

52:14-17.31

LEGISLATIVE HISTORY CHECKLIST  
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(State Health Benefits)

NJSA: 52:14-17.31

LAWS OF: 1996 CHAPTER: 8

BILL NO: S627

SPONSOR(S): Littell

DATE INTRODUCED: February 5, 1996

COMMITTEE: ASSEMBLY: ---

SENATE: Budget; State Management

AMENDED DURING PASSAGE: Yes Amendments during passage denoted  
Second reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: March 18, 1996

SENATE: February 26, 1996

DATE OF APPROVAL: March 21, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes 2-22-96 (2)

FISCAL NOTE: ~~No~~ YES

VETO MESSAGE: No

MESSAGE ON SIGNING: ~~No~~ No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

[Second Reprint]  
SENATE, No. 627

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Senator LITTELL

1 AN ACT concerning health care benefits and certain other benefits for  
2 public employees, amending P.L.1961, c.49 <sup>1</sup>and P.L.1964, c.125<sup>1</sup>,  
3 and supplementing Title 52 of the Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 <sup>1</sup>1. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to  
9 read as follows:

10 2. As used in this act

11 (a) The term "State" means the State of New Jersey.

12 (b) The term "commission" means the State Health Benefits  
13 Commission, created by section 3 of this act.

14 (c) The term "employee" means an appointive or elective officer or  
15 full-time employee of the State of New Jersey. For the purposes of  
16 this act an employee of Rutgers, The State University of New Jersey,  
17 shall be deemed to be an employee of the State, and an employee of  
18 the New Jersey Institute of Technology shall be considered to be an  
19 employee of the State during such time as the Trustees of the Institute  
20 are party to a contractual agreement with the State Treasurer for the  
21 provision of educational services. For the purposes of this act the  
22 term "employee" shall not include persons employed on a short-term,  
23 seasonal, intermittent or emergency basis, persons compensated on a  
24 fee basis, persons having less than two months of continuous service  
25 or persons whose compensation from the State is limited to  
26 reimbursement of necessary expenses actually incurred in the discharge  
27 of their official duties. An employee paid on a 10-month basis,  
28 pursuant to an annual contract, will be deemed to have satisfied the  
29 two-month waiting period if **[he]** the employee begins employment at  
30 the beginning of the contract year. The term "employee" shall also not  
31 include retired persons**[, active or retired,]** who are otherwise eligible

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SSM committee amendments adopted February 22, 1996.

<sup>2</sup> Senate SBA committee amendments adopted February 22, 1996.

1 for benefits under this act but who, although they meet the age  
2 eligibility requirement of **the federal Medicare program**, are not  
3 covered by the complete federal program. A determination by the  
4 commission that a person is an eligible employee within the meaning  
5 of this act shall be final and shall be binding on all parties.

6 (d) The term "dependents" means an employee's spouse and the  
7 employee's unmarried children under the age of 23 years who live with  
8 the employee in a regular parent-child relationship. "Children" shall  
9 include stepchildren, legally adopted children and foster children  
10 provided they are reported for coverage and are wholly dependent  
11 upon the employee for support and maintenance. A spouse or child  
12 enlisting or inducted into military service shall not be considered a  
13 dependent during **such the** military service. The term "dependents"  
14 shall not include spouses of retired persons**], active or retired,]** who  
15 are otherwise eligible for the benefits under this act but who, although  
16 they meet the age eligibility requirement of **the federal Medicare**  
17 **program]**, are not covered by the complete federal program.

18 (e) The term "carrier" means a voluntary association, corporation  
19 or other organization, including a health maintenance organization as  
20 defined in section 2 of the "Health Maintenance Organizations Act,"  
21 P.L.1972, c.337 (C.26:2J-2), which is lawfully engaged in providing  
22 or paying for or reimbursing the cost of, personal health services,  
23 including hospitalization, medical and surgical services, under  
24 insurance policies or contracts, membership or subscription contracts,  
25 or the like, in consideration of premiums or other periodic charges  
26 payable to the carrier.

27 (f) The term "hospital" means (1) an institution operated pursuant  
28 to law which is primarily engaged in providing on its own premises,  
29 for compensation from its patients, medical diagnostic and major  
30 surgical facilities for the care and treatment of sick and injured persons  
31 on an inpatient basis, and which provides such facilities under the  
32 supervision of a staff of physicians and with 24 hour a day nursing  
33 service by registered graduate nurses, or (2) an institution not meeting  
34 all of the requirements of (1) but which is accredited as a hospital by  
35 the Joint Commission on Accreditation of Hospitals. In no event shall  
36 the term "hospital" include a convalescent nursing home or any  
37 institution or part thereof which is used principally as a convalescent  
38 facility, residential center for the treatment and education of children  
39 with mental disorders, rest facility, nursing facility or facility for the  
40 aged or for the care of drug addicts or alcoholics.

41 (g) The term "State managed care plan" means a health care plan  
42 under which comprehensive health care services and supplies are  
43 provided to eligible employees, retirees, and dependents: (1) through  
44 a group of doctors and other providers employed by the plan; or (2)  
45 through an individual practice association, preferred provider  
46 organization, or point of service plan under which services and

1 supplies are furnished to plan participants through a network of  
 2 doctors and other providers under contracts or agreements with the  
 3 plan on a prepayment or reimbursement basis and which may provide  
 4 for payment or reimbursement for services and supplies obtained  
 5 outside the network. The plan may be provided on an insured basis  
 6 through contracts with carriers or on a self-insured basis, and may be  
 7 operated and administered by the State or by carriers under contracts  
 8 with the State.

