

1 ENGROSSED HOUSE
2 BILL NO. 1062

By: Roberts (Dustin) and Hardin
of the House

3 and

4 Brecheen of the Senate
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8 An Act relating to state government; allowing
9 legislators to opt out of state-provided health
10 insurance benefits; specifying that any savings
11 remain with the state; requiring certain affidavit;
12 amending 74 O.S. 2001, Section 1370, as last amended
13 by Section 2, Chapter 28, O.S.L. 2009 (74 O.S. Supp.
14 2010, Section 1370), which relates to the flexible
15 benefit allowance plan; prohibiting the receipt of
16 certain flexible benefits by legislators opting out
17 of coverage; amending 74 O.S. 2001, Section 1371, as
18 last amended by Section 6, Chapter 269, O.S.L. 2007
19 (74 O.S. Supp. 2010, Section 1371), which relates to
20 the election of certain benefits; prohibiting the
21 receipt of certain benefits by certain legislators;
22 providing exceptions; providing for codification; and
23 providing an effective date.
24

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1308.3 of Title 74, unless there
21 is created a duplication in numbering, reads as follows:

22 Any member of the Legislature may opt out of the state's basic
23 plan as outlined in Section 1371 of Title 74 of the Oklahoma
24 Statutes, provided that the legislator is currently covered by a

1 separate health insurance plan. Any legislator opting out of
2 coverage pursuant to this section shall sign an affidavit attesting
3 that the legislator is currently covered and does not require state-
4 provided health insurance. Any savings realized by the state as a
5 result of a legislator opting out of health insurance plan coverage
6 shall be retained by the state.

7 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1370, as
8 last amended by Section 2, Chapter 28, O.S.L. 2009 (74 O.S. Supp.
9 2010, Section 1370), is amended to read as follows:

10 Section 1370. A. Subject to the requirement that a participant
11 must elect the default benefits, the basic plan, or is a person who
12 has retired from a branch of the United States military and has been
13 provided with health care through a federal plan, to the extent that
14 it is consistent with federal law, or is a legislator who has opted
15 out of the state's basic plan according to the provisions of Section
16 1 of this act, and provides proof of this coverage, flexible benefit
17 dollars may be used to purchase any of the benefits offered by the
18 Oklahoma State Employees Benefits Council under the flexible
19 benefits plan. A participant who has opted out of the state's basic
20 plan and provided proof of other coverage as described in this
21 subsection shall not receive any flexible benefit dollars ~~if the~~
22 ~~person elects not to purchase any benefits.~~ A participant's
23 flexible benefit dollars for a plan year shall consist of the sum of
24 (1) flexible benefit allowance credited to a participant by the

1 participating employer, and (2) pay conversion dollars elected by a
2 participant.

3 B. Each participant shall be credited annually with a specified
4 amount as a flexible benefit allowance which shall be available for
5 the purchase of benefits. The amount of the flexible benefit
6 allowance credited to each participant shall be communicated to him
7 or her prior to the enrollment period for each plan year.

8 C. For the plan year ending December 31, 2001, and each plan
9 year thereafter, the amount of a participant's benefit allowance,
10 which shall be the total amount the employer contributes for the
11 payment of insurance premiums or other benefits, shall be:

12 1. The greater of Two Hundred Sixty-two Dollars and nineteen
13 cents (\$262.19) per month or an amount equal to the sum of the
14 average monthly premiums of all high option health insurance plans,
15 excluding the point-of-service plans, the average monthly premiums
16 of the dental plans, the monthly premium of the disability plan, and
17 the monthly premium of the basic life insurance plan offered to
18 state employees or the amount determined by the Council based on a
19 formula for determining a participant's benefit credits consistent
20 with the requirements of 26 U.S.C., Section 125(g) (2) and
21 regulations thereunder; or

22 2. The greater of Two Hundred Twenty-four Dollars and sixty-
23 nine cents (\$224.69) per month or an amount equal to the sum of the
24 average monthly premiums of all high option health insurance plans,

1 excluding the point-of-service plans, the average monthly premiums
2 of the dental plans, the monthly premium of the disability plan, and
3 the monthly premium of the basic life insurance plan offered to
4 state employees plus one of the additional amounts as follows for
5 participants who elect to include one or more dependents:

- 6 a. for a spouse, seventy-five percent (75%) of the
7 average price of all high option benefit plans,
8 excluding the point-of-service plans, available for
9 coverage of a spouse,
- 10 b. for one child, seventy-five percent (75%) of the
11 average price of all high option benefit plans
12 available, excluding the point-of-service plans, for
13 coverage of one child,
- 14 c. for two or more children, seventy-five percent (75%)
15 of the average price of all high option benefit plans
16 available, excluding the point-of-service plans, for
17 coverage of two or more children,
- 18 d. for a spouse and one child, seventy-five percent (75%)
19 of the average price of all high option benefit plans
20 available, excluding the point-of-service plans, for
21 coverage of a spouse and one child, or
- 22 e. for a spouse and two or more children, seventy-five
23 percent (75%) of the average price of all high option
24 benefit plans available, excluding the point-of-

1 service plans, for coverage of a spouse and two or
2 more children.

