

ASSEMBLY, No. 2237

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1996

By Assemblywoman MURPHY

1 AN ACT concerning the State Health Benefits Program and certain  
2 other benefits for public employees, amending and supplementing  
3 P.L.1964, c.125 and supplementing Title 52 of the Revised  
4 Statutes.

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

8  
9 1. (New section) Notwithstanding the provisions of any other law  
10 to the contrary, the obligations of any employer other than the State,  
11 as defined in section 4 of P.L.1964, c.125 (C.52:14-17.35), except for  
12 an independent State authority, board, commission, corporation,  
13 agency, or organization deemed to be covered by section 6 of  
14 P.L.1996, c.8 (C.52:14-17.28b), to pay the premium or periodic  
15 charges for health benefits coverage provided under P.L.1961, c.49  
16 (C.52:14-17.25 et seq.) may be determined by means of a binding  
17 collective negotiations agreement, including any agreements in force  
18 at the time of the adoption of P.L. , c. (now pending before the  
19 Legislature as this bill). With respect to employees of an employer  
20 other than the State for whom there is no majority representative for  
21 collective negotiations purposes, the employer may, in its sole  
22 discretion, modify the respective payment obligations set forth in  
23 P.L.1964, c.125 for the employer and the employees, except that if  
24 there are collective negotiations agreements binding upon the  
25 employer for employees who are within the same community of  
26 interest as employees in a collective negotiations unit but are excluded  
27 from participation in the unit by the "New Jersey Employer-Employee  
28 Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the modification  
29 shall be in a manner consistent with the terms of any such collective  
30 negotiations agreement applicable to the collective negotiations unit.  
31 A modification of the respective payment obligations of the employer  
32 and employees shall not take effect until the employees have the  
33 opportunity to change the coverage for themselves and their  
34 dependents and their enrollment in the health care plans available

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 under the program during the annual enrollment period or a special  
2 enrollment period established by the commission.

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4 2. Section 7 of P.L.1964, c.125 (C.52:14-17.38) is amended to  
5 read as follows:

6 7. a. The Division of Pensions and Benefits shall certify to the  
7 certifying agent of each employer electing participation under the  
8 program the premium rates and periodic charges applicable to the  
9 coverage provided for employees and dependents. The participating  
10 employer shall remit to the division all contributions to premiums and  
11 periodic charges in advance of their due dates, subject to the rules and  
12 regulations of the commission.

13 b. From funds allocated therefor, the employer other than the  
14 State, upon adoption and submission to the division of an appropriate  
15 resolution prescribed by the commission, may pay the premium or  
16 periodic charges for the benefits provided to a retired employee and  
17 the employee's dependents covered under the program, if [such] the  
18 employee retired from a State or locally-administered retirement  
19 system on a benefit based on 25 years or more of service credited in  
20 [such] the retirement system, excepting the employee who elected  
21 deferred retirement, but including the employee who retired on a  
22 disability pension based on fewer years of service credited in [such]  
23 the retirement system, and may also reimburse [such] the retired  
24 employee for the employee's premium charges under Part B of  
25 Medicare covering the retired employee and the employee's spouse.  
26 ["Retired employee and the employee's dependents" may, upon  
27 adoption of an appropriate resolution therefor by the participating  
28 employer, also include otherwise eligible employees, and their  
29 dependents, who retired from a State or locally-administered  
30 retirement system prior to the date that the employer became a  
31 participating employer in the New Jersey State Health Benefits  
32 Program. The term may also, upon adoption of an appropriate  
33 resolution therefor by the participating employer, include otherwise  
34 eligible employees, and their dependents, who did not elect to continue  
35 coverage in the program during such time after the employer became  
36 a participating employer that the employer did not pay premium or  
37 periodic charges for benefits to retired employees and their dependents  
38 pursuant to this section.] The payment of premiums and periodic  
39 charges and reimbursements for Part B Medicare premiums for  
40 qualified retirees may be provided as follows:

41 (1) for all present and future retirees participating in the program  
42 on the date of adoption of the resolution;

43 (2) for all retirees eligible to participate in the program on the date  
44 of retirement who retire on or after the date set forth in the resolution;

45 (3) for present retirees not participating in the program on the date  
46 of adoption of the resolution because they retired from a State or

1 locally administered retirement system prior to the date the employer  
2 became a participating employer;

3 (4) for present retirees not participating in the program on the date  
4 of adoption of the resolution because they retired from a State or  
5 locally administered retirement system after the date the employer  
6 became a participating employer but elected not to continue coverage  
7 because the employer had not elected to pay the premiums or periodic  
8 charges for qualified retirees;

9 (5) for the surviving spouses and dependents of retirees covered  
10 under the program;

11 (6) for all or some of the premium or periodic charges for benefits  
12 provided to retirees and dependents; or,

13 (7) for all, some or none of Part B Medicare premiums.

