

ASSEMBLY, No. 111

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Co-Sponsored by:

Assemblywoman B.DeCroce

SYNOPSIS

Requires election by certain public employees of certain health care benefit plans; prohibits payments by public employers for waiver of such plans.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning coverage under health care benefit plans for
 2 public employees, amending various parts of the statutory law,
 3 and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.), and
 4 chapter 16 of Title 18A of the New Jersey Statutes.

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

8
 9 1. Section 3 of P.L.1979, c.391 (C.18A:16-14) is amended to
 10 read as follows:

11 3. The contract shall exclude from eligibility:

12 a. Employees and dependents, active or retired, who are
 13 otherwise eligible for coverage but who, although they meet the
 14 age eligibility requirement of the Federal Medicare Program, are
 15 not covered by the complete Federal program;

16 b. Any class or classes of employees who are eligible for like
 17 or similar coverage under another group contract covering such
 18 class or classes of employees.

19 c. Commencing on the effective date of P.L. , c. (pending
 20 before the Legislature as this bill) or upon the expiration of a
 21 collective negotiations agreement with a relevant provision in effect
 22 as of that effective date, if an employee of a local board of
 23 education and the employee's spouse are both public employees and
 24 eligible for health care benefits coverage provided by each public
 25 employer, the employee with the highest annual compensation shall
 26 select coverage with the employer, provided that the employer
 27 provides coverage for dependents, and the employee's spouse shall
 28 not be eligible for health care benefits coverage provided by the
 29 public employer of the spouse. This paragraph shall apply also
 30 when the health care benefits coverage is provided through an
 31 insurance fund or joint insurance fund or in any other manner. This
 32 paragraph shall apply to any agency, board, commission, authority,
 33 or instrumentality of a local board of education.

34 (cf: P.L.1979, c.391, s.3)

35
 36 2. Section 37 of P.L.1995, c.259 (C.40A:10-17.1) is amended
 37 to read as follows:

38 37. Notwithstanding the provisions of any other law to the
 39 contrary, a county, municipality or any contracting unit as defined
 40 in section 2 of P.L.1971, c.198 (C.40A:11-2) which enters into a
 41 contract providing group health care benefits to its employees
 42 pursuant to N.J.S.40A:10-16 et seq., may allow any employee who
 43 is eligible for other health care coverage, to waive coverage under
 44 the county's, municipality's or contracting unit's plan to which the
 45 employee is entitled by virtue of employment with the county,

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

Matter underlined thus is new matter.

1 municipality or contracting unit. The waiver shall be in such form
2 as the county, municipality or contracting unit shall prescribe and
3 shall be filed with the county, municipality or contracting unit. In
4 consideration of filing such a waiver, a county, municipality or
5 contracting unit may pay to the employee annually an amount, to be
6 established in the sole discretion of the county, municipality or
7 contracting unit, which shall not exceed 50% of the amount saved
8 by the county, municipality or contracting unit because of the
9 employee's waiver of coverage, and, for a waiver filed on or after
10 the effective date of P.L.2010, c.2, which shall not exceed 25%, or
11 \$5,000, whichever is less, of the amount saved by the county,
12 municipality or contracting unit because of the employee's waiver
13 of coverage. An employee who waives coverage shall be permitted
14 to resume coverage under the same terms and conditions as apply to
15 initial coverage if the employee ceases to be covered through the
16 employee's spouse for any reason, including, but not limited to, the
17 retirement or death of the spouse or divorce. An employee who
18 resumes coverage shall repay, on a pro rata basis, any amount
19 received which represents an advance payment for a period of time
20 during which coverage is resumed. An employee who wishes to
21 resume coverage shall file a declaration with the county,
22 municipality or contracting unit, in such form as the county,
23 municipality or contracting unit shall prescribe, that the waiver is
24 revoked. The decision of a county, municipality or contracting unit
25 to allow its employees to waive coverage and the amount of
26 consideration to be paid therefor shall not be subject to the
27 collective bargaining process.

28 Commencing on the effective date of P.L. , c. (pending
29 before the Legislature as this bill) or upon the expiration of a
30 collective negotiations agreement with a relevant provision in effect
31 as of that effective date, if an employee of a county, municipality,
32 or any contracting unit and the employee's spouse are both public
33 employees and eligible for health care benefits coverage provided
34 by each public employer, the employee with the highest annual
35 compensation shall select coverage with the employer, provided
36 that the employer provides coverage for dependents, and the
37 employee's spouse shall not be eligible for health care benefits
38 coverage provided by the public employer of the spouse. This
39 paragraph shall apply also when the health care benefits coverage is
40 provided through an insurance fund or joint insurance fund or in
41 any other manner. This paragraph shall apply to any agency, board,
42 commission, authority, or instrumentality of a county, municipality,
43 or any contracting unit.

