

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 931**

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**Introduced by Assembly Member ~~Conway~~ *Beth Gaines***

February 22, 2013

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An act to amend Section 1200 of the Health and Safety Code, relating to clinics; add Sections 22799, 22869.5, and 22917 to the Government Code, relating to employee health benefits, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 931, as amended, ~~Conway~~ *Beth Gaines*. ~~Clinics.—Public Employees' Retirement System: Board of Administration: health benefits.~~

*Existing law creates the Public Employees' Medical and Hospital Care Act, which is administered by the Board of Administration of the Public Employees' Retirement System, which is granted all powers reasonably necessary to carry its responsibilities granted pursuant to the act. Existing law authorizes the board to contract with carriers for health benefit plans or with entities that provide services relating to the administration of these plans. Existing state and federal income tax laws allow a deduction for contributions to a qualifying medical savings account by a taxpayer who is covered under a high deductible health plan, as defined. Money within this type of account may be used to pay for qualified medical expenses, as defined.*

*This bill would require the board to establish a wellness program for state employees and annuitants that is consistent with the requirements of the federal Patient Protection and Affordable Care Act. The bill would require the program to provide financial incentives for participation. The bill would require the program to include both*

provisions that require an individual to meet a standard related to a health factor to receive an incentive and provisions that only require participation.

This bill would also, on and after January 1, 2014, require the Board of Administration of the Public Employees' Retirement System to offer a high deductible health plan, as defined in the federal tax law, and a health savings account option to public employees and annuitants, as specified. The bill would establish the Public Employees' Health Savings Fund, a continuously appropriated fund within the State Treasury, for payment of qualified medical expenses of employees and annuitants who elect to enroll in the high deductible health plan and participate in the health savings account option, and would require those employees and annuitants, and their employers, to make specified contributions to that fund, thereby making an appropriation.

~~Under existing law, the State Department of Public Health is responsible for the licensing and regulation of clinics, defined as an organized outpatient health facility that provides direct specified advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients in the home, as specified.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *The Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *The Board of Administration of the Public Employees'*
- 4     *Retirement System administers health benefits for employees and*
- 5     *annuitants, and their family members, from state and local public*
- 6     *agencies.*
- 7     (b) *Health savings accounts have been viewed as an alternative*
- 8     *to the traditional health insurance market and give patients more*
- 9     *control over their health care options and expenses.*
- 10    (c) *Health savings accounts are tax-exempt accounts that allow*
- 11    *individuals to pay for health care expenses in conjunction with*
- 12    *high-deductible catastrophic coverage.*

1 (d) *The benefits to patients who receive health insurance*  
2 *coverage through a health savings account include increased*  
3 *treatment options, access to specialty care, and strengthening of*  
4 *the patient-physician relationship.*

5 SEC. 2. *Section 22799 is added to the Government Code, to*  
6 *read:*

7 22799. *The board shall establish a wellness program for state*  
8 *employees and annuitants that is consistent with the requirements*  
9 *of the federal Patient Protection and Affordable Care Act (Public*  
10 *Law 111-148) and provides financial incentives for participation.*  
11 *The wellness program shall include provisions that require an*  
12 *individual to meet a standard related to a health factor to receive*  
13 *a reward, and provisions that require only participation and do*  
14 *not require an individual to meet a health-related standard to*  
15 *receive a reward. Not all provisions of the wellness program shall*  
16 *be required to provide financial incentives.*

17 SEC. 3. *Section 22869.5 is added to the Government Code, to*  
18 *read:*

19 22869.5. (a) *The board shall offer a health savings account*  
20 *option to all employees and annuitants beginning January 1, 2014.*  
21 *In addition to the basic health benefit plans described in Sections*  
22 *22830 and 22850, and notwithstanding any other provision of this*  
23 *part, the board shall approve at least one high deductible health*  
24 *plan, as defined in Section 223(c)(2) of the Internal Revenue Code.*

25 (b) *The design and administration of the health savings account*  
26 *option shall comply with the standards provided in Section 223 of*  
27 *the Internal Revenue Code and any other applicable revenue*  
28 *procedures or provisions of the Internal Revenue Code and the*  
29 *Revenue and Taxation Code.*

30 (c) (1) *An employee or annuitant who qualifies as an eligible*  
31 *individual as defined in Section 223(c)(1)(A) of the Internal*  
32 *Revenue Code, and who elects to participate in the health savings*  
33 *account option shall enroll in a high deductible health plan offered*  
34 *by the board and shall contribute the total cost per month of the*  
35 *benefit coverage afforded him or her under that plan less the*  
36 *portion thereof to be contributed by the employer.*

37 (2) *The employee or annuitant shall also designate an additional*  
38 *amount to be deducted from his or her salary or retirement*  
39 *allowance for qualified medical expenses, which amount shall be*  
40 *deposited into the Public Employees' Health Savings Fund and*

1 shall be credited to a nominal account in the name of the employee  
 2 or annuitant.

3 (3) For purposes of this section, “qualified medical expenses”  
 4 means those expenses as defined in Section 223(d)(2) of the  
 5 Internal Revenue Code.

6 (d) (1) The employer of an employee or annuitant who elects  
 7 to participate in the health savings account option shall contribute  
 8 a portion, pursuant to Article 7 (commencing with Section 22870)  
 9 or Article 8 (commencing with Section 22890), of the cost of  
 10 providing the benefit coverage under the high deductible health  
 11 plan.

