

THE HOUSE OF REPRESENTATIVES
Wednesday, February 17, 2010

Committee Substitute for
House Bill No. 3154

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3154 - By: OSBORN of the House.

An Act relating to state government; allowing legislators to opt out of state-provided health insurance benefits; specifying that any savings remain with the state; requiring certain affidavit; amending 74 O.S. 2001, Section 1370, as last amended by Section 2, Chapter 28, O.S.L. 2009 (74 O.S. Supp. 2009, Section 1370), which relates to the flexible benefit allowance plan; prohibiting the receipt of certain flexible benefits by legislators opting out of coverage; amending 74 O.S. 2001, Section 1371, as last amended by Section 6, Chapter 269, O.S.L. 2007 (74 O.S. Supp. 2009, Section 1371), which relates to the election of certain benefits; prohibiting the receipt of certain benefits by certain legislators; providing exceptions; providing for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 1308.3 of Title 74, unless there is created a duplication in numbering,
3 reads as follows:
4 Any member of the Legislature may opt out of the state's basic plan as outlined in
5 Section 1371 of Title 74 of the Oklahoma Statutes, provided that the legislator is
6 currently covered by a separate health insurance plan. Any legislator opting out of
7 coverage pursuant to this section shall sign an affidavit attesting that the legislator is
8 currently covered and does not require state-provided health insurance. Any savings

1 realized by the state as a result of a legislator opting out of health insurance plan
2 coverage shall be retained by the state.

3 SECTION 2. AMENDATORY 74 O.S. 2001, Section 1370, as last amended by
4 Section 2, Chapter 28, O.S.L. 2009 (74 O.S. Supp. 2009, Section 1370), is amended to
5 read as follows:

6 Section 1370. A. Subject to the requirement that a participant must elect the
7 default benefits, the basic plan, or is a person who has retired from a branch of the
8 United States military and has been provided with health care through a federal plan, to
9 the extent that it is consistent with federal law, or is a legislator who has opted out of the
10 state's basic plan according to the provisions of Section 1 of this act, and provides proof of
11 this coverage, flexible benefit dollars may be used to purchase any of the benefits offered
12 by the Oklahoma State Employees Benefits Council under the flexible benefits plan. A
13 participant who has opted out of the state's basic plan and provided proof of other
14 coverage as described in this subsection shall not receive any flexible benefit dollars if
15 ~~the person elects not to purchase any benefits~~. A participant's flexible benefit dollars for
16 a plan year shall consist of the sum of (1) flexible benefit allowance credited to a
17 participant by the participating employer, and (2) pay conversion dollars elected by a
18 participant.

19 B. Each participant shall be credited annually with a specified amount as a flexible
20 benefit allowance which shall be available for the purchase of benefits. The amount of
21 the flexible benefit allowance credited to each participant shall be communicated to him
22 or her prior to the enrollment period for each plan year.

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

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

12 2. The greater of Two Hundred Twenty-four Dollars and sixty-nine cents (\$224.69)
13 per month or an amount equal to the sum of the average monthly premiums of all high
14 option health insurance plans, excluding the point-of-service plans, the average monthly
15 premiums of the dental plans, the monthly premium of the disability plan, and the
16 monthly premium of the basic life insurance plan offered to state employees plus one of
17 the additional amounts as follows for participants who elect to include one or more
18 dependents:

19 a. for a spouse, seventy-five percent (75%) of the average price of all high
20 option benefit plans, excluding the point-of-service plans, available for
21 coverage of a spouse,

- 1 b. for one child, seventy-five percent (75%) of the average price of all high
2 option benefit plans available, excluding the point-of-service plans, for
3 coverage of one child,
4 c. for two or more children, seventy-five percent (75%) of the average
5 price of all high option benefit plans available, excluding the point-of-
6 service plans, for coverage of two or more children,
7 d. for a spouse and one child, seventy-five percent (75%) of the average
8 price of all high option benefit plans available, excluding the point-of-
9 service plans, for coverage of a spouse and one child, or
10 e. for a spouse and two or more children, seventy-five percent (75%) of
11 the average price of all high option benefit plans available, excluding
12 the point-of-service plans, for coverage of a spouse and two or more
13 children.

14 D. This section shall not prohibit payments for supplemental health insurance
15 coverage made pursuant to Section 1314.4 of this title or payments for the cost of
16 providing health insurance coverage for dependents of employees of the Grand River
17 Dam Authority.