44 (cf: P.L.2010, c.2, s.18)

45
46 3. Section 7 of P.L.1961, c.49 (C.52:14-17.31) is amended to
47 read as follows:

1 7. The coverage provided solely for employees shall, subject to
2 the provisions below, automatically become effective for all eligible
3 employees from the first day on or after the effective date of the
4 program on which they satisfy the definition of "employee"
5 contained in this act. The commission shall establish the rules and
6 regulations governing the enrollment and effective dates of
7 coverage of dependents of employees it deems necessary or
8 desirable. The rules and regulations shall not defer coverage with
9 respect to any qualified dependent an employee has on the date the
10 employee's employer becomes a participating employer, provided
11 the employee was, immediately prior to the date, insured with
12 respect to the dependent under a group insurance plan of the
13 employer which was in effect immediately prior to the date. Under
14 the rules and regulations established by the commission, each
15 employee shall be given the opportunity to enroll for coverage for
16 dependents as of the earliest date the employee becomes eligible for
17 enrollment. With respect to the traditional plan, an employee may
18 elect to enroll dependents for both basic coverage and major
19 medical expense coverage but may not enroll for either coverage
20 alone.

21 In the event that the group health plan which covered an
22 employee or dependents immediately prior to the date the
23 employee's employer becomes a participating employer provides,
24 after termination of coverage thereunder, any continuation of
25 benefits, or would so provide in the absence of coverage pursuant to
26 this act, no coverage shall be afforded pursuant to this act for any
27 such expenses (i) which are covered, or which would be covered in
28 the absence of coverage pursuant to this act, in whole or in part, by
29 the prior insurance plan or (ii) which may be used in satisfaction of
30 any deductible requirement under the prior insurance plan to
31 establish entitlement to the continuation of benefits.

32 Each employee shall furnish the Division of Pensions and
33 Benefits, in the prescribed form, the information necessary on
34 account of the employee's own coverage and necessary to enroll
35 dependents. Any employee not desiring coverage at the time the
36 employee first becomes eligible, shall give the division written
37 notice of that fact in the form prescribed by the division. The
38 employee may not enroll thereafter except at the times and under
39 the conditions prescribed by the commission.

40 Any person employed as a substitute teacher by a school district
41 and who provides evidence of coverage under another health
42 benefits program may waive coverage for the current school year on
43 or after the date on which the person becomes an employee eligible
44 for coverage.

45 Multiple coverage in the program as an employee, dependent, or
46 retiree shall be prohibited and the prohibition shall be implemented
47 in accordance with the rules and regulations promulgated by the
48 commission. The provisions of this paragraph shall be applicable to

1 the State Health Benefits Program and to the School Employees'
2 Health Benefits Program to the extent not inconsistent with the
3 provisions of sections 31 through 41 of P.L.2007, c.103 (C.52:14-
4 17.46.1 et seq.).

5 Commencing on the effective date of P.L. , c. (pending
6 before the Legislature as this bill) or upon the expiration of a
7 collective negotiations agreement with a relevant provision in effect
8 as of that effective date, if an employee of a participating employer
9 and the employee's spouse are both public employees and eligible
10 for health care benefits coverage provided by each public employer,
11 the employee with the highest annual compensation shall select
12 coverage with the employer, provided that the employer provides
13 coverage for dependents, and the employee's spouse shall not be
14 eligible for health care benefits coverage provided by the public
15 employer of the spouse. This subsection shall be applicable to the
16 State Health Benefits Program and to the School Employees' Health
17 Benefits Program.
18 (cf: P.L.2010, c.2, s.12)

19
20 4. (New section) a. Notwithstanding the provisions of any
21 other law to the contrary, commencing on the effective date of
22 P.L. , c. (pending before the Legislature as this bill) or upon the
23 expiration of a collective negotiations agreement with a relevant
24 provision in effect as of that effective date, if an employee of an
25 independent State authority and the employee's spouse are both
26 public employees and eligible for health care benefits coverage
27 provided by each public employer, the employee with the highest
28 annual compensation shall select coverage with the employer,
29 provided that the employer provides coverage for dependents, and
30 the employee's spouse shall not be eligible for health care benefits
31 coverage provided by the public employer of the spouse. This
32 section shall apply when the health care benefits coverage is
33 provided through a health care benefits plan or program, insurance
34 fund or joint insurance fund, or in any other manner. This
35 subsection shall apply to a State authority that is not covered by the
36 provisions of section 7 of P.L.1961, c.49 (C.52:14-17.31).

37 b. Notwithstanding the provisions of any other law to the
38 contrary, an independent State authority which does not participate
39 in the State Health Benefits Program shall not make payments in
40 any form or manner to an employee who waives coverage under the
41 health care benefits plan to which the employee is entitled by virtue
42 of employment with the employer. The decision of an employer to
43 allow its employees to waive coverage shall not be subject to the
44 collective bargaining process. This subsection shall apply to a State
45 authority that is not covered by the provisions of section 36 of
46 P.L.1995, c.259 (C.52:14-17.31a).