12 (2) The employer shall also contribute an amount equal to the  
 13 difference between the amount contributed pursuant to paragraph  
 14 (1) and the weighted average of the health benefit plan premiums  
 15 the employer would have paid if the employee or annuitant had  
 16 enrolled in a plan other than the high deductible health plan, which  
 17 amount shall be deposited into the Public Employees’ Health  
 18 Savings Fund and shall be credited to a nominal account in the  
 19 name of the employee or annuitant.

20 (e) Moneys credited to the employee’s or annuitant’s nominal  
 21 account in the Public Employees’ Health Savings Fund shall be  
 22 disbursed to pay qualified medical expenses incurred by the  
 23 employee or annuitant, in accordance with Section 223 of the  
 24 Internal Revenue Code.

25 (f) The board shall adopt regulations necessary to implement  
 26 this section.

27 SEC. 4. Section 22917 is added to the Government Code, to  
 28 read:

29 22917. (a) There is in the State Treasury a Public Employees’  
 30 Health Savings Fund, the purpose of which is to pay the qualified  
 31 medical expenses of health savings accountholders pursuant to  
 32 Section 22869.5 and pursuant to Section 223 of the Internal  
 33 Revenue Code. The board shall have the exclusive control of the  
 34 administration and investment of the fund.

35 (b) The Public Employees’ Health Savings Fund shall consist  
 36 of moneys deducted from the salary or retirement allowance of an  
 37 employee or annuitant, and moneys contributed by the employee’s  
 38 or annuitant’s employer, for qualified medical expenses pursuant  
 39 to Section 22869.5.

1 (c) *The board may invest funds in the Public Employees’ Health*  
 2 *Savings Fund pursuant to the law governing its investment of the*  
 3 *retirement fund, subject to the limitations contained in Section 223*  
 4 *of the Internal Revenue Code. Income, of whatever nature, earned*  
 5 *on the fund during any fiscal year shall be credited to the fund.*

6 (d) *Notwithstanding Section 13340, the Public Employees’*  
 7 *Health Savings Fund is continuously appropriated, without regard*  
 8 *to fiscal years, to reimburse qualified medical expenses of health*  
 9 *savings accountholders.*

10 (e) *The Legislature finds and declares that the Public*  
 11 *Employees’ Health Savings Fund is a trust fund held for the*  
 12 *exclusive benefit of employees and annuitants who elect the health*  
 13 *savings account option pursuant to Section 22869.5.*

14 SECTION 1. Section 1200 of the Health and Safety Code is  
 15 amended to read:

16 1200. (a) ~~As used in this chapter, “clinic” means an organized~~  
 17 ~~outpatient health facility that provides direct medical, surgical,~~  
 18 ~~dental, optometric, or podiatric advice, services, or treatment to~~  
 19 ~~patients who remain less than 24 hours, and that may also provide~~  
 20 ~~diagnostic or therapeutic services to patients in the home as an~~  
 21 ~~incident to care provided at the clinic facility. This section does~~  
 22 ~~not prohibit the provision of nursing services in a clinic licensed~~  
 23 ~~pursuant to this chapter. In no case shall a clinic be deemed to be~~  
 24 ~~a health facility subject to the provisions of Chapter 2 (commencing~~  
 25 ~~with Section 1250). A place, establishment, or institution that~~  
 26 ~~solely provides advice, counseling, information, or referrals on~~  
 27 ~~the maintenance of health or on the means and measures to prevent~~  
 28 ~~or avoid sickness, disease, or injury, where that advice, counseling,~~  
 29 ~~information, or referral does not constitute the practice of medicine,~~  
 30 ~~surgery, dentistry, optometry, or podiatry, shall not be deemed a~~  
 31 ~~clinic for purposes of this chapter.~~

32 (b) ~~For purposes of this chapter:~~

33 (1) ~~“Primary care clinics” means all the types of clinics specified~~  
 34 ~~in subdivision (a) of Section 1204, including community clinics~~  
 35 ~~and free clinics.~~

36 (2) ~~“Specialty clinics” means all the types of clinics specified~~  
 37 ~~in subdivision (b) of Section 1204, including surgical clinics,~~  
 38 ~~chronic dialysis clinics, and rehabilitation clinics.~~

39 (3) ~~“Clinic corporation” means a nonprofit organization that~~  
 40 ~~operates one or more primary care clinics, as defined in paragraph~~

- 1 ~~(1) of subdivision (a) of Section 1204, that are required to be~~
- 2 ~~licensed under Section 1205, one or more mobile health care units~~
- 3 ~~required to be licensed or approved pursuant to the Mobile Health~~
- 4 ~~Care Services Act (Chapter 9 (commencing with Section~~
- 5 ~~1765.101)) and operated as primary care clinics, or one or more~~
- 6 ~~primary care clinics and one or more mobile health care units.~~
- 7 ~~(4) “Department” means the Licensing and Certification~~
- 8 ~~Division of the State Department of Public Health, or its successor.~~
- 9 ~~(5) “Centralized applications unit” means the centralized~~
- 10 ~~applications unit in the Licensing and Certification Division of the~~
- 11 ~~department, or a successor entity.~~