



**A2978**

**SPONSORS STATEMENT:** (Begins on page 3 of original bill) Yes

Bill and Sponsors Statement identical to S812

**COMMITTEE STATEMENT:** (State Govt.) **ASSEMBLY:** Yes 2-15-2001

5-3-2001 (Approp.)

Identical to Assembly Statements to S812

**SENATE:** No

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

Identical to fiscal estimate for S812

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

# SENATE, No. 812

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JANUARY 31, 2000

**Sponsored by:**

**Senator JOSEPH M. KYRILLOS, JR.**  
**District 13 (Middlesex and Monmouth)**  
**Senator BERNARD F. KENNY**  
**District 33 (Hudson)**

**Co-Sponsored by:**

**Assemblymen Azzolina and Thompson**

**SYNOPSIS**

Allows certain municipal authorities to offer incentive to waive SHBP coverage to employees eligible for spouse's health care coverage.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2001)**

1 AN ACT concerning the health care benefits of employees of certain  
2 municipal authorities participating in the State Health Benefits  
3 Program and amending P.L.1995, c.259.

4

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

7

8 1. Section 36 of P.L.1995, c.259 (C.52:14-17.31a) is amended to  
9 read as follows:

10 36. Notwithstanding the provisions of any other law to the  
11 contrary, a municipality, or a municipal authority created by a  
12 municipality pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or  
13 P.L.1957, c.183 (C.40:14B-1 et seq.), which participates in the State  
14 Health Benefits Program, established pursuant to P.L.1961, c.49  
15 (C.52:14-17.25 et seq.), may allow any employee who is eligible for  
16 coverage as a dependent of the employee's spouse under that program  
17 or under another health benefits plan offered by the spouse's employer,  
18 whether a public or private employer, to waive coverage under the  
19 State Health Benefits Program to which the employee is entitled by  
20 virtue of employment with the municipality or the municipal authority.  
21 The waiver shall be in such form as the Director of the Division of  
22 Pensions and Benefits shall prescribe and shall be filed with the  
23 division. After such waiver has been filed and for so long as that  
24 waiver remains in effect, no premium shall be required to be paid by  
25 the municipality or the municipal authority, as the case may be, for the  
26 employee or the employee's dependents. Not later than the 180th day  
27 after the date on which the waiver is filed, the division shall refund to  
28 the municipality or the municipal authority the amount of any premium  
29 previously paid by the municipality or the municipal authority with  
30 respect to any period of coverage which followed the filing date. In  
31 consideration of filing such a waiver, a municipality or a municipal  
32 authority may pay to the employee annually an amount, to be  
33 established in the sole discretion of the municipality or the municipal  
34 authority, which shall not exceed 50% of the amount saved by the  
35 municipality or the municipal authority because of the employee's  
36 waiver of coverage. An employee who waives coverage shall be  
37 permitted to immediately resume coverage if the employee ceases to  
38 be covered through the employee's spouse for any reason, including,  
39 but not limited to, the retirement or death of the spouse or divorce.  
40 An employee who resumes coverage shall repay, on a pro rata basis,  
41 any amount received from the municipality or the municipal authority  
42 which represents an advance payment for a period of time during  
43 which coverage is resumed. An employee who wishes to resume

**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 coverage shall notify the municipality or the municipal authority in  
2 writing and file a declaration with the division, in such form as the  
3 director of the division shall prescribe, that the waiver is revoked. The  
4 decision of a municipality or a municipal authority to allow its  
5 employees to waive coverage and the amount of consideration to be  
6 paid therefor shall not be subject to the collective bargaining process.  
7 (cf: P.L.1995, c.259, s.36)

8  
9 2. This act shall take effect immediately.

10  
11  
12 STATEMENT

13  
14 This bill provides that a municipal authority created by a  
15 municipality under the municipal sewerage authorities law,  
16 N.J.S.A.40:14A-1 et seq., or the municipal and county utilities  
17 authority law, N.J.S.A.40:14B-1 et seq., which participates in the  
18 State Health Benefits Program (SHBP) may allow any employee who  
19 is eligible for coverage as a dependent of the employee's spouse under  
20 that program or under another health benefits plan offered by the  
21 spouse's employer, whether a public or private employer, to waive the  
22 SHBP coverage to which the employee is entitled by virtue of  
23 employment with the municipal authority. In consideration of filing  
24 such a waiver, a municipal authority may pay to the employee annually  
25 an amount, to be established in the sole discretion of the authority,  
26 which shall not exceed 50% of the amount saved by the authority  
27 because of the employee's waiver of coverage. Current law permits  
28 any municipality participating in SHBP to offer such a waiver  
29 incentive.

30 Under the bill, an employee who waives coverage will be permitted  
31 to immediately resume coverage if the employee ceases to be covered  
32 through the employee's spouse for any reason, including, but not  
33 limited to, the retirement or death of the spouse or divorce. An  
34 employee who resumes coverage will repay, on a pro rata basis, any  
35 amount received from the municipal authority which represents an  
36 advance payment for a period of time during which coverage is  
37 resumed.