9 (h) The term "Medicare" means the program established by the  
 10 "Health Insurance for the Aged Act," Title XVIII of the "Social  
 11 Security Act," Pub.Law 89-97 (42U.S.C.§1395 et seq.), as amended,  
 12 or its successor plan or plans.

13 (i) The term "traditional plan" means a health care plan which  
 14 provides basic benefits, extended basic benefits and major medical  
 15 expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-  
 16 17.29) by indemnifying eligible employees, retirees, and dependents for  
 17 expenses for covered health care services and supplies through  
 18 payments to providers or reimbursements to participants.<sup>1</sup>

19 (cf: P.L.1994, c.48, s.298)

20  
 21 <sup>1</sup>2. Section 3 of P.L.1961, c.49 (C.52:14-17.27) is amended to  
 22 read as follows:

23 3. There is hereby created a State Health Benefits Commission,  
 24 consisting of the State Treasurer, the Commissioner of Insurance,  
 25 **[and]** <sup>2</sup>and<sup>2</sup> the **[President of the Civil Service Commission]**  
 26 Commissioner of Personnel <sup>2</sup>**[, the Executive Director of the Office of**  
 27 Legislative Services and the Administrative Director of the  
 28 Administrative Office of the Courts]<sup>2</sup>. The treasurer shall be chairman  
 29 of the commission and the health benefits program authorized by this  
 30 act shall be administered in the Treasury Department. The Director  
 31 of the Division of Pensions and Benefits shall be the secretary of the  
 32 commission. The commission shall establish a health benefits program  
 33 for the employees of the State, the cost of which shall be paid as  
 34 specified in section 6 of this act. The commission shall establish rules  
 35 and regulations as may be deemed reasonable and necessary for the  
 36 administration of this act.

37 The Attorney General shall be the legal advisor of the commission.

38 The commission shall publish annually a report showing the fiscal  
 39 transactions of the program for the preceding year and stating other  
 40 facts pertaining to the plan. The commission shall submit the report  
 41 to the Governor and furnish a copy to every employer for use of the  
 42 participants and the public.<sup>1</sup>

43 (cf: P.L.1972, c. 75, s. 3)

44  
 45 <sup>1</sup>3. Section 6 of P.L.1961, c.49 (C.52:14-17.30) is amended to  
 46 read as follows:

1       6. (A) For each active covered State employee and for **his** the  
2 eligible dependents **as** the employee may have enrolled at **his** the  
3 employee's option the State, from funds appropriated therefor, shall  
4 pay the premium or periodic charges for the benefits provided under  
5 the contract in amounts equal to the premium or periodic charges for  
6 the benefits provided under such a contract covering the employee and  
7 **his** the employee's enrolled dependents **and shall reimburse the**  
8 active employee for his premium charges under Part B of the Federal  
9 medicare program covering the employee and the employee's spouse].

10       (B) An employee may, on an optional basis, enroll **his** the  
11 employee's dependents for coverage under the contract subject to  
12 such regulations and conditions as the commission and the carrier may  
13 prescribe. There is hereby created a health benefits fund. Said fund  
14 shall be used to pay the premiums or periodic charges for which the  
15 State is responsible under this act.<sup>1</sup>

16 (cf: P.L.1972, c. 75, s. 5)

17  
18       <sup>1</sup>4. Section 7 of P.L.1964, c.125 (C.52:14-17.38) is amended to  
19 read as follows:

20       7. The Division of Pensions and Benefits shall certify to the  
21 certifying agent of each employer electing participation under the  
22 program the premium rates and periodic charges applicable to the  
23 coverage provided for employees and dependents. The participating  
24 employer shall remit to the division all contributions to premiums and  
25 periodic charges in advance of their due dates, subject to the rules and  
26 regulations of the commission.

27       **【The employer shall reimburse the active employee for his premium**  
28 **charges under Part B of the federal Medicare Program covering the**  
29 **employee and the employee's spouse.】**

30       From funds allocated therefor, the employer other than the State  
31 may pay the premium or periodic charges for the benefits provided to  
32 a retired employee and **his** the employee's dependents covered under  
33 the program, if such employee retired from a State or  
34 locally-administered retirement system on a benefit based on 25 years  
35 or more of service credited in such retirement system, excepting the  
36 employee who elected deferred retirement, but including the employee  
37 who retired on a disability pension based on fewer years of service  
38 credited in such retirement system, and may also reimburse such  
39 retired employee for **his** the employee's premium charges under Part  
40 B of **【the federal Medicare Program】** Medicare covering the retired  
41 employee and the employee's spouse. "Retired employee and **his** the  
42 employee's dependents" may, upon adoption of an appropriate  
43 resolution therefor by the participating employer, also include  
44 otherwise eligible employees, and their dependents, who retired from  
45 a State or locally-administered retirement system prior to the date that

1 the employer became a participating employer in the New Jersey State  
2 Health Benefits Program. The term may also, upon adoption of an  
3 appropriate resolution therefor by the participating employer, include  
4 otherwise eligible employees, and their dependents, who did not elect  
5 to continue coverage in the program during such time after the  
6 employer became a participating employer that the employer did not  
7 pay premium or periodic charges for benefits to retired employees and  
8 their dependents pursuant to this section. Eligibility and enrollment of  
9 such employees and dependents shall be in accordance with such rules  
10 and regulations as may be adopted by the State Health Benefits  
11 Commission.