3 D. This section shall not prohibit payments for supplemental
4 health insurance coverage made pursuant to Section 1314.4 of this
5 title or payments for the cost of providing health insurance
6 coverage for dependents of employees of the Grand River Dam
7 Authority.

8 E. If a participant desires to buy benefits whose sum total of
9 benefit prices is in excess of his or her flexible benefit
10 allowance, the participant may elect to use pay conversion dollars
11 to purchase such excess benefits. Pay conversion dollars may be
12 elected through a salary reduction agreement made pursuant to the
13 election procedures of Section 1371 of this title. The elected
14 amount shall be deducted from the participant's compensation in
15 equal amounts each pay period over the plan year. On termination of
16 employment during a plan year, a participant shall have no
17 obligation to pay the participating employer any pay conversion
18 dollars allocated to the portion of the plan year after the
19 participant's termination of employment.

20 F. If a participant elects benefits whose sum total of benefit
21 prices is less than his or her flexible benefit allowance, he or she
22 shall receive any excess flexible benefit allowance as taxable
23 compensation. Such taxable compensation will be paid in
24 substantially equal amounts each pay period over the plan year. On

1 termination during a plan year, a participant shall have no right to
2 receive any such taxable cash compensation allocated to the portion
3 of the plan year after the participant's termination. Nothing
4 herein shall affect a participant's obligation to elect the minimum
5 benefits or to accept the default benefits of the plan with
6 corresponding reduction in the sum of his or her flexible benefit
7 allowance equal to the sum total benefit price of such minimum
8 benefits or default benefits.

9 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1371, as
10 last amended by Section 6, Chapter 269, O.S.L. 2007 (74 O.S. Supp.
11 2010, Section 1371), is amended to read as follows:

12 Section 1371. A. All participants must purchase at least the
13 basic plan unless, to the extent that it is consistent with federal
14 law, the participant is a person who has retired from a branch of
15 the United States military and has been provided with health
16 coverage through a federal plan and that participant provides proof
17 of that coverage, or the participant is a legislator who has opted
18 out of the state's basic plan according to the provisions in Section
19 1 of this act. A participant who opts out of the basic plan shall
20 be prohibited from participating in any health plan, dental plan,
21 life plan, supplemental life plan, dependent life plan, and
22 disability plan at any time during the plan year for which the
23 participant made the election. Participants opting out shall be
24 prohibited from electing coverage for the participant's dependents

1 under any health plan, dental plan, life plan, supplemental life
2 plan, dependent life plan, and disability plan prior to or at any
3 time during the plan year for which the participant made the
4 elections. Participants opting out may continue participation in
5 any of the following:

6 1. Benefit plans available under the flexible benefit plan
7 other than a health plan, dental plan, life plan, supplemental life
8 plan, dependent life plan, and a disability plan;

9 2. The Health Care Reimbursement Account Option;

10 3. The Dependent Care Reimbursement Account Option; and

11 4. The Insurance Premium Conversion Option.

12 On or before January 1 of the plan year beginning July 1, 2001, and
13 July 1 of any plan year beginning after January 1, 2002, the
14 Oklahoma State Employees Benefits Council shall design the basic
15 plan for the next plan year to insure that the basic plan provides
16 adequate coverage to all participants. All benefit plans, whether
17 offered by the State and Education Employees Group Insurance Board,
18 a health maintenance organization or other vendors shall meet the
19 minimum requirements set by the Council for the basic plan.

20 B. The Board shall offer health, disability, life and dental
21 coverage to all participants and their dependents. For health,
22 dental, disability and life coverage, the Board shall offer plans at
23 the basic benefit level established by the Council, and in addition,
24 may offer benefit plans that provide an enhanced level of benefits.

1 The Board shall be responsible for determining the plan design and
2 the benefit price for the plans that they offer. Effective for the
3 plan year beginning January 1, 2007, and for each plan year
4 thereafter, in setting health insurance premiums for active
5 employees and for retirees under sixty-five (65) years of age, the
6 Board shall set the monthly premium for active employees to be equal
7 to the monthly premium for retirees under sixty-five (65) years of
8 age.

9 Nothing in this subsection shall be construed as prohibiting the
10 Board from offering additional medical plans, provided that any
11 medical plan offered to participants shall meet or exceed the
12 benefits provided in the medical portion of the basic plan.

