

AMENDED IN ASSEMBLY JULY 19, 1998

AMENDED IN ASSEMBLY JUNE 17, 1998

SENATE BILL

No. 1548

Introduced by Senator Rosenthal

February 11, 1998

An act to amend Section 1373.621 of the Health and Safety Code, and to amend Section 10116.5 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1548, as amended, Rosenthal. Health coverage: continuation of coverage.

Existing law provides for the regulation of health care service plans by the Commissioner of Corporations, and of policies of disability insurance by the Insurance Commissioner. Willful violation of the law regulating health care service plans is a crime. Existing federal law, added by the Consolidated Omnibus Budget Reconciliation Act of 1985, and known as COBRA, requires that certain employers provide former employees with continuation of benefits. Existing state law, the California Continuation Benefits Replacement Act (Cal-COBRA), requires every group health care service plan contract and group disability insurance contract or policy providing specified coverage to employers with 2 to 19 eligible employees to offer continuation coverage to a qualified beneficiary under the contract upon a qualifying event without evidence of insurability.

Existing law requires health care service plan contracts and disability insurance policies that provide hospital, medical, or surgical expense coverage under the plan of an employer subject to COBRA, and health care service plan contracts and disability insurance policies issued, amended, delivered, or renewed in this state on or after January 1, 1999, that provide hospital, medical, or surgical expense coverage under the plan of an employer group subject to COBRA or for which the plan is required to offer Cal-COBRA coverage, to permit an employer to provide extended coverage to eligible former employees who are 60 years of age or older on the date employment ends, their spouses, and former spouses. Existing law requires the extended coverage to terminate automatically under enumerated circumstances, including, for a spouse, 5 years from the date on which continuation coverage under COBRA, or, on and after January 1, 1999, Cal-COBRA, was scheduled to end for the spouse.

This bill would require those health care service plan contracts and disability insurance policies to permit an employer to provide extended coverage to eligible employees who are instead 55 years of age or older on the date employment ends. The bill would delete the automatic termination date that is applicable specifically to spouses.

~~Existing law contains other continuation of coverage benefits under health care service plans and policies of disability insurance for certain persons under the California COBRA Program.~~

~~This bill would revise these provisions to add to those persons who are not entitled to continuation coverage under these provisions, modify provisions that govern the automatic termination of continuation coverage when coverage under another insurer or health care service plan commences, provide a different rate for continuation coverage for an individual eligible for Cal-COBRA, and add a requirement that the evidence of coverage of a health care service plan or group benefit plan contain a description of the provisions and eligibility requirements for the continuation coverage offered pursuant to these provisions.~~



By changing the definition of a crime relative to health care service plans, the bill would impose a state-mandated local program.

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, as amended by Section 3 of Chapter 665 of~~
3 ~~the Statutes of 1997, is amended to read:~~
4 ~~1373.621. (a) Except for a specialized health care~~
5 ~~service plan, every health care service plan contract that~~
6 ~~is issued, amended, delivered, or renewed in this state on~~
7 ~~or after January 1, 1999, that provides hospital, medical,~~
8 ~~or surgical expense coverage under an~~
9 ~~employer-sponsored group plan for an employer subject~~
10 ~~to COBRA, as defined in subdivision (e), or an employer~~
11 ~~group for which the plan is required to offer Cal-COBRA~~
12 ~~coverage, as defined in subdivision (f), including a carrier~~
13 ~~providing replacement coverage under Section 1399.63,~~
14 ~~shall further offer the former employee the opportunity~~
15 ~~to continue benefits as required under subdivision (b),~~
16 ~~and shall further offer the former spouse of an employee~~
17 ~~or former employee the opportunity to continue benefits~~
18 ~~as required under subdivision (e).~~
19 ~~(b) (1) In the event a former employee who worked~~
20 ~~for the employer for at least five years prior to the date~~
21 ~~of termination of employment and who is 55 years of age~~
22 ~~or older on the date employment ends is entitled to and~~
23 ~~so elects to continue benefits under COBRA or~~
24 ~~Cal-COBRA for himself or herself and for any spouse, the~~
25 ~~employee or spouse may further continue benefits~~
26 ~~beyond the date coverage under COBRA or Cal-COBRA~~