12 The employer other than the State may, by resolution, pay the  
13 premium or periodic charges for the benefits provided to the surviving  
14 spouse of a retired employee and **[his]** the employee's dependents  
15 covered under the program as provided in this section.<sup>1</sup>

16 (cf: P.L. 1987,c.384,s.2)

17

18 <sup>1</sup>**[1.] 5.** Section 7 of P.L.1961, c.49 (C.52:14-17.31) is amended  
19 to read as follows:

20 7. The coverage provided solely for employees shall, subject to the  
21 provisions below, automatically become effective for all eligible  
22 employees from the first day on or after the effective date of the  
23 program on which they satisfy the definition of "employee" contained  
24 in this act. The commission shall establish **[such]** the rules and  
25 regulations governing the enrollment and effective dates of coverage  
26 of dependents of employees **[as]** it deems **[are]** necessary or  
27 desirable. **[Such]** The rules and regulations shall not defer **[the**  
28 insurance] coverage with respect to any qualified dependent an  
29 employee has on the date the employee's employer becomes a  
30 participating employer, provided the employee was, immediately prior  
31 to **[said]** the date, insured with respect to **[such]** the dependent under  
32 a group major medical insurance plan of **[such]** the employer which  
33 was in effect immediately prior to **[said]** the date. Under the rules and  
34 regulations established by the commission, each employee shall be  
35 given the opportunity to enroll for coverage for **[his]** dependents as  
36 of the earliest date **[he]** the employee becomes eligible for **[such]**  
37 enrollment. An employee may elect to enroll **[his]** dependents for  
38 both basic coverage and major medical expense coverage but may not  
39 enroll for either coverage alone.

40 If, on the date coverage for an employee would become effective,  
41 **[he]** the employee is not actively at work **[on]** full time at **[his]** the  
42 customary place of employment or other location to which **[his]** the  
43 employment requires **[him]** the employee to travel, **[he]** the employee  
44 shall not be covered until **[he]** the employee is so actively at work,  
45 except **[such]** the employee shall be covered, if on the date the

1 employee's employer becomes a participating employer, [said] the  
2 employee was, immediately prior to [said] that date, insured under a  
3 group major medical insurance plan of [such] the employer which was  
4 in effect immediately prior to [said] that date.

5 In the event that the group major medical plan which covered an  
6 employee or [his] dependents immediately prior to the date the  
7 employee's employer becomes a participating employer provides, after  
8 termination of coverage thereunder, any continuation of benefits for  
9 medical expenses for hospitalization, surgery, medical treatment or any  
10 related service or supply, or would so provide in the absence of  
11 coverage pursuant to this act, no coverage shall be afforded pursuant  
12 to this act for any such expenses (i) which are covered, or which  
13 would be covered in the absence of coverage pursuant to this act, in  
14 whole or in part, by [such] the prior insurance plan or (ii) which may  
15 be used in satisfaction of any deductible requirement under [such] the  
16 prior insurance plan to establish entitlement to [such] the continuation  
17 of benefits.

18 Each employee shall furnish the Division of Pensions and Benefits,  
19 in [such] the prescribed form [as is prescribed], [such] the  
20 information [as is] necessary on account of [his] the employee's own  
21 coverage and [as] necessary to enroll [his] dependents. Any  
22 employee not desiring coverage at the time [he] the employee first  
23 becomes eligible, shall give the division written notice of that fact in  
24 [such] the form [as] prescribed by the division [may prescribe].  
25 [Such] The employee may not enroll thereafter except at [such] the  
26 times and under [such] the conditions [as] prescribed by the  
27 commission [may prescribe].

28 If an employee of an employer other than the State eligible for  
29 coverage has a spouse who is also an employee of an employer other  
30 than the State eligible for coverage, the spouse may elect single  
31 coverage as an employee and to enroll as a dependent, in which event  
32 no coverage shall be provided for such spouse as an employee while  
33 covered as a dependent. The employee of an employer other than the  
34 State, who has enrolled such spouse, and who is required to pay the  
35 full cost of dependent coverage, may receive a refund from the State  
36 Division of Pensions equivalent in amount to the employer's cost for  
37 an employee's coverage. When both husband and wife are covered as  
38 employees, only one may enroll for their children as dependents.

39 A similar refund shall be authorized pursuant to such rules and  
40 regulations as the commission deems necessary or desirable in the case  
41 of an employee of an employer other than the State who is paying the  
42 full cost of dependent coverage for a spouse who is an employee of the  
43 State and eligible for coverage.

44 If a husband and wife are both eligible for coverage under the  
45 program as employees:

1 a. each may elect coverage for himself or herself as an employee  
2 and for their qualified dependents, including the spouse, under the  
3 traditional plan or the State managed care plan, but only one may elect  
4 coverage for himself or herself and for their qualified dependents,  
5 including the spouse, in a participating health maintenance  
6 organization; and

7 b. each may elect single coverage in any participating health  
8 maintenance organization, provided that he or she is not covered under  
9 the participating health maintenance organization as a dependent of his  
10 or her spouse.

