

Introduced by Senator GreeneFebruary 23, 1995

An act to amend Section 1373.621 of the Health and Safety Code, to amend Sections 10116.5 and 11512.03 of the Insurance Code, and to repeal Section 2807.5 of the Labor Code, relating to health insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 761, as introduced, Greene. Health coverage.

Existing law requires health care service plan contracts, disability insurance policies, and nonprofit hospital service plan contracts, that provide hospital, medical, or surgical expense coverage under the plan of an employer subject to federal continuing medical insurance requirements, known as "COBRA," to permit an employer to provide extended coverage to eligible former employees and their spouses. In order to be eligible for extended coverage, the employee would be required to be over 60 years of age on the date employment ends, and have worked for the employer for at least the 5 prior years.

Existing law also requires any employer subject to these provisions to provide continuation coverage for an eligible employee and the employee's spouse, if the employee continues coverage under COBRA. The coverage begins after the COBRA coverage ends, on the same terms as the COBRA coverage, at a premium not to exceed 213% of the applicable group rate, as defined, and continues until a specified event.

This bill would require the insurers and plans to offer that continuation coverage to former employees rather than to



employers, and would eliminate the requirement that employers make that coverage available.

Under existing law, violation of the Knox-Keene Health Care Service Plan Act of 1975 is a misdemeanor. This bill would impose a state-mandated local program by changing the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1373.621 of the Health and
2 Safety Code is amended to read:
3 1373.621. (a) Except for a specialized health care
4 service plan, every health care service plan contract that
5 is issued, amended, delivered, or renewed in this state on
6 or after January 1, 1995, ~~which~~ 1996, that provides
7 hospital, medical, or surgical expense coverage under an
8 employer-sponsored group plan ~~shall provide that for an~~
9 employer subject to Section 4980B of Title 26 of the
10 United States Code ~~may shall~~ further offer the former
11 employee the opportunity to continue benefits as
12 required under ~~Section 2807.5 of the Labor Code for any~~
13 ~~former employee and his or her spouse if the employee~~
14 ~~has worked for the employer for at least the five prior~~
15 ~~years and is over 60 years of age on the date employment~~
16 ~~ends. For purposes of subdivision (a) of Section 2807.5 of~~
17 ~~the Labor Code, the “applicable current group rate”~~
18 ~~means the total premiums charged by the health care~~
19 ~~service plan for coverage for the group, divided by the~~
20 ~~relevant number of covered persons~~ subdivision (b).
21 (b) (1) *In the event a former employee who has*
22 *worked for the employer for at least the prior five years*
23 *and who is 60 years of age or older on the date*



1 *employment ends is entitled to and so elects to continue*
2 *benefits under COBRA for himself or herself and for any*
3 *spouse, the employee or spouse may further continue*
4 *benefits beyond the date coverage under COBRA ends,*
5 *as set forth in paragraph (2). Except as otherwise*
6 *specified in this section, continuation shall be under the*
7 *same terms and conditions as if the continuation under*
8 *COBRA had remained in force. For the employee or*
9 *spouse, continuation following the end of COBRA is*
10 *subject to payment of premiums. The rate for*
11 *continuation coverage under this section shall not exceed*
12 *213 percent of the applicable current group rate.*
13 *Individuals ineligible for COBRA are not entitled to*
14 *continuation benefits under this section.*

15 (2) *The plan shall notify the former employee of the*
16 *availability of continuation benefits under this section at*
17 *least 90 calendar days prior to the date continuation*
18 *coverage under COBRA is scheduled to end. To continue*
19 *health care coverage pursuant to this section, the*
20 *individual shall elect to do so by notifying the plan in*
21 *writing within 30 calendar days prior to the date*
22 *continuation coverage under COBRA is scheduled to*
23 *end.*

24 (3) *The continuation shall end automatically on the*
25 *earlier of (A) the date the individual reaches age 65, (B)*
26 *the date the individual is covered under any group health*
27 *plan not maintained by the employer, regardless of*
28 *whether that coverage is less valuable, (C) the date the*
29 *individual becomes entitled to Medicare under Title VIII*
30 *of the Social Security Act, or (D) for a spouse, five years*
31 *from the date employment ended.*

32 (4) *For purposes of this section, the “applicable*
33 *current group rate” means the total premiums charged*
34 *by the health care service plan for coverage for the group,*
35 *divided by the relevant number of covered persons.*

