

ASSEMBLY, No. 1130

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman MURPHY and Assemblyman DeCROCE

1 AN ACT concerning public employee benefits and supplementing Titles
2 18A and 40A of the New Jersey Statutes and Title 52 of the
3 Revised Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Notwithstanding the provisions of any other law to the contrary,
9 a local board of education is authorized to establish a cafeteria plan for
10 its employees pursuant to section 125 of the federal Internal Revenue
11 Code, 26 U.S.C. §125. Any such plan shall enable an employee to
12 make voluntary pre-tax contributions from salary to cover the cost of
13 medical or dental expenses, not covered by a health benefits plan, and
14 dependent care expenses as provided in section 129 of the federal
15 Internal Revenue Code, 26 U.S.C. §129, and shall offer such other
16 benefits as are consistent with section 125 and which the board shall
17 deem appropriate.

18 Any amount deducted from an employee's salary for the purpose of
19 contributing to the plan shall continue to be treated as regular
20 compensation for all purposes, including the calculation of pension
21 contributions and the amount of any retirement allowance but, to the
22 extent permitted by the federal Internal Revenue Code, shall not be
23 included in the computation of any federal taxes withheld from the
24 employee's salary.

25 The establishment of a cafeteria plan pursuant to this section shall
26 not reduce any other benefit to which an employee may otherwise be
27 entitled by law or by virtue of a collective bargaining agreement. The
28 establishment of a cafeteria plan, as well as the benefits to be offered
29 in a plan which are in addition to the minimum benefits prescribed by
30 this section, may be determined through the collective bargaining
31 process.

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33 2. Notwithstanding the provisions of any other law to the contrary,
34 the governing body of a unit of local government, as well as any
35 independent authority created by one or more local units, is authorized

1 to establish a cafeteria plan for its employees pursuant to section 125
2 of the federal Internal Revenue Code, 26 U.S.C. §125. Any such plan
3 shall enable an employee to make voluntary pre-tax contributions from
4 salary to cover the cost of medical or dental expenses, not covered by
5 a health benefits plan, and dependent care expenses as provided in
6 section 129 of the federal Internal Revenue Code, 26 U.S.C. §129, and
7 shall offer such other benefits as are consistent with section 125 and
8 which the governing body of the local unit shall deem appropriate.

9 Any amount deducted from an employee's salary for the purpose of
10 contributing to the plan shall continue to be treated as regular
11 compensation for all purposes, including the calculation of pension
12 contributions and the amount of any retirement allowance but, to the
13 extent permitted by the federal Internal Revenue Code, shall not be
14 included in the computation of any federal taxes withheld from the
15 employee's salary.

16 The establishment of a cafeteria plan pursuant to this section shall
17 not reduce any other benefit to which an employee may otherwise be
18 entitled by law or by virtue of a collective bargaining agreement. The
19 establishment of a cafeteria plan, as well as the benefits to be offered
20 in a plan which are in addition to the minimum benefits prescribed by
21 this section, may be determined through the collective bargaining
22 process.

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24 3. The State Treasurer is authorized to establish and administer a
25 cafeteria plan for employees of the State government pursuant to
26 section 125 of the federal Internal Revenue Code, 26 U.S.C. §125.
27 Any such plan shall enable an employee to make voluntary pre-tax
28 contributions from salary to cover the cost of medical or dental
29 expenses, not covered by a health benefits plan, and dependent care
30 expenses as provided in section 129 of the federal Internal Revenue
31 Code, 26 U.S.C. §129, and shall offer such other benefits as are
32 consistent with section 125 and which the Treasurer shall deem
33 appropriate.

34 Any amount deducted from an employee's salary for the purpose of
35 contributing to the plan shall continue to be treated as regular
36 compensation for all purposes, including the calculation of pension
37 contributions and the amount of any retirement allowance but, to the
38 extent permitted by the federal Internal Revenue Code, shall not be
39 included in the computation of any federal taxes withheld from the
40 employee's salary.

41 The establishment of a cafeteria plan pursuant to this section shall
42 not reduce any other benefit to which an employee may otherwise be
43 entitled by law or by virtue of a collective bargaining agreement. The
44 establishment of a cafeteria plan, as well as the benefits to be offered
45 in a plan which are in addition to the minimum benefits prescribed by

1 this section, may be determined through the collective bargaining
2 process.