18 E. If a participant desires to buy benefits whose sum total of benefit prices is in
19 excess of his or her flexible benefit allowance, the participant may elect to use pay
20 conversion dollars to purchase such excess benefits. Pay conversion dollars may be
21 elected through a salary reduction agreement made pursuant to the election procedures
22 of Section 1371 of this title. The elected amount shall be deducted from the participant's

1 compensation in equal amounts each pay period over the plan year. On termination of
2 employment during a plan year, a participant shall have no obligation to pay the
3 participating employer any pay conversion dollars allocated to the portion of the plan
4 year after the participant's termination of employment.

5 F. If a participant elects benefits whose sum total of benefit prices is less than his
6 or her flexible benefit allowance, he or she shall receive any excess flexible benefit
7 allowance as taxable compensation. Such taxable compensation will be paid in
8 substantially equal amounts each pay period over the plan year. On termination during
9 a plan year, a participant shall have no right to receive any such taxable cash
10 compensation allocated to the portion of the plan year after the participant's termination.
11 Nothing herein shall affect a participant's obligation to elect the minimum benefits or to
12 accept the default benefits of the plan with corresponding reduction in the sum of his or
13 her flexible benefit allowance equal to the sum total benefit price of such minimum
14 benefits or default benefits.

15 SECTION 3. AMENDATORY 74 O.S. 2001, Section 1371, as last amended by
16 Section 6, Chapter 269, O.S.L. 2007 (74 O.S. Supp. 2009, Section 1371), is amended to
17 read as follows:

18 Section 1371. A. All participants must purchase at least the basic plan unless, to
19 the extent that it is consistent with federal law, the participant is a person who has
20 retired from a branch of the United States military and has been provided with health
21 coverage through a federal plan and that participant provides proof of that coverage, or
22 the participant is a legislator who has opted out of the state's basic plan according to the

1 provisions in Section 1 of this act. A participant who opts out of the basic plan shall be
2 prohibited from participating in any health plan, dental plan, life plan, supplemental life
3 plan, dependent life plan, and disability plan at any time during the Plan Year for which
4 the participant made the election. Participants opting out shall be prohibited from
5 electing coverage for the participant's dependents under any health plan, dental plan, life
6 plan, supplemental life plan, dependent life plan, and disability plan prior to or at any
7 during the Plan Year for which the participant made the elections. Participants opting
8 out may continue participation in any of the following:

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

11 2. The Health Care Reimbursement Account Option;

12 3. The Dependent Care Reimbursement Account Option; and

13 4. The Insurance Premium Conversion Option.

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

21 B. The Board shall offer health, disability, life and dental coverage to all
22 participants and their dependents. For health, dental, disability and life coverage, the

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

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

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

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

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

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

16 Each such employee shall make an irrevocable advance election for the plan year or
17 the remainder thereof pursuant to such procedures as the Council shall prescribe. Any
18 such employee who fails to make a proper election under the plan shall, nevertheless, be
19 a participant in the plan and shall be deemed to have purchased the default benefits
20 described in this section.

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

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

15 H. Benefit plan contracts with the Board, health maintenance organizations, and
16 other third party insurance vendors shall provide for a risk adjustment factor for adverse
17 selection that may occur, as determined by the Council, based on generally accepted
18 actuarial principles.

19 I. 1. For the plan year ending December 31, 2004, employees covered or eligible to
20 be covered under the State and Education Employees Group Insurance Act and the State
21 Employees Flexible Benefits Act who are enrolled in a health maintenance organization

1 offering a network in Oklahoma City, shall have the option of continuing care with a
2 primary care physician for the remainder of the plan year if:

3 a. that primary care physician was part of a provider group that was
4 offered to the individual at enrollment and later removed from the
5 network of the health maintenance organization, for reasons other
6 than for cause, and

7 b. the individual submits a request in writing to the health maintenance
8 organization to continue to have access to the primary care physician.

9 2. The primary care physician selected by the individual shall be required to accept
10 reimbursement for such health care services on a fee-for-service basis only. The fee-for-
11 service shall be computed by the health maintenance organization based on the average
12 of the other fee-for-service contracts of the health maintenance organization in the local
13 community. The individual shall only be required to pay the primary care physician
14 those co-payments, coinsurance and any applicable deductibles in accordance with the
15 terms of the agreement between the employer and the health maintenance organization
16 and the provider shall not balance bill the patient.

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

1 SECTION 4. This act shall become effective September 1, 2010.

2 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION,
3 dated 02-16-10 - DO PASS, As Amended.