1 ends, as set forth in paragraph (2). Except as otherwise
2 specified in this section, continuation coverage shall be
3 under the same benefit terms and conditions as if the
4 continuation coverage under COBRA or Cal-COBRA had
5 remained in force. For the employee or spouse,
6 continuation coverage following the end of COBRA or
7 Cal-COBRA is subject to payment of premiums to the
8 health care service plan. Individuals ineligible for
9 COBRA or Cal-COBRA, or who are eligible but have not
10 elected or exhausted continuation coverage under
11 federal COBRA or Cal-COBRA, are not entitled to
12 continuation coverage under this section. Premiums for
13 continuation coverage under this section shall be billed
14 by, and remitted to, the health care service plan in
15 accordance with subdivision (d). Failure to pay the
16 requisite premiums may result in termination of the
17 continuation coverage in accordance with the applicable
18 provisions in the plan's group subscriber agreement with
19 the former employer.

20 (2) The former employer shall notify the former
21 employee, spouse, or both, or the former spouse of the
22 employee or former employee, of the availability of the
23 continuation benefits under this section in accordance
24 with Section 2800.2 of the Labor Code. To continue health
25 care coverage pursuant to this section, the individual shall
26 elect to do so by notifying the plan in writing within 30
27 calendar days prior to the date continuation coverage
28 under COBRA or Cal-COBRA is scheduled to end.

29 (3) The continuation coverage shall end automatically
30 on the earlier of (A) the date the individual reaches age
31 65, (B) the date the individual is covered under any group
32 health plan not maintained by the employer or any other
33 health plan, regardless of whether that coverage is less
34 valuable, (C) the date the individual becomes entitled to
35 Medicare under Title XVIII of the Social Security Act, or
36 (D) the date on which the former employer terminates
37 its group subscriber agreement with the health care
38 service plan and ceases to provide coverage for any active
39 employees through that plan, in which case the health
40 care service plan shall notify the former employee,



1 spouse, or both of the right to a conversion plan in
2 accordance with Section 1373.6.

3 (e) (1) If a former spouse of an employee or former
4 employee was covered as a qualified beneficiary under
5 COBRA or Cal-COBRA, the former spouse may further
6 continue benefits beyond the date coverage under
7 COBRA or Cal-COBRA ends, as set forth in paragraph (2)
8 of subdivision (b). Except as otherwise specified in this
9 section, continuation coverage shall be under the same
10 benefit terms and conditions as if the continuation
11 coverage under COBRA or Cal-COBRA had remained in
12 force. Continuation coverage following the end of
13 COBRA or Cal-COBRA is subject to payment of
14 premiums to the health care service plan. Premiums for
15 continuation coverage under this section shall be billed
16 by, and remitted to, the health care service plan in
17 accordance with subdivision (d). Failure to pay the
18 requisite premiums may result in termination of the
19 continuation coverage in accordance with the applicable
20 provisions in the plan's group subscriber agreement with
21 the employer or former employer.

22 (2) The continuation coverage for the former spouse
23 shall end automatically on the earlier of (A) the date the
24 individual reaches 65 years of age, (B) the date the
25 individual is covered under any group health plan not
26 maintained by the employer or any other health plan,
27 regardless of whether that coverage is less valuable, (C)
28 the date the individual becomes entitled to Medicare
29 under Title XVIII of the Social Security Act, or (D) the
30 date on which the employer or former employer
31 terminates its group subscriber agreement with the
32 health care service plan and ceases to provide coverage
33 for any active employees through that plan, in which case
34 the health care service plan shall notify the former spouse
35 of the right to a conversion plan in accordance with
36 Section 1373.6.

37 (d) (1) If the premium charged to the employer for
38 a specific employee is adjusted for the age of the specific
39 employee on other than a composite basis, the rate for
40 continuation coverage under this section shall not exceed



1 ~~102 percent of the premium charged by the plan to the~~
2 ~~employer for an employee of the same age as the former~~
3 ~~employee electing continuation coverage in the case of~~
4 ~~an individual who was eligible for COBRA, and 110~~
5 ~~percent in the case of an individual who was eligible for~~
6 ~~Cal-COBRA. If the coverage continued is that of a former~~
7 ~~spouse, the premium charged shall not exceed 102~~
8 ~~percent of the premium charged by the plan to the~~
9 ~~employer for an employee of the same age as the former~~
10 ~~spouse selecting continuation coverage in the case of an~~
11 ~~individual who was eligible for COBRA, and 110 percent~~
12 ~~in the case of an individual who was eligible for~~
13 ~~Cal-COBRA.~~