13 C. In lieu of electing any of the preceding medical benefit
14 plans, a participant may elect medical coverage by any health
15 maintenance organization made available to participants by the
16 Council. The benefit price of any health maintenance organization
17 shall be determined on a competitive bid basis. Contracts for said
18 plans shall not be subject to the provisions of The Oklahoma Central
19 Purchasing Act, Section 85.1 et seq. of this title. The Council
20 shall promulgate rules establishing appropriate competitive bidding
21 criteria and procedures for contracts awarded for flexible benefits
22 plans. All plans offered by health maintenance organizations
23 meeting the bid requirements as determined by the Council shall be
24 accepted. The Council shall have the authority to reject the bid or

1 restrict enrollment in any health maintenance organization for which
2 the Council determines the benefit price to be excessive. The
3 Council shall have the authority to reject any plan that does not
4 meet the bid requirements. All bidders shall submit along with
5 their bid a notarized, sworn statement as provided by Section 85.22
6 of this title. Effective for the plan year beginning January 1,
7 2007, and for each plan year thereafter, in setting health insurance
8 premiums for active employees and for retirees under sixty-five (65)
9 years of age, HMOs, self-insured organizations and prepaid plans
10 shall set the monthly premium for active employees to be equal to
11 the monthly premium for retirees under sixty-five (65) years of age.

12 D. Nothing in this section shall be construed as prohibiting
13 the Council from offering additional qualified benefit plans or
14 currently taxable benefit plans.

15 E. Each employee of a participating employer who meets the
16 eligibility requirements for participation in the flexible benefits
17 plan shall make an annual election of benefits under the plan during
18 an enrollment period to be held prior to the beginning of each plan
19 year. The enrollment period dates will be determined annually and
20 will be announced by the Council, providing the enrollment period
21 shall end no later than thirty (30) days before the beginning of the
22 plan year.

23 Each such employee shall make an irrevocable advance election
24 for the plan year or the remainder thereof pursuant to such

1 procedures as the Council shall prescribe. Any such employee who
2 fails to make a proper election under the plan shall, nevertheless,
3 be a participant in the plan and shall be deemed to have purchased
4 the default benefits described in this section.

5 F. The Council shall prescribe the forms that participants will
6 be required to use in making their elections, and may prescribe
7 deadlines and other procedures for filing the elections.

8 G. Any participant who, in the first year for which he or she
9 is eligible to participate in the plan, fails to make a proper
10 election under the plan in conformance with the procedures set forth
11 in this section or as prescribed by the Council shall be deemed
12 automatically to have purchased the default benefits. The default
13 benefits shall be the same as the basic plan benefits. Any
14 participant who, after having participated in the plan during the
15 previous plan year, fails to make a proper election under the plan
16 in conformance with the procedures set forth in this section or
17 prescribed by the Council, shall be deemed automatically to have
18 purchased the same benefits which the participant purchased in the
19 immediately preceding plan year, except that the participant shall
20 not be deemed to have elected coverage under the health care
21 reimbursement account plan or the dependent care reimbursement
22 account plan.

23 H. Benefit plan contracts with the Board, health maintenance
24 organizations, and other third party insurance vendors shall provide

1 for a risk adjustment factor for adverse selection that may occur,
2 as determined by the Council, based on generally accepted actuarial
3 principles.

4 I. 1. For the plan year ending December 31, 2004, employees
5 covered or eligible to be covered under the State and Education
6 Employees Group Insurance Act and the State Employees Flexible
7 Benefits Act who are enrolled in a health maintenance organization
8 offering a network in Oklahoma City, shall have the option of
9 continuing care with a primary care physician for the remainder of
10 the plan year if:

- 11 a. that primary care physician was part of a provider
12 group that was offered to the individual at enrollment
13 and later removed from the network of the health
14 maintenance organization, for reasons other than for
15 cause, and
- 16 b. the individual submits a request in writing to the
17 health maintenance organization to continue to have
18 access to the primary care physician.

19 2. The primary care physician selected by the individual shall
20 be required to accept reimbursement for such health care services on
21 a fee-for-service basis only. The fee-for-service shall be computed
22 by the health maintenance organization based on the average of the
23 other fee-for-service contracts of the health maintenance
24 organization in the local community. The individual shall only be

1 required to pay the primary care physician those co-payments,
2 coinsurance and any applicable deductibles in accordance with the
3 terms of the agreement between the employer and the health
4 maintenance organization and the provider shall not balance bill the
5 patient.

6 3. Any network offered in Oklahoma City that is terminated
7 prior to July 1, 2004, shall notify the health maintenance
8 organization, Oklahoma State Employees Benefits Council and State
9 and Education Employees Group Insurance Board by June 11, 2004, of
10 the network's intentions to continue providing primary care services
11 as described in paragraph 2 of this subsection offered by the health
12 maintenance organization to state and public employees.

13 SECTION 4. This act shall become effective September 1, 2011.

14 Passed the House of Representatives the 17th day of March, 2011.

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Presiding Officer of the House of
Representatives

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19 Passed the Senate the ____ day of _____, 2011.

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Presiding Officer of the Senate

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