

LEGISLATIVE FISCAL ESTIMATE TO  
**ASSEMBLY, No. 2237**  
**STATE OF NEW JERSEY**

DATED: AUGUST 19, 1997

Assembly Bill No. 2237 of 1996 allows employers other than the State (except for an independent State authority, board, commission, corporation, agency, or organization deemed to be covered by P.L. 1996, c.8) to modify the employer and active employee obligations to pay for health benefits coverage under the State Health Benefits Program (SHBP) in accordance with the terms of a binding collective negotiations agreement. Current law requires local government employers participating in the SHBP to pay the cost of SHBP coverage for an employee and authorizes those employers to require an employee to contribute toward some or all of the cost of dependent coverage. SHBP benefits with regard to covered services remain unchanged.

The bill provides that the obligations of any such employer to pay the premium or periodic charges for health benefits coverage under the SHBP may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time of the adoption of this bill. With respect to employees of such employers for whom there is no majority representative for collective negotiations purposes, the employer may, in its sole discretion, modify the respective SHBP payment obligations for such employer and such employees, except that if there are collective negotiations agreements binding upon the employer for employees within the same community of interest, the modification shall be in a manner consistent with the terms of those collective negotiations. Employees shall have the opportunity to adjust their coverage under the available health care plans during an annual open enrollment period or a special open enrollment period established by the State Health Benefits Commission before any change in the employer-employee obligations to pay the charges for SHBP coverage takes effect.

The bill provides that an employer other than the State (as defined in section 4 of P.L.1994, c.125 (C.52:14-17.35)), upon adoption and submission to the Division of Pensions and Benefits in the Department of Treasury of an appropriate resolution, may limit or terminate prospectively its obligations to pay for health benefits coverage of a defined group of retirees. Currently, an employer other than the State may elect only to pay the full cost of health benefits for qualified retired employees and their dependents. There are no provisions allowing a modification or termination of that obligation once it is elected. This bill allows the employer to determine the extent of its payment obligation for SHBP health benefits for its retirees as well as

which qualified retirees and dependents shall be included.

The bill provides that a local government employee who was covered under the New Jersey State Health Benefits Program (SHBP) on December 17, 1995 shall, if the employer continued to participate in the SHBP and the employee continued to be employed with that employer for an average work week of 20 hours during the period between that date and the date on which this legislation takes effect as law, be eligible for such coverage for so long after that effective date as the employer continues to be a participating employer and the employee continues to work for the employer for an average of at least 20 hours per week.

(On September 21, 1995, the State Health Benefits Commission adopted an amendment to the commission's regulation governing "full-time employment" for purposes of determining a local government employee's eligibility for SHBP coverage; prior to the amended version, "full-time" status was accorded any such employee who worked an average of at least 20 hours per week. Under the regulation as amended, local employers were permitted to establish a higher standard for full-time status. Thus this legislation would retroactively "grandfather" application of the prior regulation for employees covered under that regulation who have been and remain continuously employed with the same employer for a minimum average work week of 20 hours.)

The definition of "employer" includes a county, municipality, school district, or a public agency or organization which operates public works or is engaged in service to the public for one or more municipalities, local boards of health, or counties and whose revenue is not derived from State funds.

The bill also allows local employers to establish a cafeteria plan for their employees pursuant to section 125 of the Internal Revenue Code to provide for a reduction in an employee's salary in exchange for payment by the employer of any required employee contribution for SHBP coverage, medical or dental expenses not covered by SHBP, or dependent care expenses. The amount of any reduction in an employee's salary for the purpose of contributing to the plan shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

The Office of Legislative Services (OLS) notes that there will be no impact on the State as this legislation will only affect active employees of local government employers who participate in the SHBP. The specific impact of the bill on local government employers cannot be determined due in part to the elective nature of this legislation and in part because there is no information available to indicate how future collective bargaining agreements might be

modified.

The OLS notes that approximately 350 school boards, 258 municipalities, 4 counties, and numerous local government agencies, authorities and commissions, representing 138,994 active employees, participate in the SHBP. No information, however, is available to indicate when local government employee contracts expire nor how future contracts may be modified in terms of sharing the cost of participating in the SHBP. It should be noted that some local employers do not have collective bargaining agreements with any of their employees.

The bill also permits local government employers to establish a cafeteria plan for their employees pursuant to section 125 of the Internal Revenue Code to provide for a reduction in an employee's salary in exchange for payment by the employer of any required employee contribution for SHBP coverage, medical or dental expenses not covered by SHBP, or dependent care expenses. This provision would reduce the cost to the employee of paying for part of the cost of health benefits coverage by allowing the employee to use pre-tax dollars to pay medical premiums. Employees save federal (but not State) income taxes through the reduction in taxable income. In addition to the employee savings in federal income taxes, both the employee and the employer avoid Social Security and Medicare taxes on amounts deferred under a Cafeteria Plan. The employer savings may be minimal though because the employer will have to hire additional staff or hire a private firm to administer the plan.

It is impossible to estimate the potential employer savings because it is unclear how many employees will elect to participate in a Cafeteria Plan. Employees need to carefully review their particular circumstances because there are some drawbacks to Cafeteria Plans. One of the most important is that because the employee's contributions to Social Security are reduced under a Cafeteria Plan, employees who earn less than the Social Security threshold for their entire working lives will receive a reduced Social Security benefit upon retirement. Employees electing not to participate in the Cafeteria Plan will further reduce any potential employer savings by avoiding Social Security and Medicare taxes.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.