14 ~~(2) If the premium charged to the employer for a~~
15 ~~specific employee is not adjusted for age of the specific~~
16 ~~employee, then the rate for continuation coverage under~~
17 ~~this section shall not exceed 213 percent of the applicable~~
18 ~~current group rate. For purposes of this section, the~~
19 ~~“applicable current group rate” means the total~~
20 ~~premiums charged by the health care service plan for~~
21 ~~coverage for the group, divided by the relevant number~~
22 ~~of covered persons. However, in computing the~~
23 ~~premiums charged to the specific employer group, the~~
24 ~~health care service plan shall not include consideration of~~
25 ~~the specific medical care expenditures for beneficiaries~~
26 ~~receiving continuation coverage pursuant to this section.~~

27 ~~(c) For purposes of this section, “COBRA” means~~
28 ~~Section 4980B of Title 26 of the United States Code,~~
29 ~~Section 1161 et seq. of Title 29 of the United States Code,~~
30 ~~and Section 300bb of Title 42 of the United States Code,~~
31 ~~as added by the Consolidated Omnibus Budget~~
32 ~~Reconciliation Act of 1985 (Public Law 99-272), and as~~
33 ~~amended.~~

34 ~~(f) For purposes of this section, “Cal-COBRA” means~~
35 ~~the continuation coverage that must be offered pursuant~~
36 ~~to Article 4.5 (commencing with Section 1366.20), or~~
37 ~~Article 1.7 (commencing with Section 10128.50) of~~
38 ~~Chapter 1 of Part 2 of Division 2 of the Insurance Code.~~

39 ~~(g) For the purposes of this section, “former spouse”~~
40 ~~means either an individual who is divorced from an~~



1 ~~employee or former employee or an individual who was~~
2 ~~married to an employee or former employee at the time~~
3 ~~of the death of the employee or former employee.~~

4 ~~(h) Every plan evidence of coverage that is issued,~~
5 ~~amended, or renewed after July 1, 1999, shall contain a~~
6 ~~description of the provisions and eligibility requirements~~
7 ~~for the continuation coverage offered pursuant to this~~
8 ~~section.~~

9 ~~(i) This section shall take effect on January 1, 1999.~~

10 ~~SEC. 2. Section 10116.5 of the Insurance Code, as~~
11 ~~amended by Section 5 of Chapter 665 of the Statutes of~~
12 ~~1997, is amended to read:~~

13 ~~10116.5. (a) Every policy of disability insurance that~~
14 ~~is issued, amended, delivered, or renewed in this state on~~
15 ~~or after January 1, 1999, that provides hospital, medical,~~
16 ~~or surgical expense coverage under an~~
17 ~~employer-sponsored group plan for an employer subject~~
18 ~~to COBRA, as defined in subdivision (e), or an employer~~
19 ~~group for which the disability insurer is required to offer~~
20 ~~Cal-COBRA coverage, as defined in subdivision (f),~~
21 ~~including a carrier providing replacement coverage~~
22 ~~under Section 10128.3, shall further offer the former~~
23 ~~employee the opportunity to continue benefits as~~
24 ~~required under subdivision (b), and shall further offer~~
25 ~~the former spouse of an employee or former employee~~
26 ~~the opportunity to continue benefits as required under~~
27 ~~subdivision (e).~~

28 ~~(b) (1) In the event a former employee who worked~~
29 ~~for the employer for at least five years prior to the date~~
30 ~~of termination of employment and who is 55 years of age~~
31 ~~or older on the date employment ends is entitled to and~~
32 ~~so elects to continue benefits under COBRA or~~
33 ~~Cal-COBRA for himself or herself and for any spouse, the~~
34 ~~employee or spouse may further continue benefits~~
35 ~~beyond the date coverage under COBRA or Cal-COBRA~~
36 ~~ends, as set forth in paragraph (2). Except as otherwise~~
37 ~~specified in this section, continuation coverage shall be~~
38 ~~under the same benefit terms and conditions as if the~~
39 ~~continuation coverage under COBRA or Cal-COBRA had~~
40 ~~remained in force. For the employee or spouse,~~



1 continuation coverage following the end of COBRA or
2 Cal-COBRA is subject to payment of premiums to the
3 insurer. Individuals ineligible for COBRA or Cal-COBRA,
4 or who are eligible but have not elected or exhausted
5 continuation coverage under federal COBRA or
6 Cal-COBRA, are not entitled to continuation coverage
7 under this section. Premiums for continuation coverage
8 under this section shall be billed by, and remitted to, the
9 insurer in accordance with subdivision (d). Failure to pay
10 the requisite premiums may result in termination of the
11 continuation coverage in accordance with the applicable
12 provisions in the insurer's group contract with the former
13 employer.