11 Any person employed as a substitute teacher by a school district  
12 and who provides evidence of coverage under another health benefits  
13 program may waive coverage for the current school year on or after  
14 the date on which the person becomes an employee eligible for  
15 coverage.

16 (cf: P.L.1994, c.40, s.1)

17  
18 '[2.] 6.' (New section) 'a.' Notwithstanding the provisions of  
19 any other law to the contrary, the obligations of the State or '[ any  
20 local employer] an independent State authority, board, commission,  
21 corporation, agency, or organization' to pay the premium or periodic  
22 charges for health benefits coverage provided under P.L.1961, c.49  
23 (C.52:14-17.25 et seq.) may be determined by means of a binding  
24 collective negotiations agreement, including any agreements in force  
25 at the time of the adoption of P.L. , c. (now pending before the  
26 Legislature as this bill). With respect to State employees for whom  
27 there is no majority representative for collective negotiations purposes,  
28 the commission may, in its sole discretion, modify the respective  
29 payment obligations set forth in P.L.1961, c.49 for the State and such  
30 employees in a manner consistent with the terms of any collective  
31 negotiations agreement binding on the State. With respect to  
32 employees of '[employers other than the State] an independent State  
33 authority, board, commission, corporation, agency, or organization'  
34 for whom there is no majority representative for collective  
35 negotiations purposes, the employer may, in its sole discretion, modify  
36 the respective payment obligations set forth in P.L.1961, c.49 for such  
37 employer and such employees in a manner consistent with the terms of  
38 any collective negotiations agreement binding on such employer. 'The  
39 provisions of this subsection shall also apply to employees deemed or  
40 considered to be employees of the State pursuant to subsection (c) of  
41 section 2 of P.L.1961, c.49 (C.52:14-17.26).

42 b. (1) Notwithstanding the provisions of any other law to the  
43 contrary, for each State employee who accrues 25 years of service  
44 credit in a State-administered retirement system before July 1, 1997,  
45 excepting the employee who elects deferred retirement, the State,  
46 upon the employee's retirement, shall pay the full cost of the premium

1 or periodic charges for the health benefits provided to a retired State  
2 employee and dependents covered under the State Health Benefits  
3 Program, but not including survivors, and shall also reimburse the  
4 retired employee for premium charges under Part B of Medicare  
5 covering the retired employee and the employee's spouse.

6 (2) Notwithstanding the provisions of any other law to the  
7 contrary, for each State employee who accrues 25 years of service  
8 credit in a State-administered retirement system on or after July 1,  
9 1997, excepting the employee who elects deferred retirement, the  
10 State, upon the employee's retirement, shall pay the premium or  
11 periodic charges for the health benefits provided to a retired State  
12 employee and dependents covered under the State Health Benefits  
13 Program, but not including survivors, and shall reimburse the retired  
14 employee for premium charges under Part B of Medicare covering the  
15 retired employee and the employee's spouse: (a) in accordance with  
16 the provisions, if any, concerning health benefits coverage in  
17 retirement which are in the collective negotiations agreement  
18 applicable to the employee at the time of the employee's accrual of 25  
19 years of service credit in the retirement system, or (b) if the employee  
20 has no majority representative for collective negotiations purposes, in  
21 a manner consistent with the terms, if any, concerning health benefits  
22 coverage in retirement which are in any collective negotiations  
23 agreement deemed applicable by the State Health Benefits Commission  
24 to that employee at the time of the employee's accrual of 25 years of  
25 service credit in the retirement system.<sup>1</sup>

26  
27 <sup>2</sup>[<sup>1</sup>7. (New section) A State employee living in a rural area  
28 where the employee has access to less than two primary care  
29 physicians in the State managed care plan or participating health  
30 maintenance organizations within a 20-mile radius of the employee's  
31 home shall not be required to pay either the difference between the  
32 cost of the traditional plan and the average of the cost to the State of  
33 the State managed care plan and the participating health maintenance  
34 organizations or a percentage of the employee's annual base salary in  
35 order to enroll or remain in the traditional plan.]<sup>1</sup><sup>2</sup>

36  
37 <sup>1</sup>[3.] <sup>2</sup>[<sup>8.</sup>] <sup>2</sup>7. (New section) Notwithstanding the provisions of  
38 any other law to the contrary, the State Treasurer on behalf of the  
39 State, and the governing body of <sup>1</sup>[a local unit of government, a  
40 school district, or] <sup>1</sup>an independent State <sup>1</sup>[or local public]<sup>1</sup>  
41 authority, board, commission, corporation, agency or organization  
42 may establish as an employer a cafeteria plan for its employees  
43 pursuant to section 125 of the federal Internal Revenue Code, 26  
44 U.S.C. §125. The plan may provide for a reduction in an employee's  
45 salary, through payroll deductions or otherwise, in exchange for  
46 payment by the employer of medical or dental expenses not covered by

1 a health benefits plan, and dependent care expenses as provided in  
2 section 129 of the code, 26 U.S.C. §129, and such other benefits as are  
3 consistent with section 125 which are included under the plan. The  
4 amount of any reduction in an employee's salary for the purpose of  
5 contributing to the plan shall continue to be treated as regular  
6 compensation for all other purposes, including the calculation of  
7 pension contributions and the amount of any retirement allowance,  
8 but, to the extent permitted by the federal Internal Revenue Code,  
9 shall not be included in the computation of federal taxes withheld from  
10 the employee's salary.

