

## CHAPTER 2013-52

### Senate Bill No. 1802

An act relating to state employee health insurance; amending s. 110.123, F.S.; modifying the terms “full-time state employees” and “part-time state employee” for the purposes of expressly excluding persons paid from other-personal-services funds who work less than a certain number of hours per week from the state group insurance program; defining the term “seasonal worker”; revising provisions relating to employer contributions to employee health savings accounts; requiring each agency or entity that participates in the program to provide information about its employees in order to determine eligibility for the insurance program; amending s. 110.131, F.S.; providing that an OPS employee meeting certain criteria is eligible to participate in the state group health insurance program; authorizing the Department of Management Services to adopt emergency rules in order to modify the eligibility of certain persons and comply with federal requirements; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Effective December 1, 2013, present paragraphs (i) through (n) of subsection (2) of section 110.123, Florida Statutes, are redesignated as paragraphs (j) through (o), respectively, paragraphs (c) and (f) of that subsection are amended and a new paragraph (i) is added to that subsection, paragraph (g) of subsection (3), paragraph (d) of subsection (4), and paragraph (a) of subsection (12) of that section are amended, and subsection (13) is added to that section, to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in this section, the term:

(c) “Full-time state employees” ~~means includes all full-time employees of all branches or agencies of state government holding salaried positions who are and paid by state warrant or from agency funds and who work or are expected to work an average of at least 30 or more hours per week; and employees paid from regular salary appropriations for 8 months’ employment, including university personnel on academic contracts; and employees, but in no case shall “state employee” or “salaried position” include persons paid from other-personal-services (OPS) funds as described in subparagraphs 1. and 2. The term “Full-time employees” includes all full-time employees of the state universities. The term does not include seasonal workers who are paid from OPS funds.~~

1. For persons hired before April 1, 2013, the term includes any person paid from OPS funds who:

a. Has worked an average of at least 30 hours or more per week during the initial measurement period from April 1, 2013, through September 30, 2013; or

b. Has worked an average of at least 30 hours or more per week during a subsequent measurement period.

2. For persons hired after April 1, 2013, the term includes any person paid from OPS funds who:

a. Is reasonably expected to work an average of at least 30 hours or more per week; or

b. Has worked an average of at least 30 hours or more per week during the person's measurement period.

(f) "Part-time state employee" means an any employee of any branch or agency of state government paid by state warrant from salary appropriations or from agency funds, and who is employed for less than an average of 30 hours per week ~~the normal full-time workweek established by the department~~ or, if on academic contract or seasonal or other type of employment which is less than year-round, is employed for less than 8 months during any 12-month period, but does not in no case shall "part-time" employee include a person paid from other-personal-services (OPS) funds. The term "Part-time state employee" includes all any part-time employees employee of the state universities.

(i) "Seasonal workers" has the same meaning as provided under 29 C.F.R. 500.20(s)(1).

### (3) STATE GROUP INSURANCE PROGRAM.—

(g) Participation by individuals in the program is available to all state officers, full-time state employees, and part-time state employees; and ~~such participation in the program or any plan~~ is voluntary. Participation in the program is also available to retired state officers and employees, ~~as defined in paragraph (2)(g)~~, who elect at the time of retirement to continue coverage under the program, but they may elect to continue all or only part of the coverage they had at the time of retirement. A surviving spouse may elect to continue coverage only under a state group health insurance plan, a TRICARE supplemental insurance plan, or a health maintenance organization plan.

1. Full-time state employees described in subsection (2)(c)1. are eligible for health insurance coverage in calendar year 2014 as long as they remain employed by an employer participating in the state group insurance program during the year. This subparagraph expires December 31, 2014.

2. Employees paid from other-personal-services (OPS) funds are not eligible for coverage before January 1, 2014.

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

(d) The state contribution for health insurance coverage for a part-time permanent state employee who elects to participate in the program shall be prorated so that the amount of the cost contributed for the part-time permanent employee bears the same ~~that~~ relation to the amount of cost contributed for a similar full-time employee that the part-time employee's normal workday bears to a full-time employee's normal workday.

(12) HEALTH SAVINGS ACCOUNTS.—The department is authorized to establish health savings accounts for full-time and part-time state employees in association with a health insurance plan option authorized by the Legislature and conforming to the requirements and limitations of federal provisions relating to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(a)1. A member participating in this health insurance plan option is eligible to:

1. Receive an employer contribution into the employee's health savings account from the State Employees Health Insurance Trust Fund in an amount to be determined by the Legislature. A member is not eligible for an employer contribution upon termination of employment. For the 2013-2014 ~~2012-2013~~ fiscal year, the state's monthly contribution for employees having individual coverage shall be \$41.66 and the monthly contribution for employees having family coverage shall be \$83.33. For the 2014-2015 fiscal year and thereafter, the state's contribution from the trust fund into the member's health savings account shall be set in the annual General Appropriations Act.

2. ~~A member participating in this health insurance plan option is eligible to~~ Deposit the member's own funds into a health savings account.

(13) OTHER-PERSONAL-SERVICES EMPLOYEES (OPS).—

(a) Each agency or other entity that participates in the state group insurance program shall provide information to the department on each of its employees regardless of whether the employee participates in the program. Such information must include the name of the employee, the number of hours worked by the employee, and any other information the department considers necessary for determining the eligibility of the employee to participate in the program. Such information shall be submitted as prescribed by the department.

(b) Each agency or other entity that participates in the state group insurance program shall identify any of its employees paid from OPS funds or similar funds who are employed by another agency or entity participating in the state group insurance program.

(c) The initial measurement period used to determine whether an employee hired before April 1, 2013, and paid from OPS funds is a full-time employee described in subparagraph (2)(c)1. is the 6-month period from April 1, 2013, through September 30, 2013.

(d) All other measurement periods used to determine whether an employee paid from OPS funds is a full-time employee described in paragraph (2)(c) must be for 12 consecutive months.

Section 2. Subsection (5) is added to section 110.131, Florida Statutes, to read:

110.131 Other-personal-services employment.—

(5) Beginning January 1, 2014, an other-personal-services (OPS) employee who has worked an average of at least 30 or more hours per week during the measurement period described in s. 110.123(13)(c) or (d), or who is reasonably expected to work an average of at least 30 or more hours per week following his or her employment, is eligible to participate in the state group insurance program as provided under s. 110.123.

Section 3. The Department of Management Services may adopt emergency rules to modify the eligibility requirements of persons paid from other-personal-services (OPS) funds, which are limited to compliance with the coverage requirements of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and any regulations adopted pursuant to those acts which are in effect on July 1, 2013. Emergency rules adopted under this provision shall be limited to mitigating the state's exposure to potential liability under the penalty provisions of those acts for failing to comply with such coverage requirements. Any emergency rules adopted pursuant to this section must expire by June 30, 2014.

Section 4. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2013.

Approved by the Governor May 20, 2013.

Filed in Office Secretary of State May 20, 2013.