14 (2) The former employer shall notify the former
15 employee, spouse, or both, or the former spouse of the
16 employee or former employee, of the availability of the
17 continuation benefits under this section in accordance
18 with Section 2800.2 of the Labor Code. To continue health
19 care coverage pursuant to this section, the individual shall
20 elect to do so by notifying the insurer in writing within 30
21 calendar days prior to the date continuation coverage
22 under COBRA or Cal-COBRA is scheduled to end.

23 (3) The continuation coverage shall end automatically
24 on the earlier of (A) the date the individual reaches age
25 65, (B) the date the individual is covered under any group
26 health plan not maintained by the employer or any other
27 insurer or health care service plan, regardless of whether
28 that coverage is less valuable, (C) the date the individual
29 becomes entitled to Medicare under Title XVIII of the
30 Social Security Act, or (D) the date on which the former
31 employer terminates its group contract with the insurer
32 and ceases to provide coverage for any active employees
33 through that insurer, in which case the insurer shall notify
34 the former employee, spouse, or both of the right to a
35 conversion policy.

36 (e) (1) If a former spouse of an employee or former
37 employee was covered as a qualified beneficiary under
38 COBRA or Cal-COBRA, the former spouse may further
39 continue benefits beyond the date coverage under
40 COBRA or Cal-COBRA ends, as set forth in paragraph (2)



1 of subdivision (b). Except as otherwise specified in this
2 section, continuation coverage shall be under the same
3 benefit terms and conditions as if the continuation
4 coverage under COBRA or Cal-COBRA had remained in
5 force. Continuation coverage following the end of
6 COBRA or Cal-COBRA is subject to payment of
7 premiums to the insurer. Premiums for continuation
8 coverage under this section shall be billed by, and
9 remitted to, the insurer in accordance with subdivision
10 (d). Failure to pay the requisite premiums may result in
11 termination of the continuation coverage in accordance
12 with the applicable provisions in the insurer's group
13 contract with the employer or former employer.

14 (2) The continuation coverage for the former spouse
15 shall end automatically on the earlier of (A) the date the
16 individual reaches 65 years of age, (B) the date the
17 individual is covered under any group health plan not
18 maintained by the employer or any other insurer or
19 health care service plan, regardless of whether that
20 coverage is less valuable, (C) the date the individual
21 becomes entitled to Medicare under Title XVIII of the
22 Social Security Act, or (D) the date on which the
23 employer or former employer terminates its group
24 contract with the insurer and ceases to provide coverage
25 for any active employees through that insurer, in which
26 case the insurer shall notify the former spouse of the right
27 to a conversion policy.

28 (d) (1) If the premium charged to the employer for
29 a specific employee is adjusted for the age of the specific
30 employee on other than a composite basis, the rate for
31 continuation coverage under this section shall not exceed
32 102 percent of the premium charged by the insurer to the
33 employer for an employee of the same age as the former
34 employee electing continuation coverage in the case of
35 an individual who was eligible for COBRA, and 110
36 percent in the case of an individual who was eligible for
37 Cal-COBRA. If the coverage continued is that of a former
38 spouse, the premium charged shall not exceed 102
39 percent of the premium charged by the plan to the
40 employer for an employee of the same age as the former



~~1 spouse selecting continuation coverage in the case of an
2 individual who was eligible for COBRA, and 110 percent
3 in the case of an individual who was eligible for
4 Cal-COBRA.~~

~~5 (2) If the premium charged to the employer for a
6 specific employee is not adjusted for age of the specific
7 employee, then the rate for continuation coverage under
8 this section shall not exceed 213 percent of the applicable
9 current group rate. For purposes of this section, the
10 “applicable current group rate” means the total
11 premiums charged by the insurer for coverage for the
12 group, divided by the relevant number of covered
13 persons. However, in computing the premiums charged
14 to the specific employer group, the insurer shall not
15 include consideration of the specific medical care
16 expenditures for beneficiaries receiving continuation
17 coverage pursuant to this section.~~

~~18 (e) For purposes of this section, “COBRA” means
19 Section 4980B of Title 26 of the United States Code,
20 Section 1161 et seq. of Title 29 of the United States Code,
21 and Section 300bb of Title 42 of the United States Code,
22 as added by the Consolidated Omnibus Budget
23 Reconciliation Act of 1985 (Public Law 99-272), and as
24 amended.~~