11

12 <sup>1</sup>[4.1 <sup>2</sup>[9.1] 8. <sup>2</sup> This act shall take effect immediately.

13

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16

17 Changes certain provisions of State Health Benefits Program.

1 reduction in an employee's salary, through payroll deductions or  
2 otherwise, in exchange for payment by the employer of medical or  
3 dental expenses not covered by a health benefits plan, and dependent  
4 care expenses as provided in section 129 of the code, 26 U.S.C. §129,  
5 and such other benefits as are consistent with section 125 which are  
6 included under the plan. The amount of any reduction in an  
7 employee's salary for the purpose of contributing to the plan shall  
8 continue to be treated as regular compensation for all other purposes,  
9 including the calculation of pension contributions and the amount of  
10 any retirement allowance, but, to the extent permitted by the federal  
11 Internal Revenue Code, shall not be included in the computation of  
12 federal taxes withheld from the employee's salary.

13

14 4. This act shall take effect immediately.

15

16

17 *SPONSOR'S* STATEMENT

18

19 This bill changes certain features of the State Health Benefits  
20 Program (SHBP). SHBP benefits with regard to covered services,  
21 however, remain unchanged.

22 Current law provides that the State as an employer bears the  
23 complete cost of SHBP benefits for active State employees and their  
24 dependents. Local participating public employers are required to pay  
25 the cost of SHBP coverage for an employee and may require an  
26 employee contribution toward some or all of the cost of dependent  
27 coverage. Many local employers, however, have assumed the cost of  
28 SHBP dependent coverage.

29 The bill provides that the obligations of the State or any local  
30 employer to pay the premium or periodic charges for SHBP coverage  
31 with respect to active employees and retirees may be determined by  
32 means of a binding collective negotiations agreement, including any  
33 agreements in force at the time of the adoption of this bill. With  
34 respect to State employees for whom there is no majority  
35 representative for collective negotiations purposes, the State Health  
36 Benefits Commission may, in its sole discretion, modify the respective  
37 statutory payment obligations of the State and such employees in a  
38 manner consistent with the terms of any collective negotiations  
39 agreement binding on the State. With respect to employees of  
40 employers other than the State for whom there is no majority  
41 representative for collective negotiations purposes, the employer may,  
42 in its sole discretion, modify the respective statutory payment  
43 obligations of such employer and such employees in a manner  
44 consistent with the terms of any collective negotiations agreement  
45 binding on such employer.

46 The bill also provides that if a husband and wife are both eligible for

1 SHBP coverage as employees:

2 (a) each may elect coverage for himself or herself as an employee  
3 and for their qualified dependents, including the spouse, under the  
4 traditional plan or NJ Plus, but only one may elect coverage for  
5 himself or herself and for their qualified dependents, including the  
6 spouse, in a participating HMO; and

7 (b) each may elect single coverage in any participating HMO,  
8 provided that he or she is not covered under that HMO as a dependent  
9 of his or her spouse.

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

22

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26 Changes certain provisions of State Health Benefits Program.

SENATE STATE MANAGEMENT, INVESTMENT AND  
FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

**SENATE, No. 627**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 22, 1996

The Senate State Management, Investment and Financial Institutions Committee reports favorably and with committee amendments Senate, No. 627.

This bill makes various changes regarding the payment of the premium or periodic charges for State Health Benefits Program (SHBP) coverage. At present, the State as an employer pays the full cost of SHBP premiums for coverage of active State employees and their dependents. The bill provides that the obligations of the State or an independent State authority, board, commission, corporation, agency, or organization to pay the premium or periodic charges for SHBP coverage with respect to active employees and retirees may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time of the adoption of this bill. With respect to State employees for whom there is no majority representative for collective negotiations purposes, the State Health Benefits Commission may, in its sole discretion, modify the respective statutory payment obligations of the State and such employees in a manner consistent with the terms of any collective negotiations agreement binding on the State. With respect to employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is no majority representative for collective negotiations purposes, the employer may, in its sole discretion, modify the respective payment obligations set forth in P.L.1961, c.49 for such employer and such employees in a manner consistent with the terms of any collective negotiations agreement binding on such employer. Since legislative and judicial employees do not have a majority representative for collective negotiations purposes, in order to provide for representation for these employees on the State Health Benefits Commission the bill increases the size of the commission from three to five members by adding the Executive Director of the Office of Legislative Services and the Administrative Director of the Administrative Office of the Courts. The bill also provides that if a husband and wife are both eligible for SHBP

coverage under the program as employees:

(1) each may elect coverage for himself or herself as an employee and for their qualified dependents, including the spouse, under the traditional plan or NJ Plus, but only one may elect coverage for himself or herself and for their qualified dependents, including the spouse, in a participating HMO; and

(2) each may elect single coverage in any participating HMO, provided that he or she is not covered under that HMO as a dependent of his or her spouse.

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

At present, an active employee over age 65 must enroll in Medicare Part B and the State or local employer reimburses the employee for the Medicare Part B premium payments. This bill eliminates the enrollment requirement and terminates the requirement that the State or local employer reimburse active employees for Medicare Part B premium payments.

