Pension and Health Benefits Review Commission
Vote Results
October 21, 2016

S-2304 (Beck)
Establishes primary health care plan with optional riders in SEHBP for school employees; requires minimum contribution by school employees for health care benefits.

Motion: Recommend to enact, but with an amendment to include a provision similar to what was contained in PL 2010, c.78, that allows premium sharing by employees to be less than the bill’s minimum requirement provided that the proposed health care plan and premium sharing is determined to be no more expensive for taxpayers than utilization of SEHBP in conjunction with the statutorily established minimum premium sharing.

Discussion: The main reason for commission support was that the legislation would effectuate meaningful savings which are necessary so the State budget can better meet its financial responsibilities, including increasing State payments to the various defined benefit pension systems.

The Commission initially expressed concerns about the bill insofar as it would trigger penalties under the Affordable Care Act (ACA), and alternative plan design changes should be considered. The Commission’s Motion is based, in part, on Sen. Beck’s letter that was emailed to the Commission on October 20, 2016 expressing her intent to amend S-2304 in a manner that would avoid ACA penalties.

Any reduction in SEHBP costs resulting from this legislation will be dependent upon the actual migration of plan participants from the current level of benefits under the Program’s legacy plans to the lower levels of coverage provided pursuant to this bill, which is uncertain. If all active employees “bought up” to their current benefit levels, there will be no savings associated with this new legislation. Because the majority of current retirees do not pay anything towards the cost of their coverage and would not have an incentive to select anything less than the highest buy-up option that matches their current benefit levels, there would be no savings regarding retirees. Historical State of New Jersey migration patterns have shown very small changes due to the introduction of new plans, especially when employee cost sharing provisions do not change. Approximately 5% of the current total (State, Government, and Education) active enrollment elects non-Legacy plans (i.e. Legacy plans are defined as NJDIRECT10, NJDIRECT15, Freedom 10, Freedom 15, and the HMO plans).

The ACA does not permit annual or lifetime maximums on any services that are considered “Essential Health Benefits” (EHB) under the ACA. EHB includes, but is not limited to, emergency services, hospitalization, prescription drugs, rehabilitative services, laboratory services, and preventive services. It is important to note that the ACA does not allow maximums on these benefits in an employer’s health plan. In addition, mental health parity does not require large employers to cover these benefits, but that if these benefits are covered requirements restrict the use of limits on mental health coverage. As a result of these regulations, the following Essential Benefits Primary Plan (EBPP) limits should be excluded from the legislation:

i. Limit of 90 days for inpatient and outpatient hospital care
ii. $2,000 annual allowance for inpatient diagnostic tests
iii. Limit of 90 days for inpatient mental health coverage
iv. Limit of 30 days for inpatient/outpatient substance abuse coverage
v. $800 annual limit per person for wellness and preventive care
vi. $800 annual limit per person for physician office visits

This bill would change the plan design of the SEHBP significantly. Other plan design changes should also be considered, such as suggested by the New Jersey Pension and Health Benefit Study Commission in their Supplemental Report on Health Benefits dated February 11, 2016 in which a Gold Level of health benefit coverage was recommended for public employees.

S-2305 (Beck)
Establishes primary health care plan with optional riders in SHBP for school employees; requires minimum contribution by school employees for health care benefits.

Motion: Recommend to enact, but with an amendment to include a provision similar to what was contained in PL 2010, c.78, that allows premium sharing by employees to be less than the bill’s minimum requirement provided that the proposed health care plan and premium sharing is determined to be no more expensive for taxpayers than utilization of SHBP in conjunction with the statutorily established minimum premium sharing.

Discussion: The main reason for commission support was that the legislation would effectuate meaningful savings which are necessary so the State budget can better meet its financial responsibilities, including increasing State payments to the various defined benefit pension systems

The Commission initially expressed concerns about the bill insofar as it would trigger penalties under the Affordable Care Act (ACA), and alternative plan design changes should be considered. The Commission’s Motion is based, in part, on Sen. Beck’s letter that was emailed to the Commission on October 20, 2016 expressing her intent to amend S-2305 in a manner that would avoid ACA penalties.