38 The bill also provides that the decision of a municipal authority to  
39 allow its employees to waive SHBP coverage and the amount of  
40 consideration to be paid therefor will not be subject to the collective  
41 bargaining process.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### SENATE, No. 812

# STATE OF NEW JERSEY

DATED: FEBRUARY 17, 2000

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 812.

This bill would authorize a municipal authority created by a municipality under the municipal sewerage authorities law, N.J.S.A.40:14A-1 et seq., or the municipal and county utilities authority law, N.J.S.A.40:14B-1 et seq., which participates in the State Health Benefits Program (SHBP) to allow any employee who is eligible for coverage as a dependent of the employee's spouse under that program or under another health benefits plan offered by the spouse's employer, whether a public or private employer, to waive the SHBP coverage to which the employee is entitled by virtue of employment with the municipal authority. In consideration of filing such a waiver, a municipal authority would pay to the employee annually an amount, to be established in the sole discretion of the authority, which shall not exceed 50% of the amount saved by the authority because of the employee's waiver of coverage. Current law permits any municipality participating in SHBP to offer such a waiver incentive.

Under the bill, an employee who waives coverage would be permitted to immediately resume coverage if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage would repay, on a pro rata basis, any amount received from the municipal authority which represents an advance payment for a period of time during which coverage is resumed.

The bill also provides that the decision of a municipal authority to allow its employees to waive SHBP coverage and the amount of consideration to be paid therefor would not be subject to the collective bargaining process.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 812

# STATE OF NEW JERSEY

DATED: MARCH 20, 2000

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 812.

This bill would authorize local sewerage and utilities authorities that provide health benefits coverage for their employees through the New Jersey State Health Benefits Program (SHBP) to offer certain of those employees an incentive to waive coverage under the program.

The SHBP was established by law in 1961 to provide health benefits coverage to the State's full-time employees and their dependents. In 1964, legislation was enacted to allow participation in the program, at their option, by local government employers, including counties, municipalities, school districts, and "public agencies" (a term that includes local authorities operating public works or providing public services).

A law enacted in 1995 authorizes municipalities that participate in the SHBP to allow any employee eligible for health benefits coverage as a dependent of the employee's spouse, whether under SHBP or under another plan offered by the spouse's employer (either public or private), to waive the SHBP coverage to which the employee is entitled on the basis of the municipal employment. In consideration of the employee's filing of such a waiver, the municipal employer annually pays to the employee an amount, set by the employer, that cannot exceed 50% of the amount that the employer saves in premiums as a result of the employee's waiver of coverage. An employee who waives SHBP coverage may immediately resume that coverage upon loss of the other coverage as a spouse for any reason. Upon such resumption of coverage, the employee becomes liable for repayment, on a pro rata basis, of any amount received from the municipality that represents an advance payment for a period of time during which coverage is resumed. The law provides that a municipal employer's decision to allow its employees to waive SHBP coverage and the amount of consideration to be paid for such a waiver shall not be subject to the collective bargaining process.

This bill extends the power to offer employees the incentive-for-waiver-of-SHBP-coverage arrangement to any participating municipal authority created under either the municipal sewerage authorities law or the municipal and county utilities law.

### FISCAL IMPACT

This bill has no direct effect on State revenue or expenditures. Adoption of the waiver option is discretionary with individual authorities. According to data compiled by the Employee Benefits Research Institute, the election to waive dual coverage may be exercised by as few as one employee in twenty. Actual savings to the authorities will depend on the number of employees that qualify for and exercise the option and the amount of any incentive paid relative to the cost of health insurance.

Currently, the value of health benefits is excluded from taxation under the New Jersey gross income tax. To the extent that employees exercise the option to receive a cash payment instead of health benefits they will be increasing their New Jersey taxable income. Because of the optional nature of the program, the State revenue impact cannot be estimated.

### For your information

At its meeting on December 11, 1998, the Pension and Health Benefits Review Commission considered Senate Bill No. 1377 of 1998, to which this bill is identical. The commission recommended "that the Legislature not enact S-1377 because cash incentives for waiver of health coverage promote adverse selection to the financial detriment of the State Health Benefits Program."



**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 812**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: APRIL 7, 2000

**SUMMARY**

**Synopsis:** Allows certain municipal authorities to offer incentive to waive State Health Benefits Program coverage to employees eligible for spouse's health care coverage.

**Type of Impact:** Indeterminate Fiscal Impact, Local Funds

**Agencies Affected:** Municipal Authorities

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>Local Savings/ Cost</b>	Indeterminate	Indeterminate	Indeterminate

- ! Senate Bill No. 812 would allow municipal authorities which participate in the State Health Benefits Program (SHBP) to offer an incentive to employees to waive coverage if they are eligible for coverage as a dependent under either SHBP or another insurance plan.
- ! The amount of the employee incentive cannot exceed 50 percent of the amount saved by the municipal authority.
- ! Cost savings could be achieved for employers who elect participation in this program, while additional costs to other employers, who do not waive coverage, may result from a premium shift.
- ! Cash incentives offered to employees who waive coverage would be taxable.