14 An employer other than the State which has elected to pay for  
15 retired coverage may limit its obligation to pay for this coverage as  
16 authorized under this subsection, or terminate its obligation to pay for  
17 this coverage, upon adoption and submission to the division of an  
18 appropriate resolution prescribed by the commission, for employees  
19 who have not met the eligibility requirements for employer payment  
20 for retired coverage on the effective date of the resolution. Eligibility  
21 and enrollment of such employees and dependents shall be in  
22 accordance with such rules and regulations as may be adopted by the  
23 State Health Benefits Commission.

24 [The employer other than the State may, by resolution, pay the  
25 premium or periodic charges for the benefits provided to the surviving  
26 spouse of a retired employee and the employee's dependents covered  
27 under the program as provided in this section.]

28 (cf: P.L.1996, c.8, s.4)

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30 3. (New section) Notwithstanding any provision to the contrary  
31 of section 5 of P.L.1964, c.125 (C.52:14-17.36) or any other law, or  
32 of any rule or regulation, for the purposes of determining eligibility for  
33 coverage under the health benefits program established pursuant to  
34 section 3 of P.L.1961, c.49 (C.52:14-17.27), a person who, on  
35 December 17, 1995, was covered by the program shall, if the employer  
36 continued to be a participating employer and the employee continued  
37 to appear on the regular payroll of the employer and to receive a salary  
38 or wages for an average of at least 20 hours per week during the  
39 period commencing on December 18, 1995 and ending on the effective  
40 date of this act, be eligible for such coverage for so long after that  
41 effective date as the employer continues to be a participating employer  
42 and the employee continues to so appear on the payroll of that  
43 employer and receive compensation for a work week having an  
44 average duration of at least 20 hours.

1       4. (New section) Notwithstanding the provisions of any other law  
2 to the contrary, the governing body of a local unit of government, a  
3 school district, or an independent local public authority, board,  
4 commission, corporation, agency or organization may establish as an  
5 employer a cafeteria plan for its employees pursuant to section 125 of  
6 the federal Internal Revenue Code, 26 U.S.C. §125. The plan may  
7 provide for a reduction in an employee's salary, through payroll  
8 deductions or otherwise, in exchange for payment by the employer of  
9 medical or dental expenses not covered by a health benefits plan, and  
10 dependent care expenses as provided in section 129 of the code, 26  
11 U.S.C. §129, and such other benefits as are consistent with section  
12 125 which are included under the plan. The amount of any reduction  
13 in an employee's salary for the purpose of contributing to the plan shall  
14 continue to be treated as regular compensation for all other purposes,  
15 including the calculation of pension contributions and the amount of  
16 any retirement allowance, but, to the extent permitted by the federal  
17 Internal Revenue Code, shall not be included in the computation of  
18 federal taxes withheld from the employee's salary.

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20       5. This act shall take effect immediately.

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#### STATEMENT

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25       This bill allows employers other than the State (except for an  
26 independent State authority, board, commission, corporation, agency,  
27 or organization deemed to be covered by P.L.1996, c.8) to modify the  
28 employer and active employee obligations to pay for health benefits  
29 coverage under the State Health Benefits Program (SHBP). SHBP  
30 benefits with regard to covered services remain unchanged.

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

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

13       The bill provides that a local government employee who was  
14 covered under the New Jersey State Health Benefits Program (SHBP)  
15 on December 17, 1995 shall, if the employer continued to participate  
16 in the SHBP and the employee continued to be employed with that  
17 employer for an average work week of 20 hours during the period  
18 between that date and the date on which this legislation takes effect as  
19 law, be eligible for such coverage for so long after that effective date  
20 as the employer continues to be a participating employer and the  
21 employee continues to work for the employer for an average of at least  
22 20 hours per week.

23       On September 21, 1995, the State Health Benefits Commission  
24 adopted an amendment to the commission's regulation governing  
25 "full-time employment" for purposes of determining a local  
26 government employee's eligibility for SHBP coverage; the amended  
27 version of the regulation became effective upon its official publication  
28 on December 18, 1995. Prior to the amendment, "full-time" status  
29 was accorded any such employee who worked an average of at least  
30 20 hours per week. Under the regulation as amended, local employers  
31 are permitted to establish a higher standard for full-time status. Thus  
32 this legislation would, in effect, retroactively "grandfather" application  
33 of the prior regulation for employees covered under that regulation  
34 who have been and remain continuously employed with the same  
35 employer for a minimum average work week of 20 hours.

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

1 the Internal Revenue Code, shall not be included in the computation  
2 of federal taxes withheld from the employee's salary.

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7 Makes certain revisions of SHBP concerning local government  
8 employees and retirees; establishes cafeteria plans for such employees  
9 under section 125 of the Internal Revenue Code.