~~25 (f) For purposes of this section, “Cal-COBRA” means
26 the continuation coverage that must be offered pursuant
27 to Article 1.7 (commencing with Section 10128.50), or
28 Article 4.5 (commencing with Section 1366.20) of
29 Chapter 2.2 of Division 2 of the Health and Safety Code.~~

~~30 (g) For the purposes of this section, “former spouse”
31 means either an individual who is divorced from an
32 employee or former employee or an individual who was
33 married to an employee or former employee at the time
34 of the death of the employee or former employee.~~

~~35 (h) Every group benefit plan evidence of coverage
36 that is issued, amended, or renewed after January 1, 1999,
37 shall contain a description of the provisions and eligibility
38 requirements for the continuation coverage offered
39 pursuant to this section.~~

~~40 (i) This section shall take effect on January 1, 1999.~~



1 SECTION 1. Section 1373.621 of the Health and
2 Safety Code, as amended by Chapter 107 of the Statutes of
3 1998, is amended to read:

4 1373.621. (a) Except for a specialized health care
5 service plan, every health care service plan contract that
6 is issued, amended, delivered, or renewed in this state on
7 or after January 1, 1999, that provides hospital, medical,
8 or surgical expense coverage under an
9 employer-sponsored group plan for an employer subject
10 to COBRA, as defined in subdivision (e), or an employer
11 group for which the plan is required to offer Cal-COBRA
12 coverage, as defined in subdivision (f), including a carrier
13 providing replacement coverage under Section 1399.63,
14 shall further offer the former employee the opportunity
15 to continue benefits as required under subdivision (b),
16 and shall further offer the former spouse of an employee
17 or former employee the opportunity to continue benefits
18 as required under subdivision (c).

19 (b) (1) In the event a former employee who worked
20 for the employer for at least five years prior to the date
21 of termination of employment and who is ~~60~~ 55 years of
22 age or older on the date employment ends is entitled to
23 and so elects to continue benefits under COBRA or
24 Cal-COBRA for himself or herself and for any spouse, the
25 employee or spouse may further continue benefits
26 beyond the date coverage under COBRA or Cal-COBRA
27 ends, as set forth in paragraph (2). Except as otherwise
28 specified in this section, continuation coverage shall be
29 under the same benefit terms and conditions as if the
30 continuation coverage under COBRA or Cal-COBRA had
31 remained in force. For the employee or spouse,
32 continuation coverage following the end of COBRA or
33 Cal-COBRA is subject to payment of premiums to the
34 health care service plan. Individuals ineligible for
35 COBRA or Cal-COBRA, or who are eligible but have not
36 elected or exhausted continuation coverage under
37 federal COBRA or Cal-COBRA, are not entitled to
38 continuation coverage under this section. Premiums for
39 continuation coverage under this section shall be billed
40 by, and remitted to, the health care service plan in



1 accordance with subdivision (d). Failure to pay the
2 requisite premiums may result in termination of the
3 continuation coverage in accordance with the applicable
4 provisions in the plan's group subscriber agreement with
5 the former employer.

6 (2) The former employer shall notify the former
7 employee or spouse or both, or the former spouse of the
8 employee or former employee, of the availability of the
9 continuation benefits under this section in accordance
10 with Section 2800.2 of the Labor Code. To continue health
11 care coverage pursuant to this section, the individual shall
12 elect to do so by notifying the plan in writing within 30
13 calendar days prior to the date continuation coverage
14 under COBRA or Cal-COBRA is scheduled to end. Every
15 health care service plan and specialized health care
16 service plan shall provide to the employer replacing a
17 health care service plan contract issued by the plan, or to
18 the employer's agent or broker representative, within 15
19 days of any written request, information in possession of
20 the plan reasonably required to administer the
21 requirements of Section 2800.2 of the Labor Code.

22 (3) The continuation coverage shall end automatically
23 on the earlier of (A) the date the individual reaches age
24 65, (B) the date the individual is covered under any group
25 health plan not maintained by the employer or any other
26 health plan, regardless of whether that coverage is less
27 valuable, (C) the date the individual becomes entitled to
28 Medicare under Title XVIII of the Social Security Act, *or*
29 ~~(D) for a spouse, five years from the date on which~~
30 ~~continuation coverage under COBRA or Cal-COBRA was~~
31 ~~scheduled to end for the spouse, or (E) the date on which~~
32 the former employer terminates its group subscriber
33 agreement with the health care service plan and ceases
34 to provide coverage for any active employees through
35 that plan, in which case the health care service plan shall
36 notify the former employee or spouse or both of the right
37 to a conversion plan in accordance with Section 1373.6.

