deleted “provided that the employee is in a leave without pay status” following “status,” and made related changes.