The bill clarifies the premiums to be paid by the State and employees for health benefits in retirement for State employees with 25 or more years of service credit in a State-administered retirement system. The bill provides that:

(1) for each State employee who accrues 25 years of service credit in a State-administered retirement system before July 1, 1997, the State shall pay the full cost of the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and shall also reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's spouse; and

(2) for each State employee who accrues 25 years of service credit in a State-administered retirement system on or after July 1, 1997, the State shall pay the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and shall reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's

spouse: (a) in accordance with the provisions, if any, concerning health benefits coverage in retirement which are in the collective negotiations agreement applicable to the employee at the time of the employee's accrual of 25 years of service credit in the retirement system, or (b) if the employee has no majority representative for collective negotiations purposes, in a manner consistent with the terms, if any, concerning health benefits coverage in retirement which are in any collective negotiations agreement deemed applicable by the State Health Benefits Commission to that employee at the time of the employee's accrual of 25 years of service credit in the retirement system.

The bill specifies that a State employee living in a rural area where the employee has access to less than two primary care physicians in the State managed care plan or participating health maintenance organizations within a 20-mile radius of the employee's home shall not be required to pay either the difference between the cost of the traditional plan and the average of the cost to the State of the State managed care plan and the participating health maintenance organizations or a percentage of the employee's annual base salary in order to enroll or remain in the traditional plan.

#### COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) remove local employers from the provision allowing an employer to establish a cafeteria plan for its employees pursuant to section 125 of the Internal Revenue Code and from the provision that the premium or periodic charges for health benefits coverage may be determined by means of a binding collective negotiations agreement;

(2) remove the requirement that State and local employees over age 65 be enrolled in Medicare Part B and be reimbursed for such coverage;

(3) increase the size of the State Health Benefits Commission from three to five members by adding the Executive Director of the Office of Legislative Services and the Administrative Director of the Administrative Office of the Courts;

(4) clarify the premiums to be paid by the State and employees for health benefits in retirement for State employees accruing 25 or more years of service credit in a State-administered retirement system before and after July 1, 1997;

(5) provide that a State employee living in a rural area where the employee has access to less than two primary care physicians in the State managed care plan or participating health maintenance organizations within a 20-mile radius of the employee's home shall not be required to pay either the difference between the cost of the traditional plan and the average of the cost to the State of the State managed care plan and the participating health maintenance organizations or a percentage of the employee's annual base salary in order to enroll or remain in the traditional plan; and

(6) provide for definitions of "State managed care plan," "Medicare" and the "traditional plan."

# LEGISLATIVE FISCAL ESTIMATE TO

## SENATE, No. 627

# STATE OF NEW JERSEY

DATED: April 1, 1996

This bill makes various changes regarding the payment of the premium or periodic charges for the State Health Benefits Program (SHBP).

Current law provides that the State as an employer pays the full cost of SHBP premiums for active State employees and their dependents. Local participating public employers are required to pay the cost of SHBP coverage for an employee and may require an employee contribution toward some or all of the cost of dependent coverage. Many local employers, however, have assumed the cost of SHBP dependent coverage.

The bill provides that the obligations of the State or any local employer to pay the premium or periodic charges for SHBP coverage with respect to active employees and retirees may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time of the adoption of this bill. With respect to State employees for whom there is no majority representative for collective negotiations purposes, the State Health Benefits Commission may, in its sole discretion, modify the respective statutory payment obligations of the State and such employees in a manner consistent with the terms of any collective negotiations agreement binding on the State. With respect to employees of employers other than the State for whom there is no majority representative for collective negotiations purposes, the employer may, in its sole discretion, modify the respective statutory payment obligations of such employer and such employees in a manner consistent with the terms of any collective negotiations agreement binding on such employer.

The bill also provides that if a husband and wife are both eligible for SHBP coverage as employees:

(a) each may elect coverage for himself or herself as an employee and for their qualified dependents, including the spouse, under the traditional plan or NJ Plus, but only one may elect coverage for himself or herself and for their qualified dependents, including the spouse, in a participating HMO; and

(b) each may elect single coverage in any participating HMO, provided that he or she is not covered under that HMO as a dependent of his or her spouse.

The bill allows the State and local employers to establish a cafeteria plan for their employees pursuant to section 125 of the

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

The Office of Legislative Services (OLS) notes that it cannot estimate the impact of this bill because of the elective nature of this legislation. The OLS notes that the SHBP is a multi-employer program, with multiple unions representing State and local government employees. Each union independently negotiates collective bargaining agreements for its members and these agreements are frequently of different duration. For example, only three of the unions representing State employees have negotiated settlements at this time. In addition, the legislation leaves many of the specific details of implementing this legislation to the discretion of the State Health Benefits Commission. For example, with respect to State employees for whom there is no majority representative for collective negotiations purposes (non-aligned employees), the Commission may, in its sole discretion, modify the respective statutory payment obligations of the State and the non-aligned employees in a manner consistent with the terms of any collective bargaining agreement binding on the State.

Using the collective bargaining agreements of the three unions, representing State employees, which have concluded negotiations as a guide, this bill implements premium sharing, eliminates "dual coverage in HMOs", establishes a cafeteria plan for State employees, eliminates the reimbursement of Medicare Part B for active employees and requires certain employees to pay part of the cost of post-retirement medical benefits.