38 (c) (1) If a former spouse of an employee or former
39 employee was covered as a qualified beneficiary under
40 COBRA or Cal-COBRA, the former spouse may further



1 continue benefits beyond the date coverage under
2 COBRA or Cal-COBRA ends, as set forth in paragraph (2)
3 of subdivision (b). Except as otherwise specified in this
4 section, continuation coverage shall be under the same
5 benefit terms and conditions as if the continuation
6 coverage under COBRA or Cal-COBRA had remained in
7 force. Continuation coverage following the end of
8 COBRA or Cal-COBRA is subject to payment of
9 premiums to the health care service plan. Premiums for
10 continuation coverage under this section shall be billed
11 by, and remitted to, the health care service plan in
12 accordance with subdivision (d). Failure to pay the
13 requisite premiums may result in termination of the
14 continuation coverage in accordance with the applicable
15 provisions in the plan's group subscriber agreement with
16 the employer or former employer.

17 (2) The continuation coverage for the former spouse
18 shall end automatically on the earlier of (A) the date the
19 individual reaches 65 years of age, (B) the date the
20 individual is covered under any group health plan not
21 maintained by the employer or any other health plan,
22 regardless of whether that coverage is less valuable, (C)
23 the date the individual becomes entitled to Medicare
24 under Title XVIII of the Social Security Act, *or* (D) ~~five~~
25 ~~years from the date on which continuation coverage~~
26 ~~under COBRA or Cal-COBRA was scheduled to end for~~
27 ~~the former spouse, or (E) the date on which the employer~~
28 ~~or former employer terminates its group subscriber~~
29 ~~agreement with the health care service plan and ceases~~
30 ~~to provide coverage for any active employees through~~
31 ~~that plan, in which case the health care service plan shall~~
32 ~~notify the former spouse of the right to a conversion plan~~
33 ~~in accordance with Section 1373.6.~~

34 (d) (1) If the premium charged to the employer for
35 a specific employee or dependent eligible under this
36 section is adjusted for the age of the specific employee, or
37 eligible dependent, on other than a composite basis, the
38 rate for continuation coverage under this section shall not
39 exceed 102 percent of the premium charged by the plan
40 to the employer for an employee of the same age as the



1 former employee electing continuation coverage in the
2 case of an individual who was eligible for COBRA, and 110
3 percent in the case of an individual who was eligible for
4 Cal-COBRA. If the coverage continued is that of a former
5 spouse, the premium charged shall not exceed 102
6 percent of the premium charged by the plan to the
7 employer for an employee of the same age as the former
8 spouse selecting continuation coverage in the case of an
9 individual who was eligible for COBRA, and 110 percent
10 in the case of an individual who was eligible for
11 Cal-COBRA.

12 (2) If the premium charged to the employer for a
13 specific employee or dependent eligible under this
14 section is not adjusted for age of the specific employee, or
15 eligible dependent, then the rate for continuation
16 coverage under this section shall not exceed 213 percent
17 of the applicable current group rate. For purposes of this
18 section, the “applicable current group rate” means the
19 total premiums charged by the health care service plan
20 for coverage for the group, divided by the relevant
21 number of covered persons.

22 (3) However, in computing the premiums charged to
23 the specific employer group, the health care service plan
24 shall not include consideration of the specific medical
25 care expenditures for beneficiaries receiving
26 continuation coverage pursuant to this section.

27 (e) For purposes of this section, “COBRA” means
28 Section 4980B of Title 26 of the United States Code,
29 Section 1161 et seq. of Title 29 of the United States Code,
30 and Section 300bb of Title 42 of the United States Code,
31 as added by the Consolidated Omnibus Budget
32 Reconciliation Act of 1985 (Public Law 99-272), and as
33 amended.

34 (f) For purposes of this section, “Cal-COBRA” means
35 the continuation coverage that must be offered pursuant
36 to Article 4.5 (commencing with Section 1366.20), or
37 Article 1.7 (commencing with Section 10128.50) of
38 Chapter 1 of Part 2 of Division 2 of the Insurance Code.

39 (g) For the purposes of this section, “former spouse”
40 means either an individual who is divorced from an



1 employee or former employee or an individual who was
2 married to an employee or former employee at the time
3 of the death of the employee or former employee.

