

SENATE, No. 1392

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1996

By Senator EWING

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:

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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.

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46 4. (New section) Notwithstanding the provisions of any other law

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

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19 5. This act shall take effect immediately.

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22 STATEMENT

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

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

46 The bill provides that an employer other than the State (as defined

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

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

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

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

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3 Makes certain revisions of SHBP concerning local government

4 employees and retirees; establishes cafeteria plans for such employees

5 under section 125 of the Internal Revenue Code.