36 (5) *For purposes of this section, “COBRA” means*
37 *Section 4980B of Title 26 of the United States Code, as*
38 *added by the Consolidated Omnibus Budget*
39 *Reconciliation Act of 1985 (Public Law 99-272), and as*
40 *amended.*



1 SEC. 2. Section 10116.5 of the Insurance Code is
2 amended to read:

3 10116.5. (a) Every policy of disability insurance that
4 is issued, amended, delivered, or renewed on or after
5 January 1, ~~1995~~ 1996, that provides hospital, medical, or
6 surgical expense coverage under an employer-sponsored
7 group plan ~~shall provide that for an employer that is~~
8 subject to Section 4980B of Title 26 of the United States
9 Code ~~may shall~~ further offer the former employee the
10 opportunity to continue benefits as required under
11 ~~Section 2807.5 of the Labor Code for any former~~
12 ~~employee and his or her spouse if the employee has~~
13 ~~worked for the employer for at least the five prior years~~
14 ~~and is over 60 years of age on the date employment ends~~
15 *subdivision (b).*

16 (b) (1) *In the event a former employee who has*
17 *worked for the employer for at least the prior five years*
18 *and who is 60 years of age or older on the date*
19 *employment ends is entitled to and so elects to continue*
20 *benefits under COBRA for himself or herself and for any*
21 *spouse, the employee or spouse may further continue*
22 *benefits beyond the date coverage under COBRA ends,*
23 *as set forth in paragraph (2). Except as otherwise*
24 *specified in this section, continuation shall be under the*
25 *same terms and conditions as if the continuation under*
26 *COBRA had remained in force. For the employee or*
27 *spouse, continuation following the end of COBRA is*
28 *subject to payment of premiums. The rate for*
29 *continuation coverage under this section shall not exceed*
30 *213 percent of the applicable current group rate.*
31 *Individuals ineligible for COBRA are not entitled to*
32 *continuation benefits under this section.*

33 (2) *The insurer shall notify the former employee of the*
34 *availability of continuation benefits under this section at*
35 *least 90 calendar days prior to the date continuation*
36 *coverage under COBRA is scheduled to end. To continue*
37 *health care coverage pursuant to this section, the*
38 *individual shall elect to do so by notifying the insurer in*
39 *writing within 30 calendar days prior to the date*



1 continuation coverage under COBRA is scheduled to
2 end.

3 (3) The continuation shall end automatically on the
4 earlier of (A) the date the individual reaches age 65, (B)
5 the date the individual is covered under any group health
6 plan not maintained by the employer, regardless of
7 whether that coverage is less valuable, (C) the date the
8 individual becomes entitled to Medicare under Title VIII
9 of the Social Security Act, or (D) for a spouse, five years
10 from the date employment ended.

11 (4) For purposes of this section, the “applicable
12 current group rate” means the total premiums charged
13 by the health care service plan for coverage for the group,
14 divided by the relevant number of covered persons.

15 (5) For purposes of this section, “COBRA” means
16 Section 4980B of Title 26 of the United States Code, as
17 added by the Consolidated Omnibus Budget
18 Reconciliation Act of 1985 (Public Law 99-272), and as
19 amended.

20 SEC. 3. Section 11512.03 of the Insurance Code is
21 amended to read:

22 11512.03. (a) Every nonprofit hospital service plan
23 contract that is issued, amended, delivered, or renewed
24 in this state on or after January 1, ~~1995~~ 1996, that provides
25 hospital, medical, or surgical expense coverage under an
26 employer-sponsored group plan ~~shall provide that for an~~
27 employer ~~that is~~ subject to Section 4980B of Title 26 of the
28 United States Code ~~may~~ shall further offer the former
29 employee the opportunity to continue benefits as
30 required under ~~Section 2807.5 of the Labor Code for any~~
31 ~~former employee and his or her spouse if the employee~~
32 ~~has worked for the employer for at least the five prior~~
33 ~~years and is over 60 years of age on the date employment~~
34 ends subdivision (b).