4 (h) Every plan evidence of coverage that is issued,
5 amended, or renewed after July 1, 1999, shall contain a
6 description of the provisions and eligibility requirements
7 for the continuation coverage offered pursuant to this
8 section.

9 (i) This section shall take effect on January 1, 1999.

10 *SEC. 2. Section 10116.5 of the Insurance Code, as*
11 *amended by Chapter 107 of the Statutes of 1998, is*
12 *amended to read:*

13 10116.5. (a) Every policy of disability insurance that
14 is issued, amended, delivered, or renewed in this state on
15 or after January 1, 1999, that provides hospital, medical,
16 or surgical expense coverage under an
17 employer-sponsored group plan for an employer subject
18 to COBRA, as defined in subdivision (e), or an employer
19 group for which the disability insurer is required to offer
20 Cal-COBRA coverage, as defined in subdivision (f),
21 including a carrier providing replacement coverage
22 under Section 10128.3, shall further offer the former
23 employee the opportunity to continue benefits as
24 required under subdivision (b), and shall further offer
25 the former spouse of an employee or former employee
26 the opportunity to continue benefits as required under
27 subdivision (c).

28 (b) (1) In the event a former employee who worked
29 for the employer for at least five years prior to the date
30 of termination of employment and who is ~~60~~ 55 years of
31 age or older on the date employment ends is entitled to
32 and so elects to continue benefits under COBRA or
33 Cal-COBRA for himself or herself and for any spouse, the
34 employee or spouse may further continue benefits
35 beyond the date coverage under COBRA or Cal-COBRA
36 ends, as set forth in paragraph (2). Except as otherwise
37 specified in this section, continuation coverage shall be
38 under the same benefit terms and conditions as if the
39 continuation coverage under COBRA or Cal-COBRA had
40 remained in force. For the employee or spouse,



1 continuation coverage following the end of COBRA or
2 Cal-COBRA is subject to payment of premiums to the
3 insurer. Individuals ineligible for COBRA or Cal-COBRA
4 or who are eligible but have not elected or exhausted
5 continuation coverage under federal COBRA or
6 Cal-COBRA are not entitled to continuation coverage
7 under this section. Premiums for continuation coverage
8 under this section shall be billed by, and remitted to, the
9 insurer in accordance with subdivision (d). Failure to pay
10 the requisite premiums may result in termination of the
11 continuation coverage in accordance with the applicable
12 provisions in the insurer's group contract with the former
13 employer.

14 (2) The former employer shall notify the former
15 employee or spouse or both, or the former spouse of the
16 employee or former employee, of the availability of the
17 continuation benefits under this section in accordance
18 with Section 2800.2 of the Labor Code. To continue health
19 care coverage pursuant to this section, the individual shall
20 elect to do so by notifying the insurer in writing within 30
21 calendar days prior to the date continuation coverage
22 under COBRA or Cal-COBRA is scheduled to end. Every
23 disability insurer shall provide to the employer replacing
24 a group benefit plan policy issued by the insurer, or to the
25 employer's agent or broker representative, within 15 days
26 of any written request, information in possession of the
27 insurer reasonably required to administer the
28 requirements of Section 2800.2 of the Labor Code.

29 (3) The continuation coverage shall end automatically
30 on the earlier of (A) the date the individual reaches age
31 65, (B) the date the individual is covered under any group
32 health plan not maintained by the employer or any other
33 insurer or health care service plan, regardless of whether
34 that coverage is less valuable, (C) the date the individual
35 becomes entitled to Medicare under Title XVIII of the
36 Social Security Act, *or* (D) ~~for a spouse, five years from~~
37 ~~the date on which continuation coverage under COBRA~~
38 ~~or Cal-COBRA was scheduled to end for the spouse, or~~
39 (E) the date on which the former employer terminates
40 its group contract with the insurer and ceases to provide



1 coverage for any active employees through that insurer,
2 in which case the insurer shall notify the former
3 employee or spouse or both of the right to a conversion
4 policy.

5 (c) (1) If a former spouse of an employee or former
6 employee was covered as a qualified beneficiary under
7 COBRA or Cal-COBRA, the former spouse may further
8 continue benefits beyond the date coverage under
9 COBRA or Cal-COBRA ends, as set forth in paragraph (2)
10 of subdivision (b). Except as otherwise specified in this
11 section, continuation coverage shall be under the same
12 benefit terms and conditions as if the continuation
13 coverage under COBRA or Cal-COBRA had remained in
14 force. Continuation coverage following the end of
15 COBRA or Cal-COBRA is subject to payment of
16 premiums to the insurer. Premiums for continuation
17 coverage under this section shall be billed by, and
18 remitted to, the insurer in accordance with subdivision
19 (d). Failure to pay the requisite premiums may result in
20 termination of the continuation coverage in accordance
21 with the applicable provisions in the insurer's group
22 contract with the employer or former employer.

