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Bill Analysis
Legislative Service Commission

H.B. 116
127th General Assembly
(As Introduced)

Rep. Blessing

BILL SUMMARY

- Requires public employers providing employee health plans to offer high deductible health plans to be used in conjunction with employees' health savings accounts.
- Incorporates federal rules governing high deductible health plans and health savings accounts to ensure favorable federal and Ohio income tax treatment.

CONTENT AND OPERATION

Public employee HSA-linked high deductible health plans

(R.C. 9.902 and 124.82(A))

Current law authorizes the state, public colleges and universities, local governments, and other public bodies to provide and pay for employee health insurance or other health plans. (See, e.g., R.C. 9.833, 9.90, 124.81, 124.82, 305.171, 306.48, and 505.60.) Current law authorizes, but does not require, political subdivisions to offer high deductible health plans and to contribute to employees' health savings accounts.

The bill requires the state, public colleges and universities, political subdivisions, school districts, and all other kinds of governmental bodies to contract for one or more high deductible health plans to cover health care expenses of full-time employees in conjunction with employee-held health savings accounts (HSAs). The requirement applies only if the public employer provides some form of employee medical plan.¹ The high deductible health plans must satisfy the

¹ For the bill's purposes, a medical plan is a policy, contract, or other agreement providing for the payment or other coverage of health, medical, hospital, or surgical expenses.

requirements of federal law upon which favorable tax treatment of associated health savings accounts depends. The contract must be made with an insurance company authorized to do business in Ohio. In the case of state employees paid directly by state warrant, including state elected officials, the Department of Administrative Services (DAS) is required to contract for the high deductible health plan, and is required to employ the existing competitive selection processes to solicit bids and award the contract, including by competitive sealed proposal and reverse auction via the internet.

In addition to requiring public employers to offer at least one high deductible health plan, the bill authorizes public employers to contribute money to a public employee's HSA.

Collective bargaining agreements

(R.C. 9.902(B) and (C)(1))

The bill states that its high deductible health plan requirement does not apply to a public employer's provision of health benefits to employees under a collective bargaining agreement that is in effect on the bill's effective date. However, when negotiating collective bargaining agreements on or after the bill's effective date, public employers are required to offer to provide at least one high deductible health plan as part of the agreement and may offer to contribute money to employees' health savings accounts (HSAs). But the bill also states that an employee bargaining unit "may accept, reject, or negotiate any or all terms" of the high deductible health plan or the offered contributions to employee HSAs.

The bill does not override the existing authority of DAS's Office of Collective Bargaining to make agreements with a bargaining unit to provide health care expense coverage through a jointly administered trust fund. (See R.C. 124.82(E).)

Minimum enrollment

(R.C. 9.902(C)(2))

The bill's requirement to provide high deductible health plans is waived for a health plan enrollment period if enrollment in a high deductible plan in the preceding enrollment period is less than 1% of the eligible employee enrollment.

Employee health savings accounts

(R.C. 9.902(D))

The bill authorizes any public employee covered by a high deductible health plan to open a health savings account (HSA). The HSA must be administered and held in trust by an entity that satisfies federal law requirements, e.g., a bank, credit union, or other financial institution, or an insurance company. An employee's HSA may be funded by contributions from the employee, the public employer, or both. Employees who maintain a medical savings account (MSA) are not authorized to open a health savings account.

Tax treatment

(Internal Revenue Code section 223)

Health savings accounts enjoy favorable tax treatment under current federal and Ohio income tax law.² Thus, any public employee who is covered by a qualified high deductible health plan and who opens an HSA will become eligible for the federal and Ohio tax treatment if the employee otherwise qualifies as an "eligible individual" under the federal HSA law. To qualify as an eligible individual, an employee may not be simultaneously covered under any health plan other than a high deductible health plan or by any other plan providing the same kind of coverage,³ may not be enrolled in Medicare, and may not be claimed as a dependent on another person's tax return. HSAs may cover the eligible individual, the individual's spouse, and dependents.

An individual's contributions to the individual's HSA are tax deductible up to a maximum set by federal law. The maximum deductible contribution equals the annual deductible under the high deductible health plan, up to \$2,650 for a single-coverage plan and up to \$5,250 for family coverage in 2005 (plus an

² The favorable Ohio tax treatment results from the Ohio income tax base being equal to federal adjusted gross income (FAGI), which reflects the HSA deduction. The federal deduction therefore is incorporated into the Ohio tax base, as evidenced by the fact that the Ohio income tax form adopts FAGI without requiring any offsetting adjustment to add back HSA contributions or interest. The implicit incorporation of the HSA deduction presumably arises from unrelated amendments to the relevant section of law (R.C. 5747.01) after the federal HSA deduction was enacted.

³ Some kinds of coverage are not disqualifying, including accident coverage, disability, dental, vision, long-term care, workers' compensation, property-related coverages, insurance for a specific illness or disease, or insurance paying a per diem for hospitalization.

additional \$600 catch-up limit for account holders 55 years of age or older).⁴ Money in an HSA, including interest or other earnings accreting to balances in the account, becomes taxable only if it is used for any purpose other than paying "qualified medical expenses" as defined in federal law. If money is withdrawn and used for any purpose other than a qualifying medical expense, federal law imposes an additional tax penalty of 10% of the sum withdrawn unless the account holder dies, is 65 years of age or older, or is disabled. There is no additional Ohio penalty on the withdrawn sum.

High deductible health plans

(Internal Revenue Code section 223(c)(2))

The high deductible health plans required to be offered under the bill must satisfy the requirements of the federal HSA law. Thus, the plans must have an annual deductible of at least \$1,000 for single coverage or \$2,000 for family coverage. The sum of the annual deductible and out-of-pocket expenses may not exceed \$5,100 (single) and \$10,200 (family).⁵ The deductible or out-of-pocket maximum expenses may be higher if the plan uses a network of providers and a higher deductible or out-of-pocket maximum is higher for non-network providers.

HISTORY

ACTION	DATE
Introduced	03-20-07

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⁴ The maximum dollar thresholds are adjusted each year according to an inflation index, and the catch-up contribution amount increases by \$100 per year to \$1,000 in 2009 and thereafter. If an account is held for only part of a year, the thresholds are pro-rated on a monthly basis.

⁵ These dollar figures are for 2005; they are adjusted annually according to an inflation index.