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4 4. Notwithstanding the provisions of any other law to the contrary,
5 an independent State authority is authorized to establish a cafeteria
6 plan for its employees pursuant to section 125 of the federal Internal
7 Revenue Code, 26 U.S.C. §125. Any such plan shall enable an
8 employee to make voluntary pre-tax contributions from salary to cover
9 the cost of medical or dental expenses, not covered by a health
10 benefits plan, and dependent care expenses as provided in section 129
11 of the federal Internal Revenue Code, 26 U.S.C. §129, and shall offer
12 such other benefits as are consistent with section 125 and which the
13 authority deems appropriate.

14 Any amount deducted from an employee's salary for the purpose of
15 contributing to the plan shall continue to be treated as regular
16 compensation for all purposes, including the calculation of pension
17 contributions and the amount of any retirement allowance but, to the
18 extent permitted by the federal Internal Revenue Code, shall not be
19 included in the computation of any federal taxes withheld from the
20 employee's salary.

21 The establishment of a cafeteria plan pursuant to this section shall
22 not reduce any other benefit to which an employee may otherwise be
23 entitled by law or by virtue of a collective bargaining agreement. The
24 establishment of a cafeteria plan, as well as the benefits to be offered
25 in a plan which are in addition to the minimum benefits prescribed by
26 this section, may be determined through the collective bargaining
27 process.

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29 5. Notwithstanding the provisions of any other law to the contrary,
30 the State, or an employer as defined in section 4 of P.L.1964, c.125
31 (C.52:14-17.35) which participates in the State Health Benefits
32 Program, may allow any employee who is covered under another
33 health benefits plan to waive coverage under the State Health Benefits
34 Program to which the employee is entitled by virtue of the employee's
35 employment. The waiver shall be in such form as the Director of the
36 Division of Pensions and Benefits shall prescribe and shall be filed with
37 the division along with proof of coverage under that other person's
38 plan. After such waiver has been filed and for so long as the waiver
39 remains in effect, no premium or periodic charges shall be paid by the
40 State or employer for the employee or the employee's dependents. Not
41 later than the 180th day after the date on which the waiver is filed, the
42 division shall refund to the State or employer the amount of any
43 premium or periodic charges previously paid with respect to any
44 period of coverage which followed the filing date. In consideration of
45 filing such a waiver, the State or other employer may pay to the
46 employee annually an amount which shall not exceed the amount saved

1 because of the employee's waiver of coverage. An employee who
2 waives coverage shall be permitted to resume coverage if the employee
3 ceases to be covered through that other person for any reason,
4 including, but not limited to, retirement or death of the other person
5 or divorce. An employee who resumes coverage shall repay, on a pro
6 rata basis, any amount received which represents an advance payment
7 for a period of time during which coverage is resumed. An employee
8 who wishes to resume coverage shall notify the division, in such form
9 as the director of the division shall prescribe, that the waiver is
10 revoked.

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12 6. This act shall take effect immediately.

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STATEMENT

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17 This bill authorizes the State, independent State authorities,
18 counties, municipalities and school districts to establish "cafeteria
19 plans" pursuant to section 125 of the federal Internal Revenue Code,
20 26 U.S.C. §125. A cafeteria plan, also known as a flexible benefit
21 plan, allows an employee to make individual choices among federally
22 nontaxable employer provided benefits. A cafeteria plan also allows
23 an employee to make voluntary pre-tax contributions from salary,
24 through "flexible spending accounts," to cover such expenses as group
25 term life insurance, accident or health insurance coverage, or
26 dependent care. A plan established pursuant to the bill would be
27 required to enable an employee to set aside a pre-tax portion of salary
28 to cover medical or dental expenses not covered by a health insurance
29 plan, and the cost of dependent care. It would also provide such other
30 benefits as the public employer may determine to offer under the plan.

31 Amounts deducted from an employee's salary and paid to the plan
32 would be treated as regular compensation for all purposes, including
33 the calculation of pension contributions and the amount of any
34 retirement allowance, but under federal law would not be subject to
35 the withholding of federal taxes. The establishment of a cafeteria plan
36 would not reduce any other benefit to which an employee may
37 otherwise be entitled and would be in addition to any benefits
38 determined through the collective bargaining process.

39 The bill also authorizes the State, or other public employer which
40 participates in the State Health Benefits Plan (SHBP), to allow an
41 employee who has health insurance coverage under another plan (for
42 example: as a dependent of another person under that person's plan)
43 to waive coverage under the SHBP in return for cash compensation in
44 an amount not to exceed the amount saved by the employer as a result
45 of the waiver.

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3 Provides for establishment of cafeteria plans for public employees;

4 permits certain public employees to waive health insurance coverage

5 under certain circumstances.