35 (b) (1) In the event a former employee who has
36 worked for the employer for at least the prior five years
37 and who is 60 years of age or older on the date
38 employment ends is entitled to and so elects to continue
39 benefits under COBRA for himself or herself and for any
40 spouse, the employee or spouse may further continue



1 *benefits beyond the date coverage under COBRA ends,*
2 *as set forth in paragraph (2). Except as otherwise*
3 *specified in this section, continuation shall be under the*
4 *same terms and conditions as if the continuation under*
5 *COBRA had remained in force. For the employee or*
6 *spouse, continuation following the end of COBRA is*
7 *subject to payment of premiums. The rate for*
8 *continuation coverage under this section shall not exceed*
9 *213 percent of the applicable current group rate.*
10 *Individuals ineligible for COBRA are not entitled to*
11 *continuation benefits under this section.*

12 *(2) The plan shall notify the former employee of the*
13 *availability of continuation benefits under this section at*
14 *least 90 calendar days prior to the date continuation*
15 *coverage under COBRA is scheduled to end. To continue*
16 *health care coverage pursuant to this section, the*
17 *individual shall elect to do so by notifying the plan in*
18 *writing within 30 calendar days prior to the date*
19 *continuation coverage under COBRA is scheduled to*
20 *end.*

21 *(3) The continuation shall end automatically on the*
22 *earlier of (A) the date the individual reaches age 65, (B)*
23 *the date the individual is covered under any group health*
24 *plan not maintained by the employer, regardless of*
25 *whether that coverage is less valuable, (C) the date the*
26 *individual becomes entitled to Medicare under Title VIII*
27 *of the Social Security Act, or (D) for a spouse, five years*
28 *from the date employment ended.*

29 *(4) For purposes of this section, the “applicable*
30 *current group rate” means the total premiums charged*
31 *by the health care service plan for coverage for the group,*
32 *divided by the relevant number of covered persons.*

33 *(5) For purposes of this section, “COBRA” means*
34 *Section 4980B of Title 26 of the United States Code, as*
35 *added by the Consolidated Omnibus Budget*
36 *Reconciliation Act of 1985 (Public Law 99-272), and as*
37 *amended.*

38 SEC. 4. Section 2807.5 of the Labor Code is repealed.

39 ~~2807.5. (a) Any employer, whether private or public,~~
40 ~~that provides hospital, medical, or surgical expense~~



1 coverage that a former employee may continue under
2 Section 4980B of Title 26 of the United States Code, as
3 added by the Consolidated Omnibus Budget
4 Reconciliation Act of 1985 (Public Law 99-272) and as
5 may be later amended (hereafter “COBRA”), shall
6 provide for an additional continuation of benefits to the
7 former employee under this section. In the event a
8 former employee who has worked for the employer for
9 at least the prior five years and who is 60 years of age or
10 older on the date employment ends is entitled to and so
11 elects to continue benefits under COBRA for himself or
12 herself and for any spouse, the employee or spouse may
13 further continue benefits beyond the date coverage
14 under COBRA ends, as set forth in subdivision (b).
15 Except as otherwise specified in this section, continuation
16 shall be under the same terms and conditions as if the
17 continuation under COBRA had remained in force. For
18 the employee or spouse, continuation following the end
19 of COBRA is subject to payment of premiums to the
20 employer at the time the group premium is due. The rate
21 for continuation coverage under this section shall not
22 exceed 213 percent of the applicable current group rate.
23 Individuals ineligible for COBRA are not entitled to
24 continuation benefits under this section.

25 (b) The employer shall notify the former employee of
26 the availability of continuation benefits under this section
27 at least 90 calendar days prior to the date continuation
28 coverage under COBRA is scheduled to end. To continue
29 health care coverage pursuant to this section, the
30 individual shall elect to do so by notifying the employer
31 in writing within 30 calendar days prior to the date
32 continuation coverage under COBRA is scheduled to
33 end.

34 (c) The continuation shall end automatically on the
35 earlier of (1) the date the individual reaches age 65, (2)
36 the date the employer ceases to maintain any group
37 health plan (including successor plans), (3) the date the
38 individual is covered under any group health plan not
39 maintained by the employer, regardless of whether that
40 coverage is less valuable, (4) the date the individual



1 ~~becomes entitled to Medicare under Title VIII of the~~
2 ~~Social Security Act, or (5) for a spouse, five years from the~~
3 ~~date employment ended.~~

4 SEC. 5. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution because the only costs that may be incurred
7 by a local agency or school district will be incurred
8 because this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition
12 of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.

14 Notwithstanding Section 17580 of the Government
15 Code, unless otherwise specified, the provisions of this act
16 shall become operative on the same date that the act
17 takes effect pursuant to the California Constitution.