23 (2) The continuation coverage for the former spouse
24 shall end automatically on the earlier of (A) the date the
25 individual reaches 65 years of age, (B) the date the
26 individual is covered under any group health plan not
27 maintained by the employer or any other health care
28 service plan or insurer, regardless of whether that
29 coverage is less valuable, (C) the date the individual
30 becomes entitled to Medicare under Title XVIII of the
31 Social Security Act, *or* (D) ~~five years from the date on~~
32 ~~which continuation coverage under COBRA or~~
33 ~~Cal-COBRA was scheduled to end for the former spouse,~~
34 ~~or~~ (E) the date on which the employer or former
35 employer terminates its group contract with the insurer
36 and ceases to provide coverage for any active employees
37 through that insurer, in which case the insurer shall notify
38 the former spouse of the right to a conversion policy.

39 (d) (1) If the premium charged to the employer for
40 a specific employee or dependent eligible under this



1 section is adjusted for the age of the specific employee, or
2 eligible dependent, on other than a composite basis, the
3 rate for continuation coverage under this section shall not
4 exceed 102 percent of the premium charged by the
5 insurer to the employer for an employee of the same age
6 as the former employee electing continuation coverage
7 in the case of an individual who was eligible for COBRA,
8 and 110 percent in the case of an individual who was
9 eligible for Cal-COBRA. If the coverage continued is that
10 of a former spouse, the premium charged shall not exceed
11 102 percent of the premium charged by the plan to the
12 employer for an employee of the same age as the former
13 spouse selecting continuation coverage in the case of an
14 individual who was eligible for COBRA, and 110 percent
15 in the case of an individual who was eligible for
16 Cal-COBRA.

17 (2) If the premium charged to the employer for a
18 specific employee or dependent eligible under this
19 section is not adjusted for age of the specific employee, or
20 eligible dependent, then the rate for continuation
21 coverage under this section shall not exceed 213 percent
22 of the applicable current group rate. For purposes of this
23 section, the “applicable current group rate” means the
24 total premiums charged by the insurer for coverage for
25 the group, divided by the relevant number of covered
26 persons.

27 (3) However, in computing the premiums charged to
28 the specific employer group, the insurer shall not include
29 consideration of the specific medical care expenditures
30 for beneficiaries receiving continuation coverage
31 pursuant to this section.

32 (e) For purposes of this section, “COBRA” means
33 Section 4980B of Title 26 of the United States Code,
34 Section 1161 et seq. of Title 29 of the United States Code,
35 and Section 300bb of Title 42 of the United States Code,
36 as added by the Consolidated Omnibus Budget
37 Reconciliation Act of 1985 (Public Law 99-272), and as
38 amended.

39 (f) For purposes of this section, “Cal-COBRA” means
40 the continuation coverage that must be offered pursuant



1 to Article 1.7 (commencing with Section 10128.50), or
2 Article 4.5 (commencing with Section 1366.20) of
3 Chapter 2.2 of Division 2 of the Health and Safety Code.

4 (g) For the purposes of this section, “former spouse”
5 means either an individual who is divorced from an
6 employee or former employee or an individual who was
7 married to an employee or former employee at the time
8 of the death of the employee or former employee.

9 (h) Every group benefit plan evidence of coverage
10 that is issued, amended, or renewed after January 1, 1999,
11 shall contain a description of the provisions and eligibility
12 requirements for the continuation coverage offered
13 pursuant to this section.

14 (i) This section shall take effect on January 1, 1999.

15 SEC. 3. No reimbursement is required by this act
16 pursuant to Section 6 of Article XIII B of the California
17 Constitution because the only costs that may be incurred
18 by a local agency or school district will be incurred
19 because this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section
22 17556 of the Government Code, or changes the definition
23 of a crime within the meaning of Section 6 of Article
24 XIII B of the California Constitution.

25 Notwithstanding Section 17580 of the Government
26 Code, unless otherwise specified, the provisions of this act
27 shall become operative on the same date that the act
28 takes effect pursuant to the California Constitution.