**BILL DESCRIPTION**

Senate Bill No. 812 of 2000 would allow municipal authorities (created by a municipality under the municipal sewerage authorities law or the municipal and county utilities authority law) which participate in the State Health Benefits Program (SHBP) to offer the same incentive-backed waiver option as municipalities are currently allowed to offer under P.L. 1995, c.259.

Section 36 of P.L. 1995, c.259 (N.J.S.A. 52:14-17.31a), in part, allows a municipality which participates in the SHBP to offer employees who are eligible for coverage as a dependent of the employee's spouse under the SHBP, or another health benefits plan offered by the spouse's employer, an incentive to waive their health coverage under the SHBP. The incentive is determined by the municipality, but cannot exceed 50 percent of the amount saved by the municipality as a result of the employee's waiver of SHBP coverage.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

It is difficult to estimate the fiscal impact of this bill because it will result in savings to some local employers (municipal authorities) and in additional costs to other local employers. The magnitude of the savings or costs will depend on the number of employees who will choose an incentive for a waiver. While it appears a municipal authority will always save money given the difference between the cash incentive and the cost of providing health insurance, the actual consequences may be quite different.

If the municipal authority actually purchased health insurance, the municipal authority would realize savings of up to 50 percent of the premium paid for the purchase of health insurance for the employees waiving coverage annually. However, local government employers participating in the SHBP (for the most part) do not actually purchase health insurance. The Traditional Plan, NJ Plus and the largest Health Maintenance Organizations (HMOs) in the SHBP are self-insured. This means the health insurance liability, the money paid out for claims, comes directly from the pooled contributions of the employers (including municipal authorities) participating in the program. The "premiums" paid by participating employers are established annually for the purpose of meeting the program's projected expenditures on an accrual basis. In essence, the actuary for the SHBP establishes the annual "premiums" by dividing the projected expenditures (costs) by the number of covered employees.

To the extent a SHBP participating employer successfully offers cash incentives to its employees to waive coverage but those same employees remain covered by the SHBP through a spouse's SHBP participating employer, the expenditures of the SHBP are unchanged. This results in higher premiums because the number of covered employees participating employers pay premiums for decrease. The higher premiums are paid by all participating local government employers, including the employers offering cash incentives. Because all employers pay the higher premiums, the actual savings to the employer offering the cash incentives will be less than the expected. In addition, there is some cost shifting to those employers participating in the SHBP whose employees do not waive coverage. Employers offering cash incentives will experience expected savings if employees waive SHBP coverage and their spouses are covered by a non-SHBP participating employer.

Current participation by municipalities and employees in the existing waiver program is minimal, and many of the employees that have waived benefits are those employees that have a spouse enrolled in the SHBP (a situation which does not result in overall savings to the program).

Finally, there are potential tax consequences of offering cash incentives to employees who waive health insurance coverage. Under the federal Internal Revenue Code (IRC), money, other than reimbursements for medical expenses, received by an employee from accident or health insurance is generally reportable as income. Employees are required to pay federal income tax on these amounts unless the employer has established a Cafeteria Plan or a Flexible Benefit Plan (under IRC Section 125). A Cafeteria Plan permits a plan participant to elect to be covered by certain benefits on a pre-tax basis and to choose between cash and benefits without incurring a taxable benefit because of that choice. However, if an employer offers a choice between one salary and health insurance or a salary and a cash incentive without health insurance, without establishing a Cafeteria Plan, every employee (even employees who do not waive their health insurance benefit) is taxed as if the employee received the health insurance benefit as a taxable benefit.

Section: *State Government*

Analyst: *Julie M. McDonnell*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

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

# ASSEMBLY STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### SENATE, No. 812

# STATE OF NEW JERSEY

DATED: FEBRUARY 15, 2001

The Assembly State Government Committee reports favorably Senate Bill No. 812.

This bill provides that a municipal authority created by a municipality under the municipal sewerage authorities law, N.J.S.A.40:14A-1 et seq., or the municipal and county utilities authority law, N.J.S.A.40:14B-1 et seq., which participates in the State Health Benefits Program (SHBP) may allow any employee who is eligible for coverage as a dependent of the employee's spouse under that program or under another health benefits plan offered by the spouse's employer, whether a public or private employer, to waive the SHBP coverage to which the employee is entitled by virtue of employment with the municipal authority. In consideration of filing such a waiver, a municipal authority may pay to the employee annually an amount, to be established in the sole discretion of the authority, which shall not exceed 50% of the amount saved by the authority because of the employee's waiver of coverage. Current law permits any municipality participating in SHBP to offer such a waiver incentive.

Under the bill, an employee who waives coverage will be permitted to resume coverage immediately if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage will repay, on a pro rata basis, any amount received from the municipal authority which represents an advance payment for a period of time during which coverage is resumed.

The bill also provides that the decision of a municipal authority to allow its employees to waive SHBP coverage and the amount of consideration to be paid therefor will not be subject to the collective bargaining process.