47 c. As used in this section, "independent State authority" means
48 a public authority, board, commission, corporation, or other agency

1 or instrumentality of the State allocated, in but not of, a principal
2 department of State government pursuant to Article V, Section IV,
3 paragraph 1 of the New Jersey Constitution, or which is not subject
4 to supervision or control by the department in which it is allocated,
5 and a regional authority, but shall not include a college or
6 university.

7
8 5. Section 36 of P.L.1995, c.259 (C.52:14-17.31a) is amended
9 to read as follows:

10 36. a. Notwithstanding the provisions of any other law to the
11 contrary, the State as an employer, or an employer that is an
12 independent authority, commission, board, or instrumentality of the
13 State which participates in the State Health Benefits Program, or an
14 employer other than the State which participates in the State Health
15 Benefits Program, established pursuant to P.L.1961, c.49 (C.52:14-
16 17.25 et seq.), **【**may allow any employee who is eligible for other
17 health care coverage to waive coverage under the State Health
18 Benefits Program to which the employee is entitled by virtue of
19 employment with the employer. The waiver shall be in such form
20 as the Director of the Division of Pensions and Benefits shall
21 prescribe and shall be filed with the division. After such waiver has
22 been filed and for so long as that waiver remains in effect, no
23 premium shall be required to be paid by the employer for the
24 employee or the employee's dependents. Not later than the 180th
25 day after the date on which the waiver is filed, the division shall
26 refund to the employer the amount of any premium previously paid
27 by the employer with respect to any period of coverage which
28 followed the filing date.

29 b. Notwithstanding the provisions of any other law to the
30 contrary, the State as an employer, or an employer that is an
31 independent authority, commission, board, or instrumentality of the
32 State which participates in the State Health Benefits Program, may
33 allow any employee who is eligible for other health care coverage
34 that is not under the State Health Benefits Program to waive the
35 coverage under the State Health Benefits Program to which the
36 employee is entitled by virtue of employment with the employer.
37 The waiver shall be in such form as the Director of the Division of
38 Pensions and Benefits shall prescribe and shall be filed with the
39 division.

40 c. In consideration of filing a waiver as permitted in
41 subsections a. and b. of this section, an employer may pay to the
42 employee annually an amount, to be established in the sole
43 discretion of the employer, which shall not exceed 50% of the
44 amount saved by the employer because of the employee's waiver of
45 coverage, and, for a waiver filed on or after the effective date of
46 P.L.2010, c.2, which shall not exceed 25%, or \$5,000, whichever is
47 less, of the amount saved by the employer because of the
48 employee's waiver of coverage. An employee who waives coverage

1 shall be permitted to immediately resume coverage if the employee
2 ceases to be eligible for other health care coverage for any reason,
3 including, but not limited to, the retirement or death of the spouse
4 or divorce. An employee who resumes coverage shall repay, on a
5 pro rata basis, any amount received from the employer which
6 represents an advance payment for a period of time during which
7 coverage is resumed. An employee who wishes to resume coverage
8 shall notify the employer in writing and file a declaration with the
9 division, in such form as the director of the division shall prescribe,
10 that the waiver is revoked. 】 shall not make payments in any form or
11 manner to an employee who waives coverage under the State Health
12 Benefits Program to which the employee is entitled by virtue of
13 employment with the employer. The decision of an employer to
14 allow its employees to waive coverage **【**and the amount of
15 consideration to be paid therefor**】** shall not be subject to the
16 collective bargaining process.
17 (cf: P.L.2010, c.2, s.11)
18

19 6. Section 37 of P.L.1995, c.259 (C.40A:10-17.1) is amended
20 to read as follows:

21 37. Notwithstanding the provisions of any other law to the
22 contrary, a county, municipality or any contracting unit as defined
23 in section 2 of P.L.1971, c.198 (C.40A:11-2) which enters into a
24 contract providing group health care benefits to its employees
25 pursuant to N.J.S.40A:10-16 et seq., **【**may allow any employee who
26 is eligible for other health care coverage to waive coverage under
27 the county's, municipality's or contracting unit's plan to which the
28 employee is entitled by virtue of employment with the county,
29 municipality or contracting unit. The waiver shall be in such form
30 as the county, municipality or contracting unit shall prescribe and
31 shall be filed with the county, municipality or contracting unit. In
32 consideration of filing such a waiver, a county, municipality or
33 contracting unit may pay to the employee annually an amount, to
34 be established in the sole discretion of the county, municipality or
35 contracting unit, which shall not exceed 50% of the amount saved
36 by the county, municipality or contracting unit because of the
37 employee's waiver of coverage, and, for a waiver filed on or after
38 the effective date of P.L.2010, c.2, which shall not exceed 25%, or
39 \$5,000, whichever is less, of the amount saved by the county,
40 municipality or contracting unit because of the employee's waiver
41 of coverage. An employee who waives coverage shall be permitted
42 to resume coverage under the same terms and conditions as apply to
43 initial coverage if the employee ceases to be covered through the
44 employee's spouse for any reason, including, but not limited to, the
45 retirement or death of the spouse or divorce. An employee who
46 resumes coverage shall repay, on a pro rata basis, any amount
47 received which represents an advance payment for a period of time
48 during which coverage is resumed. An employee who wishes to