(1) Premium Sharing:

This bill allows the State to substitute the terms of a binding collective bargaining agreement for the current statutory requirement that the State pay the full cost of the SHBP for employees and their eligible dependents. This bill allows the employer to include the cost of employee health benefits in the collective bargaining process. In anticipation of this or similar legislation, the State negotiated contracts with the Communications Workers of America (CWA), the American Federation of State, County, and Municipal Workers (AFSCME), and the International Federation of Professional and Technical Engineers (IFPTE), which collectively represent approximately 48,000 State employees, to require employees choosing Traditional Plan health insurance coverage to contribute a portion of the cost of that coverage. Enrollment in an HMO or NJ Plus requires no employee

contributions.

For example, the CWA contract provides that effective July 1, 1996, all new hires (since the date of ratification) who select the Traditional Plan will pay the difference, regardless of salary, between the cost of the Traditional Plan and the average cost to the State of NJ Plus and the HMOs.

Effective July 1, 1996 through June 30, 1997, State employees hired before the ratification date of the contract with a base salary above \$50,000 who select the Traditional Plan will pay the difference between the cost of the Traditional Plan and the average cost to the State of NJ Plus and the HMOs. Employees hired before the ratification date of this contract with a base salary of less than \$50,000 shall pay 1% of their annual base pay, but no less than \$20.00 per month if they elect to stay in the Traditional Plan.

Effective July 1, 1997, State employees hired before the ratification of the contract with a base salary of \$40,000 or more who select the Traditional Plan will pay the difference between the cost of the Traditional Plan and the cost to the State of NJ Plus and the HMOs. Employees hired before the ratification date with a base salary below \$40,000 shall pay 1% of their annual salary, but no less than \$20.00 per month if they elect to stay in the Traditional Plan.

The OLS notes that according to the Governor's FY 1997 Budget in Brief, "Premium Sharing for the Traditional Plan Coverage" will save an estimated \$15.8 million in State-employer contributions to fund the SHBP. The OLS notes that this amount also includes the savings associated with the elimination of dual coverage. According to the FY 1996 Budget in Brief, the elimination of dual coverage will save an estimated \$4 million. If this amount is deducted from the \$15.8 million, the savings from implementing premium sharing is \$11.8 million for FY 1997. It should be noted that this amount could change if the unions still negotiating settlements agree on different terms.

(2) SHBP premiums for FY 1997:

The Division of Pensions and Benefits has not provided the premium amounts for the SHBP for FY 1997. Based on the premium information for FY 1996, the difference in cost between the Traditional Plan and the average of NJ Plus and the HMOs is \$513 for single coverage; \$994 for husband and wife coverage; \$1,182 for family coverage; and \$690 for parent and child/children coverage. Employees enrolled in the Traditional Plan would have to pay some portion of these amounts, depending on the employee's salary and date of hire, during the terms of the current contract. These amounts will change as the cost differential between the Traditional Plan and the HMOs/NJ Plus changes.

The OLS also notes that as employees shift from Traditional Plan coverage to HMOs and NJ Plus, the HMOs and NJ Plus may have adverse experience, thus increasing the future premiums for the HMOs and NJ Plus. The OLS believes that more high-risk individuals are

enrolled in Traditional Plan and as these individuals shift to the HMOs and NJ Plus, the cost of these options will likely increase. Therefore, the OLS believes that the \$8.1 million savings identified in the FY 1997 Budget in Brief from lower HMO premiums may not be a recurring savings.

(3) Elimination of Dual Coverage in HMOs:

Under current law, each State employee and his or her family are enrolled in the SHBP. If both spouses are employed by the State or a local employer participating in the SHBP, they may be enrolled as employees and as dependents of each other. If they choose the same HMO coverage, the State or the local employer pays a premium for each employee's coverage without the employees receiving additional medical benefits.

The FY 1996 Budget In Brief estimated savings from eliminating dual coverage at \$4 million.

(4) Eliminate Medicare Part B Reimbursement for Active Employees:

Under current law, active State employees over the age of 65 must enroll in Medicare, pay the premium, and then file for reimbursement from the State for the cost of the premium. Since the health insurance for these individuals is already provided by the SHBP, enrollment in Medicare is unnecessary prior to retirement.

The negotiated contracts provide that: "Effective January 1, 1996, consistent with law, the State will no longer reimburse active employees or their spouses for Medicare Part B premium payments."

However, this bill does not amend the sections of law, N.J.S.A. 52:14-17.30 and 52:14-17.38, requiring active employees, age 65, to enroll in the federal Medicare program. The OLS notes that the State would save an estimated \$1.9 million in FY 1997 if active employees are not required by law to enroll in Medicare Part B and the State did not have to reimburse the premium payments.

(5) Establish a Cafeteria Plan under Section 125 of the Internal Revenue Code:

This would allow State employees to use pre-tax dollars to pay medical premiums. Employees save federal (but not State) income taxes through the reduction in taxable income. In addition to the employee savings in federal income taxes, both employees and employers avoid Social Security and Medicare taxes on the amounts deferred under a Cafeteria Plan.

The FY 1997 budget assumes State-employer savings of \$1 million in Social Security and Medicare taxes.