Any reduction in State and local employer costs resulting from this legislation will be dependent upon the actual migration of plan participants from the current level of benefits under the Program’s legacy plans to the lower levels of coverage provided pursuant to this bill, which is uncertain. If all active employees “bought up” to their current benefit levels, there would be no savings associated with this new legislation. Because the majority of current retirees do not pay anything towards the cost of their coverage and would not have an incentive to select anything less than the highest buy-up option that matches their current benefit levels, there would be no savings regarding retirees. Historical State of New Jersey migration patterns have shown very small changes due to the introduction of new plans, especially when employee cost sharing provisions do not change. Approximately 5% of the current total (State, Government, and Education) active enrollment elects non-Legacy plans (i.e. Legacy plans are defined as NJDIRECT10, NJDIRECT15, Freedom 10, Freedom 15, and the HMO plans).

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covered requirements restrict the use of limits on mental health coverage. As a result of these regulations, the following Essential Benefits Primary Plan (EBPP) limits should be excluded from the legislation:

i. Limit of 90 days for inpatient and outpatient hospital care  
ii. $2,000 annual allowance for inpatient diagnostic tests  
iii. Limit of 90 days for inpatient mental health coverage  
iv. Limit of 30 days for inpatient/outpatient substance abuse coverage  
v. $800 annual limit per person for wellness and preventive care  
vi. $800 annual limit per person for physician office visits  

This bill would change the plan design of the SHBP significantly. Other plan design changes should also be considered, such as suggested by the New Jersey Pension and Health Benefit Study Commission in their Supplemental Report on Health Benefits dated February 11, 2016 in which a Gold Level of health benefit coverage was recommended for public employees.

**S-2441 (Stack)**  
Permits county prosecutors to enroll in Prosecutors Part of PERS.  

**Motion:** Recommend not to enact.  

**Discussion:** The Commission does not recommend enactment of this bill as it would increase pension liabilities on an already underfunded pension system. Additionally, the provision in this bill would restrict enrollment in the Prosecutors Part to someone “who is enrolled in the Defined Contribution Retirement Program, but who previously was enrolled in the Public Employees’ Retirement System (PERS) and in the Judicial Retirement System, for an aggregate period of not less than ten years” indicates this bill is more than likely “special legislation” which would impact only one individual.

The Prosecutors Part of PERS was closed to new members with the enactment of Chapter 1, P.L. 2010. This law was enacted to institute a number of public employee pension and health benefit reforms as recommended by the Joint Legislative Committee on Public Employee Benefit Reforms in their report dated November 15, 2006. The enactment of this bill to allow new members into this plan after it was closed to new members would be contrary to the objectives of Chapter 1 (i.e. pension reform) and may serve to increase employer costs and PERS’ unfunded liabilities, as well as to encourage the introduction of future legislation providing further exceptions.

**A-982 (Gove/Rumpf)**  
Allows PERS ordinary disability retiree to earn up to $3,000 in PERS-covered employment annually before cancellation of disability benefit and reenrollment in PERS.  

**Motion:** Recommend not to enact.  

**Discussion:** The Commission does not recommend enactment of this bill since the prerequisite to be eligible for a disability pension is to become “totally and permanently disabled,” any legislation that encourages disability retirees to return to employment without threat of relinquishing their disability pension is a contradiction in terms. Also, this bill promotes “double-dipping.” (i.e. the ability to collect a public pension and a public salary simultaneously.)
Since this bill only impacts the PERS, its enactment will create a disparity in the pension provisions when compared to the other State-administered retirement plans, specifically the TPAF, which has similar return to employment laws regarding disability pensions. Additionally, the bill indicates it is applicable only to members who retired with an ordinary disability pension. Accidental disability pensions appear to be excluded. The introduction of future bills extending this bill’s provisions to the other State pension plans can be anticipated.

A-1284 (McGuckin)
Extends eligibility for certain veterans' benefits to members of reserve components of US Armed Forces and NJ organized militia who serve at least 180 continuous days.

Motion: Recommend not to enact.

Discussion: The Commission does not recommend enactment of this bill as it would increase pension liabilities on an already underfunded pension system. The Commission also does not recommend enactment of this bill because the Legislature’s intent when it originally provided veterans preference in the State was to include all who served in the “theatre of operations” during world wars or major national emergencies. To include military duty where only limited, regional service is involved would provide a windfall for those who had no direct participation in a military engagement and detracts from the original intent regarding entitlement to this benefit. The enactment of this bill will create increased annual pension contributions for both the State and local public employers. State-mandate, State-pay issues need to be considered.