Senate Bill No. 812 is the same as Assembly Bill No. 2978.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

**SENATE, No. 812**

**STATE OF NEW JERSEY**

DATED: MAY 3, 2001

The Assembly Appropriations Committee reports favorably Senate Bill No. 812.

Senate Bill No. 812 allows certain municipal authorities to allow a "cash-out option" to employees who would otherwise have duplicate health care coverage.

The bill allows a municipal authority created by a municipality under the municipal sewerage authorities law, N.J.S.A.40:14A-1 et seq., or the municipal and county utilities authority law, N.J.S.A.40:14B-1 et seq., and which participates in the State Health Benefits Program (SHBP) to allow an employee who is eligible for coverage as a dependent of the employee's spouse to waive the SHBP coverage in return for a cash payment. The double-covered employee may waive the SHBP coverage to which the employee is entitled whether the spouse's plan is the SHBP or another health benefits plan and whether the spouse's employer is a public or private employer. The payment by the municipal authority will be set by the authority but shall not exceed 50% of the amount saved by the authority because of the employee's waiver of coverage.

Current law permits any municipality participating in SHBP to offer such a waiver incentive.

Under the bill, an employee who waives coverage will be permitted to resume coverage immediately if the employee ceases to be covered through the employee's spouse for any reason, including but not limited to the retirement or death of the spouse or divorce from the spouse. An employee who resumes coverage will repay, on a pro rata basis, any amount received from the municipal authority that represents an advance payment for a period of time during which coverage is resumed.

The bill also provides that the decision of a municipal authority to allow its employees to waive SHBP coverage and the amount of the waiver payment will not be subject to the collective bargaining process.

As reported by the committee, this bill is identical to Assembly Bill No. 2978, also as reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services notes that local government employers participating in the SHBP (with some few exceptions) do not actually purchase health insurance. The Traditional Plan, NJ Plus and the largest Health Maintenance Organizations (HMOs) in the SHBP are self-insured, which means that the money paid out for claims comes directly from the pooled contributions of the employers (including municipal authorities) participating in the program. The "premiums" paid by participating employers are established annually for the purpose of meeting the program's projected expenditures on an accrual basis; the actuary for the SHBP establishes the annual "premiums" by dividing the projected expenditures (costs) by the number of covered employees.

To the extent the employees of a SHBP employer waive coverage but remain SHBP covered through a spouse, the expenditures of the SHBP are unchanged. This results in higher premiums per employee, because the number of covered employees participating employers pay premiums for decreases. Because all employers pay the higher premiums, the actual savings to the employer offering the cash incentives may be less than the expected, and there may be some cost shifting to SHBP participating employers whose employees do not waive coverage. Employers offering cash incentives will experience expected savings if employees waive SHBP coverage and their spouses are covered by a non-SHBP participating employer.

The OLS notes there are potential tax consequences of offering cash incentives to employees who waive health insurance coverage. Under the federal Internal Revenue Code (IRC), both cash actually received and cash that an employee may chose to receive are generally reportable as income, even if the employee chooses to take instead of cash what would otherwise be an excludable benefit (like medical insurance). Employees are required to pay federal income tax on these amounts of choosable cash (whether or not the cash is chosen) unless the employer has established a "cafeteria plan" under IRC Section 125. A cafeteria plan permits a plan participant to elect certain benefits (including medical insurance) and to choose between cash and benefits without reporting taxable income unless cash is actually chosen. If an employer offers a choice between a) salary and health insurance or b) salary plus a cash incentive but no health insurance and the employer does not establish a cafeteria plan, every employee (even employees who do not waive their health insurance benefit and get no extra cash) is taxed as if the employee received the taxable cash instead of the excludable health insurance benefit.

# ASSEMBLY, No. 2978

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED NOVEMBER 13, 2000

**Sponsored by:**

**Assemblyman JOSEPH AZZOLINA  
District 13 (Middlesex and Monmouth)**

**Co-Sponsored by:**

**Assemblyman Thompson**

**SYNOPSIS**

Allows certain municipal authorities to offer incentive to waive SHBP coverage to employees eligible for spouse's health care coverage.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2001)**

1 AN ACT concerning the health care benefits of employees of certain  
2 municipal authorities participating in the State Health Benefits  
3 Program and amending P.L.1995, c.259.