(6) Post-Retirement Medical Benefits:

Under current law, State employees with 25 or more years of service are entitled to employer-paid post-retirement medical benefits. The collective bargaining agreements include provisions concerning post-retirement medical benefits. Under the terms of the contracts, those employees who accrue 25 years of service by July 1, 1997 will

receive State-paid post-retirement medical benefits, including the reimbursement of Part B of the Federal Medicare Program. Those employees who accrue 25 years of service from July 1, 1997 through June 30, 1999 will be subject to the provisions governing health benefits for active employees, and will receive Medicare Part B reimbursement after retirement up to a cap of \$46.10 per month.

The OLS notes that the employer-paid post-retirement medical benefits negotiated in the current contracts will only affect employees accruing 25 years between the dates included in the contract and who retire by June 30, 1999. It is not clear how future contracts will affect employees who accrue 25 years of service under one contract but retire under another contract.

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

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 627

with Senate committee amendments

# STATE OF NEW JERSEY

DATED: FEBRUARY 22, 1996

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 627 (1R) of 1996 with committee amendments.

Senate Bill No. 627 (1R), as amended, makes various changes regarding the payment of the premium or periodic charges for the State Health Benefits Program (SHBP).

Currently, the State as an employer bears the complete cost of SHBP benefits for active State employees and their dependents. The purpose of this bill is to permit the determination of the obligations of the State concerning the payment of the premium or periodic charges for SHBP coverage through binding collective negotiations agreements. This bill will apply to any agreement in force at the time of enactment.

For State employees who have no majority representative for collective negotiations purposes, the State Health Benefits Commission may, in its sole discretion, modify the respective statutory payment obligations of the State and its employees in a manner consistent with the terms of any collective negotiations agreement binding on the State.

The bill also provides that if a husband and wife are both eligible for SHBP coverage as employees:

(a) each may elect coverage for himself or herself as an employee and for their qualified dependents, including the spouse, under the traditional plan or NJ Plus, but only one may elect coverage for himself or herself and for their qualified dependents, including the spouse, in a participating HMO; and

(b) each may elect single coverage in any participating HMO, provided that he or she is not covered under that HMO as a dependent of his or her spouse.

The bill allows the State to establish a cafeteria plan for its employees pursuant to section 125 of the Internal Revenue Code to provide for a reduction in an employee's salary in exchange for payment by the employer of any required employee contribution for

SHBP coverage, medical or dental expenses not covered by SHBP, or dependent care expenses. The amount of any reduction in an employee's salary for the purpose of contributing to the plan will continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance; however, to the extent permitted by the Internal Revenue Code, the amount of any reduction will not be included in the computation of federal taxes withheld from the employee's salary.

An active employee over age 65 currently must enroll in Medicare Part B; the State or local employer reimburses the employee for the Medicare Part B premium payments. The bill eliminates the enrollment requirement and terminates the requirement that the State or local employer reimburse active employees for Medicare Part B premium payments.

The bill clarifies the premiums to be paid by the State and employees for health benefits in retirement for State employees with 25 or more years of service credit in a State-administered retirement system. The bill provides that:

(1) for each State employee who accrues 25 years of service credit in a State-administered retirement system or retires on disability before July 1, 1997, the State will pay the full cost of the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and will also reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's spouse; and

(2) for each State employee who accrues 25 years of service credit in a State-administered retirement system or retires on disability on or after July 1, 1997, the State will pay the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and will reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's spouse: (a) in accordance with the provisions, if any, concerning health benefits coverage in retirement which are in the collective negotiations agreement applicable to the employee at the time of the employee's accrual of 25 years of service credit in the retirement system, or (b) if the employee has no majority representative for collective negotiations purposes, in a manner consistent with the terms, if any, concerning health benefits coverage in retirement which are in any collective negotiations agreement deemed applicable by the State Health Benefits Commission to that employee at the time of the employee's accrual of 25 years of service credit in the retirement system.

Taking into consideration the collective bargaining agreements for the three unions representing State employees that have concluded negotiations at this time, this bill, if enacted, would implement

premium sharing, eliminate "dual coverage in HMOs," establish a cafeteria plan for State employees, eliminate the reimbursement of Medicare Part B for active employees, and require certain employees to pay part of the cost of post-retirement medical benefits.

#### COMMITTEE AMENDMENTS

The committee amended the bill, on the motion of the Chairman, to delete in section 2 of the bill the two members added to the State Health Benefits Commission by the Senate Management, Investment and Financial Institutions Committee, and to delete section 7 of the bill concerning health benefits terms for State employees who reside in certain rural areas.

#### FISCAL IMPACT

The Governor's FY 1997 Budget in Brief estimates that premium sharing for traditional coverage and the elimination of dual coverage will save an estimated \$15.8 in State-employer contributions to the SHBP; the savings depend in part on the specifics of negotiated contracts. The Governor's proposed FY 1997 budget assumes savings of \$1 million in State payments of federal employment taxes on amounts deferred under cafeteria plans. Removing the requirement that employees over age 65 enroll in Medicare Part B is estimated to reduce State reimbursements for such coverage by \$1.9 million in FY 1997.

It is noted that there are multiple unions representing State employees. These unions negotiate collective bargaining agreements for their members and these agreements may contain different terms and may be of varying duration. In addition, the bill leaves many of the specific details of implementation to the discretion of the State Health Benefits Commission.