1 resume coverage shall file a declaration with the county,
2 municipality or contracting unit, in such form as the county,
3 municipality or contracting unit shall prescribe, that the waiver is
4 revoked.】 shall not make payments in any form or manner to any
5 employee who waives coverage under the plan provided by the
6 county, municipality or contracting unit to which the employee is
7 entitled by virtue of employment with the county, municipality or
8 contracting unit. The decision of a county, municipality or
9 contracting unit to allow its employees to waive coverage 【and the
10 amount of consideration to be paid therefor】 shall not be subject to
11 the collective bargaining process. This section shall apply also to
12 local authorities as defined under the “Local Authorities Fiscal
13 Control Law,” P.L.1983, c.313 (C.40A:5A-1 et seq.).
14 (cf: P.L.2010, c.2, s.18)
15

16 7. Section 3 of P.L.2003, c.3 (C.18A:64A-13.1) is amended to
17 read as follows:

18 3. Notwithstanding the provisions of any other law to the
19 contrary, a county college that enters into a contract providing
20 group health care benefits to its employees 【may allow any
21 employee who is eligible for other health care coverage to waive
22 coverage under the county college's plan to which the employee is
23 entitled by virtue of employment with the county college. The
24 waiver shall be in such form as the county college shall prescribe
25 and shall be filed with the county college. In consideration of filing
26 such a waiver, a county college may pay to the employee annually
27 an amount, to be established in the sole discretion of the county
28 college, which shall not exceed 50% of the amount saved by the
29 county college because of the employee's waiver of coverage, and,
30 for a waiver filed on or after the effective date of P.L.2010, c.2,
31 which shall not exceed 25%, or \$5,000, whichever is less, of the
32 amount saved by the county college because of the employee's
33 waiver of coverage. An employee who waives coverage shall be
34 permitted to resume coverage under the same terms and conditions
35 as apply to initial coverage if the employee ceases to be covered
36 through the other health care coverage for any reason, including,
37 but not limited to, the retirement or death of the employee's spouse
38 or divorce. An employee who resumes coverage shall repay, on a
39 pro rata basis, any amount received which represents an advance
40 payment for a period of time during which coverage is resumed.
41 An employee who wishes to resume coverage shall file a
42 declaration with the county college in such form as the county
43 college shall prescribe, that the waiver is revoked.】 shall not make
44 payments in any form or manner to any employee who waives
45 coverage under the county college's plan to which the employee is
46 entitled by virtue of employment with the county college. The
47 decision of a county college to allow its employees to waive

1 coverage **【and the amount of consideration to be paid therefor】**
2 shall not be subject to the collective bargaining process.
3 (cf: P.L.2010, c.2, s.17)
4

5 8. (New section) Notwithstanding the provisions of any other
6 law to the contrary, a board of education which enters into a
7 contract providing group health care benefits to its employees
8 pursuant to P.L.1979, c.391 (C.18A:16-12 et seq.), shall not make
9 payments in any form or manner to any employee who waives
10 coverage under the board of education's plan to which the employee
11 is entitled by virtue of employment with the board of education.
12 The decision of a board of education to allow its employees to
13 waive coverage shall not be subject to the collective bargaining
14 process.
15

16 9. This act shall take effect on the first day of the sixth month
17 following enactment, but shall not be deemed to impair the
18 obligations in a collective negotiations agreement in effect on that
19 date.
20

21 22 STATEMENT 23

24 Under this bill, if an employee of the State, a local government, or
25 a local board of education, or agency or authority thereof, and the
26 employee's spouse are both public employees and eligible for
27 health care benefits coverage provided by each public employer, the
28 employee with the highest annual compensation will be required to
29 select coverage with the employer and the employee's spouse will
30 not be eligible for health care benefits coverage provided by the
31 public employer of the spouse

32 This bill also prohibits public employers from making payments in
33 any form or manner to an employee who waives coverage under the
34 public employer's health care benefits plan or program to which the
35 employee is entitled by virtue of employment with the public
36 employer. The decision of a public employer to allow its
37 employees to waive coverage will not be subject to the collective
38 bargaining process.