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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. Section 36 of P.L.1995, c.259 (C.52:14-17.31a) is amended to  
9 read as follows:

10 36. Notwithstanding the provisions of any other law to the  
11 contrary, a municipality, or a municipal authority created by a  
12 municipality pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or  
13 P.L.1957, c.183 (C.40:14B-1 et seq.), which participates in the State  
14 Health Benefits Program, established pursuant to P.L.1961, c.49  
15 (C.52:14-17.25 et seq.), may allow any employee who is eligible for  
16 coverage as a dependent of the employee's spouse under that program  
17 or under another health benefits plan offered by the spouse's employer,  
18 whether a public or private employer, to waive coverage under the  
19 State Health Benefits Program to which the employee is entitled by  
20 virtue of employment with the municipality or the municipal authority.  
21 The waiver shall be in such form as the Director of the Division of  
22 Pensions and Benefits shall prescribe and shall be filed with the  
23 division. After such waiver has been filed and for so long as that  
24 waiver remains in effect, no premium shall be required to be paid by  
25 the municipality or the municipal authority, as the case may be, for the  
26 employee or the employee's dependents. Not later than the 180th day  
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35 municipality or the municipal authority because of the employee's  
36 waiver of coverage. An employee who waives coverage shall be  
37 permitted to immediately resume coverage if the employee ceases to  
38 be covered through the employee's spouse for any reason, including,  
39 but not limited to, the retirement or death of the spouse or divorce.  
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**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 coverage shall notify the municipality or the municipal authority in  
2 writing and file a declaration with the division, in such form as the  
3 director of the division shall prescribe, that the waiver is revoked. The  
4 decision of a municipality or a municipal authority to allow its  
5 employees to waive coverage and the amount of consideration to be  
6 paid therefor shall not be subject to the collective bargaining process.  
7 (cf: P.L.1995, c.259, s.36)

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9 2. This act shall take effect immediately.

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39 allow its employees to waive SHBP coverage and the amount of  
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41 bargaining process.

# ASSEMBLY STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2978

# STATE OF NEW JERSEY

DATED: FEBRUARY 15, 2001

The Assembly State Government Committee reports favorably Assembly, No. 2978.

This bill provides that a municipal authority created by a municipality under the municipal sewerage authorities law, N.J.S.A.40:14A-1 et seq., or the municipal and county utilities authority law, N.J.S.A.40:14B-1 et seq., which participates in the State Health Benefits Program (SHBP) may allow any employee who is eligible for coverage as a dependent of the employee's spouse under that program or under another health benefits plan offered by the spouse's employer, whether a public or private employer, to waive the SHBP coverage to which the employee is entitled by virtue of employment with the municipal authority. In consideration of filing such a waiver, a municipal authority may pay to the employee annually an amount, to be established in the sole discretion of the authority, which shall not exceed 50% of the amount saved by the authority because of the employee's waiver of coverage. Current law permits any municipality participating in SHBP to offer such a waiver incentive.

Under the bill, an employee who waives coverage will be permitted to resume coverage immediately if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage will repay, on a pro rata basis, any amount received from the municipal authority which represents an advance payment for a period of time during which coverage is resumed.

The bill also provides that the decision of a municipal authority to allow its employees to waive SHBP coverage and the amount of consideration to be paid therefor will not be subject to the collective bargaining process.

Assembly Bill No. 2978 is the same as Senate Bill No. 812.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2978

# STATE OF NEW JERSEY

DATED: MAY 3, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2978.

Assembly Bill No. 2978 allows certain municipal authorities to allow a "cash-out option" to employees who would otherwise have duplicate health care coverage.

The bill allows a municipal authority created by a municipality under the municipal sewerage authorities law, N.J.S.A.40:14A-1 et seq., or the municipal and county utilities authority law, N.J.S.A.40:14B-1 et seq., and which participates in the State Health Benefits Program (SHBP) to allow an employee who is eligible for coverage as a dependent of the employee's spouse to waive the SHBP coverage in return for a cash payment. The double-covered employee may waive the SHBP coverage to which the employee is entitled whether the spouse's plan is the SHBP or another health benefits plan and whether the spouse's employer is a public or private employer. The payment by the municipal authority will be set by the authority but shall not exceed 50% of the amount saved by the authority because of the employee's waiver of coverage.

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Under the bill, an employee who waives coverage will be permitted to resume coverage immediately if the employee ceases to be covered through the employee's spouse for any reason, including but not limited to the retirement or death of the spouse or divorce from the spouse. An employee who resumes coverage will repay, on a pro rata basis, any amount received from the municipal authority that represents an advance payment for a period of time during which coverage is resumed.

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As reported by the committee, this bill is identical to Senate Bill No. 812, also as reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services notes that local government employers participating in the SHBP (with some few exceptions) do not actually purchase health insurance. The Traditional Plan, NJ Plus and the largest Health Maintenance Organizations (HMOs) in the SHBP are self-insured, which means that the money paid out for claims comes directly from the pooled contributions of the employers (including municipal authorities) participating in the program. The "premiums" paid by participating employers are established annually for the purpose of meeting the program's projected expenditures on an accrual basis; the actuary for the SHBP establishes the annual "premiums" by dividing the projected expenditures (costs) by the number of covered employees.

To the extent the employees of a SHBP employer waive coverage but remain SHBP covered through a spouse, the expenditures of the SHBP are unchanged. This results in higher premiums per employee, because the number of covered employees participating employers pay premiums for decreases. Because all employers pay the higher premiums, the actual savings to the employer offering the cash incentives may be less than the expected, and there may be some cost shifting to SHBP participating employers whose employees do not waive coverage. Employers offering cash incentives will experience expected savings if employees waive SHBP coverage and their spouses are covered by a non-SHBP participating employer.