A-3206 (Wolfe/Singleton/Quijano/Holley)
Provides that PFRS definitions of widow, widower and spouse will include domestic partners of all PFRS members.

Motion: Tabled.

Discussion: To be discussed at a future Pension and Health Benefits Commission meeting, after receiving further information from the Attorney General’s Office as to what substantive provisions of the legislation may already have been effectuated by court decisions and what provisions would represent a shift in policy.

A-3905 (O’Scanlon)
Sets level for health care benefits; requires employee contributions; prohibits reimbursement of Medicare Part B; adds member to SHBP/SEHB plan design committees; requires retirees to purchase health care through exchanges.

Motion: Recommend not to enact.

Discussion: The provisions of this bill would apply to both participating and non-participating SHBP/SEHB public employers and has the potential of generating significant health benefit cost reductions to most public employers, in particular, to the State. It would also have a significant impact on how employer-provided health benefit coverage is delivered to all active public employees and, especially, to retirees eligible for employer paid post-retirement medical (PRM) benefits.
A major element of this bill contributing to the significant reduction in the State’s annual health benefit cost is the shifting of the State’s obligation to pay the cost of PRM benefits of eligible education retirees to the local school districts and other local education employers. The report of the Pension and Health Benefit Study Commission indicates that the savings that will be incurred by local school districts and other local education employers resulting from adopting the reforms of this bill for their active employees will meet or exceed the cost of providing PRM benefits for their eligible retirees, making this bill, at the least, cost neutral to the local school districts and other local education employers.

Currently, retirees in the SHBP/SEHBP are eligible for a choice of coverage under the majority of the plans offered to active employees. Local employers participating in the SHBP/SEHBP are billed monthly by the Division for the premiums required to cover their active employees and retired employees who qualify for employer-paid PRM benefits. Under this proposal, retirees would be required to purchase coverage through a private exchange. Funding to cover the cost of the premiums would be provided by the employer through a Retirement Reimbursement Account (RRA).

The State Health Benefit Plan Design Committee and the School Employee Health Benefit Plan Design Committee were created with the enactment of P.L. 2011, c.78 (Pension and Health Benefit Reform) and were provided with the responsibility for plan design. These committees have been stymied from instituting significant reforms because their membership consists of equal representation of the Executive Branch and certain unions who represent public employees in the State. This bill would add one public member appointed by the Governor to each committee which could make these committees more productive.

The change to the public employee health benefit system proposed by this bill poses significant administrative challenges. It should be supported by the enactment of its companion bill, A-3906, which would create the Public Employee Pension and Health Benefits Reform Task Force to oversee and resolve any issues regarding its implementation.

Concerns raised by various commission members included: the employee contribution toward premiums in the absence of flexibility where costs would be no greater to taxpayers; the inclusion of retirees whose pension COLA has been frozen and who would need to terminate their long-time coverage and find new coverage in an exchange with new funding sources; the bill is not prospective, and; the “freezing” of State and local pension plans that is implied in this bill.

A-3941 (O’Scanlon/Mukherji)
Prohibits multiple employer coverage for health care benefits of public employee and requires payment based on employee's aggregate public income.

Motion: Recommend to enact with modification by requiring the employer to take disciplinary action against any employee who does not disclose the employee’s aggregate compensation by referring the matter to the Prosecutor’s office.

Discussion: The Commission recommends enactment of this bill because local public employers would be the major benefactors of any savings to be derived from this bill, since State employees, all of which receive coverage from the SHBP, already are prohibited from duplicate SHBP coverage as a result of the enactment of Chapter 2, P.L. 2010. Additionally, the elimination of the incentive to waive coverage in the case of multiple coverage would
generate additional savings to local employer and would mirror the State’s policy of not offering monetary incentives to waive coverage to State employees.

**ACR-190 (O’Scanlon)**  
Proposes constitutional amendment to require the State to substantially increase pension payments, but to condition increased payments on achieving cost reductions with respect to public employee and retiree health care benefits.

**Motion:** Recommend not to enact.

**Discussion:** The Commission’s Motion reflects the discussion for A-3905. Additionally, a member expressed a general concern that it is not appropriate for the Constitution to speak to employee benefit levels.