The OLS notes there are potential tax consequences of offering cash incentives to employees who waive health insurance coverage. Under the federal Internal Revenue Code (IRC), both cash actually received and cash that an employee may chose to receive are generally reportable as income, even if the employee chooses to take instead of cash what would otherwise be an excludable benefit (like medical insurance). Employees are required to pay federal income tax on these amounts of choosable cash (whether or not the cash is chosen) unless the employer has established a "cafeteria plan" under IRC Section 125. A cafeteria plan permits a plan participant to elect certain benefits (including medical insurance) and to choose between cash and benefits without reporting taxable income unless cash is actually chosen. If an employer offers a choice between a) salary and health insurance or b) salary plus a cash incentive but no health insurance and the employer does not establish a cafeteria plan, every employee (even employees who do not waive their health insurance benefit and get no extra cash) is taxed as if the employee received the taxable cash instead of the excludable health insurance benefit.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 2978**  
**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

DATED: MAY 14, 2001

**SUMMARY**

**Synopsis:** Allows certain municipal authorities to offer incentive to waive State Health Benefits Program coverage to employees eligible for spouse's health care coverage.

**Type of Impact:** Indeterminate Fiscal Impact, Local Funds

**Agencies Affected:** Municipal Authorities

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>Local Savings Cost</b>	Indeterminate	Indeterminate	Indeterminate

- ! This bill would allow municipal authorities which participate in the State Health Benefits Program (SHBP) to offer an incentive to employees to waive coverage if they are eligible for coverage as a dependent under either SHBP or another insurance plan.
- ! The amount of the employee incentive cannot exceed 50 percent of the amount saved by the municipal authority.
- ! Cost savings could be achieved for employers who elect participation in this program, while additional costs to other employers, who do not waive coverage, may result from a premium shift.
- ! Cash incentives offered to employees who waive coverage would be taxable.

**BILL DESCRIPTION**

Assembly Bill No. 2978 of 2000 would allow municipal authorities (created by a municipality under the municipal sewerage authorities law or the municipal and county utilities authority law) which participate in the State Health Benefits Program (SHBP) to offer the same incentive-backed waiver option as municipalities are currently allowed to offer under P.L. 1995, c.259. Section 36 of P.L. 1995, c.259 (N.J.S.A. 52:14-17.31a), in part, allows a municipality

which participates in the SHBP to offer employees who are eligible for coverage as a dependent of the employee's spouse under the SHBP, or another health benefits plan offered by the spouse's employer, an incentive to waive their health coverage under the SHBP. The incentive is determined by the municipality, but cannot exceed 50 percent of the amount saved by the municipality as a result of the employee's waiver of SHBP coverage.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

It is difficult to estimate the fiscal impact of this bill because it will result in savings to some local employers (municipal authorities) and in additional costs to other local employers. The magnitude of the savings or costs will depend on the number of employees who will choose an incentive for a waiver. While it appears a municipal authority will always save money given the difference between the cash incentive and the cost of providing health insurance, the actual consequences may be quite different.

If the municipal authority actually purchased health insurance, the municipal authority would realize savings of up to 50 percent of the premium paid for the purchase of health insurance for the employees waiving coverage annually. However, local government employers participating in the SHBP (for the most part) do not actually purchase health insurance. The Traditional Plan, NJ Plus and the largest Health Maintenance Organizations (HMOs) in the SHBP are self-insured. This means the health insurance liability, the money paid out for claims, comes directly from the pooled contributions of the employers (including municipal authorities) participating in the program. The "premiums" paid by participating employers are established annually for the purpose of meeting the program's projected expenditures on an accrual basis. In essence, the actuary for the SHBP establishes the annual "premiums" by dividing the projected expenditures (costs) by the number of covered employees.

To the extent a SHBP participating employer successfully offers cash incentives to its employees to waive coverage but those same employees remain covered by the SHBP through a spouse's SHBP participating employer, the expenditures of the SHBP are unchanged. This results in higher premiums because the number of covered employees participating employers pay premiums for decrease. The higher premiums are paid by all participating local government employers, including the employers offering cash incentives. Because all employers pay the higher premiums, the actual savings to the employer offering the cash incentives will be less than the expected. In addition, there is some cost shifting to those employers participating in the SHBP whose employees do not waive coverage. Employers offering cash incentives will experience expected savings if employees waive SHBP coverage and their spouses are covered by a non-SHBP participating employer.

Current participation by municipalities and employees in the existing waiver program is minimal, and many of the employees that have waived benefits are those employees that have a spouse enrolled in the SHBP (a situation which does not result in overall savings to the program).

Finally, there are potential tax consequences of offering cash incentives to employees who waive health insurance coverage. Under the federal Internal Revenue Code (IRC), money, other than reimbursements for medical expenses, received by an employee from accident or health insurance is generally reportable as income. Employees are required to pay federal income tax on these amounts unless the employer has established a Cafeteria Plan or a Flexible Benefit Plan (under IRC Section 125). A Cafeteria Plan permits a plan participant to elect to be covered by certain benefits on a pre-tax basis and to choose between cash and benefits without incurring a taxable benefit because of that choice. However, if an employer offers a choice between one salary and health insurance or a salary and a cash incentive without health insurance, without establishing a Cafeteria Plan, every employee (even employees who do not waive their health insurance benefit) is taxed as if the employee received the health insurance benefit as a taxable benefit.

Section: *State Government*

Analyst: *Julie M. McDonnell*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

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

P.L. 2001, CHAPTER 189, *approved July 31, 2001*

Senate, No. 812

1 **AN ACT** concerning the health care benefits of employees of certain  
2 municipal authorities participating in the State Health Benefits  
3 Program and amending P.L.1995, c.259.

4

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

7

8 1. Section 36 of P.L.1995, c.259 (C.52:14-17.31a) is amended to  
9 read as follows:

10 36. Notwithstanding the provisions of any other law to the  
11 contrary, a municipality, or a municipal authority created by a  
12 municipality pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or  
13 P.L.1957, c.183 (C.40:14B-1 et seq.), which participates in the State  
14 Health Benefits Program, established pursuant to P.L.1961, c.49  
15 (C.52:14-17.25 et seq.), may allow any employee who is eligible for  
16 coverage as a dependent of the employee's spouse under that program  
17 or under another health benefits plan offered by the spouse's employer,  
18 whether a public or private employer, to waive coverage under the  
19 State Health Benefits Program to which the employee is entitled by  
20 virtue of employment with the municipality or the municipal authority.  
21 The waiver shall be in such form as the Director of the Division of  
22 Pensions and Benefits shall prescribe and shall be filed with the  
23 division. After such waiver has been filed and for so long as that  
24 waiver remains in effect, no premium shall be required to be paid by  
25 the municipality or the municipal authority, as the case may be, for the  
26 employee or the employee's dependents. Not later than the 180th day  
27 after the date on which the waiver is filed, the division shall refund to  
28 the municipality or the municipal authority the amount of any premium  
29 previously paid by the municipality or the municipal authority with  
30 respect to any period of coverage which followed the filing date. In  
31 consideration of filing such a waiver, a municipality or a municipal  
32 authority may pay to the employee annually an amount, to be  
33 established in the sole discretion of the municipality or the municipal  
34 authority, which shall not exceed 50% of the amount saved by the  
35 municipality or the municipal authority because of the employee's  
36 waiver of coverage. An employee who waives coverage shall be  
37 permitted to immediately resume coverage if the employee ceases to  
38 be covered through the employee's spouse for any reason, including,  
39 but not limited to, the retirement or death of the spouse or divorce.  
40 An employee who resumes coverage shall repay, on a pro rata basis,  
41 any amount received from the municipality or the municipal authority

**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 which represents an advance payment for a period of time during  
2 which coverage is resumed. An employee who wishes to resume  
3 coverage shall notify the municipality or the municipal authority in  
4 writing and file a declaration with the division, in such form as the  
5 director of the division shall prescribe, that the waiver is revoked. The  
6 decision of a municipality or a municipal authority to allow its  
7 employees to waive coverage and the amount of consideration to be  
8 paid therefor shall not be subject to the collective bargaining process.  
9 (cf: P.L.1995, c.259, s.36)

10  
11 2. This act shall take effect immediately.

12  
13  
14 STATEMENT

15  
16 This bill provides that a municipal authority created by a  
17 municipality under the municipal sewerage authorities law,  
18 N.J.S.A.40:14A-1 et seq., or the municipal and county utilities  
19 authority law, N.J.S.A.40:14B-1 et seq., which participates in the  
20 State Health Benefits Program (SHBP) may allow any employee who  
21 is eligible for coverage as a dependent of the employee's spouse under  
22 that program or under another health benefits plan offered by the  
23 spouse's employer, whether a public or private employer, to waive the  
24 SHBP coverage to which the employee is entitled by virtue of  
25 employment with the municipal authority. In consideration of filing  
26 such a waiver, a municipal authority may pay to the employee annually  
27 an amount, to be established in the sole discretion of the authority,  
28 which shall not exceed 50% of the amount saved by the authority  
29 because of the employee's waiver of coverage. Current law permits  
30 any municipality participating in SHBP to offer such a waiver  
31 incentive.

32 Under the bill, an employee who waives coverage will be permitted  
33 to immediately resume coverage if the employee ceases to be covered  
34 through the employee's spouse for any reason, including, but not  
35 limited to, the retirement or death of the spouse or divorce. An  
36 employee who resumes coverage will repay, on a pro rata basis, any  
37 amount received from the municipal authority which represents an  
38 advance payment for a period of time during which coverage is  
39 resumed.

40 The bill also provides that the decision of a municipal authority to  
41 allow its employees to waive SHBP coverage and the amount of  
42 consideration to be paid therefor will not be subject to the collective  
43 bargaining process.

44  
45  
46  
47 \_\_\_\_\_  
48 Allows certain municipal authorities to offer incentive to waive SHBP  
coverage to employees eligible for spouse's health care coverage.

## CHAPTER 189

AN ACT concerning the health care benefits of employees of certain municipal authorities participating in the State Health Benefits Program and amending P.L.1995, c.259.

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

1. Section 36 of P.L.1995, c.259 (C.52:14-17.31a) is amended to read as follows:

C.52:14-17.31a Municipal or authority employee permitted to waive benefits coverage under State Health Benefits Program.

36. Notwithstanding the provisions of any other law to the contrary, a municipality, or a municipal authority created by a municipality pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.) or P.L.1957, c.183 (C.40:14B-1 et seq.), which participates in the State Health Benefits Program, established pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), may allow any employee who is eligible for coverage as a dependent of the employee's spouse under that program or under another health benefits plan offered by the spouse's employer, whether a public or private employer, to waive coverage under the State Health Benefits Program to which the employee is entitled by virtue of employment with the municipality or the municipal authority. The waiver shall be in such form as the Director of the Division of Pensions and Benefits shall prescribe and shall be filed with the division. After such waiver has been filed and for so long as that waiver remains in effect, no premium shall be required to be paid by the municipality or the municipal authority, as the case may be, for the employee or the employee's dependents. Not later than the 180th day after the date on which the waiver is filed, the division shall refund to the municipality or the municipal authority the amount of any premium previously paid by the municipality or the municipal authority with respect to any period of coverage which followed the filing date. In consideration of filing such a waiver, a municipality or a municipal authority may pay to the employee annually an amount, to be established in the sole discretion of the municipality or the municipal authority, which shall not exceed 50% of the amount saved by the municipality or the municipal authority because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to immediately resume coverage if the employee ceases to be covered through the employee's spouse for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received from the municipality or the municipal authority which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall notify the municipality or the municipal authority in writing and file a declaration with the division, in such form as the director of the division shall prescribe, that the waiver is revoked. The decision of a municipality or a municipal authority to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

2. This act shall take effect immediately.

Approved July 31, 2001.

# Office of the Governor

PO BOX 004  
TRENTON, NJ 08625

## NEWS RELEASE

CONTACT: Rae Hutton  
or Kristin Zebrowski  
609-777-2600

RELEASE: August 2, 2001

### **Acting Governor Donald T. DiFrancesco has signed the following legislation:**

**S-1239**, sponsored by Senators Joseph Palaia (R-Monmouth) and Jack Sinagra (R-Middlesex) and Assembly members Marion Crecco (R-Essex/Passaic) and Guy Talarico (R-Bergen), requires parental consent prior to tattooing or body piercing of minors. This bill makes it a disorderly offense for a person to knowingly tattoo or body pierce a minor under the age of 18 without prior consent of the parent or guardian.

**S-232**, sponsored by Senator Wayne Bryant (D-Camden/Gloucester) and Assemblymen Neil Cohen (D-Union), requires a child support order relating to health care coverage be enforced through National Medical Support Notice and indicate the party responsible for maintaining the coverage.

**S-812**, sponsored by Senators Joseph Kyrillos (R-Middlesex/Monmouth) and Bernard Kenny (D-Hudson) and Assemblyman Joseph Azzolina (R-Middlesex/Monmouth), provides that a municipal authority may allow certain employees to waive the SHBP coverage to which the employee is entitled by virtue of employment with the municipal authority.

**S-1641**, sponsored by Senators John Matheussen (R-Camden/Gloucester) and Norman Robertson (R-Essex/Passaic) and Assemblymen Kip Bateman (R-Morris/Somerset) and Charles Zisa (D-Bergen), directs certain juvenile justice records be available to law enforcement agencies and prosecutors on a 24-hour basis. Types of information which would be made available under this bill includes juvenile arrest information, juvenile disposition information, juvenile pretrial detention information and information concerning the probation status of a juvenile.

**A-1980**, sponsored by Senate Majority Leader John Bennett (R-Monmouth) and Assemblyman Neil Cohen (D-Union), permits a corporation to change from an operating corporation to a holding corporation without shareholder approval and without the need to transfer assets and liabilities.

**A-3219**, sponsored by Senators Gerald Cardinale (R-Bergen) and Garry Furnari (D-Bergen/Essex/Passaic) and Assemblymen Kip Bateman (R-Morris/Somerset) and Richard Merkt (R-Morris), limits the cost of a "Y2K" examination of a domestic fraternal benefit society to no more than one percent of the society's 1999 net premiums received. The balance for any such examination would be paid by the Department of Banking and Insurance.

**A-314**, sponsored by Senators Jack Sinagra (R-Middlesex) and John Adler (D-Camden) and Assembly members Charlotte Vandervalk (R-Bergen) and Neil Cohen (D-Union), establishes a permanent commission to be known as the "New Jersey Health Data Commission. The 33-

member Commission would collect and maintain health data from State government agencies or other entities.

The bill also appropriates \$94,000 and assumes that the cost to the State to operate the Commission will be partially offset by payments for Commission documents and receipt of grants.