# ASSEMBLY, No. 1137

# STATE OF NEW JERSEY

## 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**
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**Assemblyman RONALD S. DANCER**
**District 12 (Burlington, Middlesex, Monmouth and Ocean)**
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**Assemblywoman MILA M. JASEY**
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**Assemblywoman BETTYLOU DECROCE**
**District 26 (Essex, Morris and Passaic)**

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**SYNOPSIS**

Requires certain health care plans to be offered by SEHBP and local boards of education; requires SEHBP commission to establish employee contribution rates for certain plans; requires local boards of education provide certain information on health care benefits.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.

**(Sponsorship Updated As Of: 5/14/2020)**

**AN ACT** concerning health care benefits provided to public employees by the School Employees' Health Benefits Program and local boards of education and supplementing P.L.2007, c.103 (C.52:14-17.46.1 et seq.) and P.L.1979, c.391 (C.18A:16-12 et seq.).

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

1. The School Employees' Health Benefits Commission shall develop and approve the contribution rate chart that shall be used to determine the amount of contribution to be paid annually, through the withholding from base salary or the retirement allowance, by employees and retirees who select health care benefits coverage under Plan A, B, or C offered by the School Employees' Health Benefits Program in accordance with section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill). The contribution shall be paid by employees for whom the employer has assumed a health care benefits payment obligation to require that such employees pay the amount of contribution specified in accordance with this section toward the cost of such health care benefits coverage. The contribution shall be paid by retirees for whom the State has assumed a health care benefits payment obligation, and who are required by law to contribute to the cost of health care benefits coverage in retirement, to require that such retirees pay the amount of contribution specified in accordance with this section toward the cost of such health care benefits coverage.

As established by the commission, the contribution rates shall range from two percent to eight percent on a sliding scale. The increments for the percentages and for the annual compensation amounts shall be set by the commission.

The contribution percentage for each range for Plan A shall be higher than the contribution percentage for each range for Plan B and Plan C. The contribution percentage for each range for Plan C shall be lower than the contribution percentage for each range for Plan A and Plan B. The contribution percentage for each range for Plan B shall be between the contribution percentage for each range for Plan A and Plan C. The amounts for the ranges shall be identical for each plan.

For an employee, the base salary shall be used to identify the contribution percentage. For a retiree, the retirement allowance shall be used to identify the contribution percentage. The same contribution chart shall apply to both employees and retirees.

The contribution percentages for coverage of an employee, or retiree, and child or children shall at all times be less than contribution percentages for coverage of an employee, or retiree, and spouse.

Notwithstanding the provision of any law to the contrary that may specify a contribution amount or calculation of contribution, no other contribution by an employee or retiree toward the cost of health care coverage in any amount or manner shall be required for Plan A, B, or C except the contribution set forth in this section or subsection g. of section 2 of P.L. , c. (C. )(pending before the Legislature as this bill), as appropriate.

No contribution shall be required for an employee or retiree who selects coverage under Plan C if that plan is a high deductible plan with an annual deductible of at least $1,500.

2. a. Notwithstanding the provision of any other law or regulation to the contrary, the School Employees' Health Benefits Commission shall provide only three plans that employees may select during the period from January 1, 2020 through December 31, 2024 for health care benefits coverage.

b. No other plans shall be provided by the program during this period of time for selection and enrollment by employees regardless of whether there are collective negotiations agreements in effect on the effective date of this act, P.L. , c. (pending before the Legislature as this bill), that provide for selection and enrollment in other plans of the program. Collective negotiations agreements in effect on the effective date of this act may be altered, reopened, or amended to provide for selection and enrollment by the employees in the three new plans. Collective negotiations agreements entered into after that effective date shall provide for selection and enrollment by employees in only one of those three plans offered by the program. Collective negotiations agreements that are entered into after December 31, 2024 shall continue to permit employees to select and enroll, or remain enrolled, in one of the three plans only until the provisions of the School Employees' Health Benefits Program are amended by law to provide for other plans or the plan design committee provides for other plans.

c. The three plans shall be:

Plan A that shall have an initial plan year 2020 premium that is at a minimum 15 percent lower than the 2019 SEHBP Direct 10 plan premium;

Plan B that shall have an initial plan year 2020 premium that is at a minimum 25 percent lower than the 2019 SEHBP Direct 10 plan premium; and

Plan C that shall have an initial plan year 2020 premium that is at a minimum 31 percent lower than the 2019 SEHBP Direct 10 plan premium.

Plan C may be a high deductible plan. If Plan C is a high deductible plan, it shall have an annual deductible of at least $1,500.

Selection of health care benefits coverage under one of the three plans shall be in the sole discretion of the employee.

If an employee fails to select a plan for health care benefits coverage, the program shall enroll the employee and the employee's dependent in Plan B for the plan year.

d. The actual premium costs for Plans A, B, and C, for both medical and prescription coverage, shall be tracked each plan year by the commission following the plans' initial offering in plan year 2020. The premium cost increases shall be monitored and compared to the national, regional, and State trends of healthcare costs.

If the projected blended premium of the coverage types for each plan in a plan year exceeds the baseline premium for plan year 2020, the plan design committee or the commission, as may be authorized, shall make plan design changes to lower the premium or reduce the rate of premium increases, or both. Action to lower the premium or reduce the rate of premium increases shall commence upon receipt of the program actuary's rate renewal recommendation for premiums for the next plan year.

e. For plan year 2020, the commission shall make such modifications to the plans offered by the program as shall result in net savings for the plan year for the State of $100 million, and for employers other than the State in the aggregate of $200 million. The commission shall make such modifications to plan design without the approval of the plan design committee if necessary. If these net savings are not achieved in plan year 2020, the commission shall make further modifications, without the approval of the plan design committee if necessary, to achieve the remainder of the savings in plan year 2021.

To achieve the remainder of the net savings in plan year 2021, the commission shall make plan design changes or shall adjust contribution rates, or both, while still remaining within the two percent and eight percent range provided for in section 1 of P.L. , c. (C. )(pending before the Legislature as this bill). The adjustment in the contributions rates shall be in addition to the application of the increase or decrease in the contribution rates provided for in subsection f. of this section, if applicable, for plan year 2021.

Net savings from plan design modifications adopted by the plan design committee after July 1, 2019 for plan year 2020 shall be included in the calculations by the commission for the net savings required for plan year 2020.

Net savings shall be certified by the State Treasurer and verified by the actuary for the program.

f. Commencing in plan year 2020, the preliminary baseline premium rates for Plan A, B, or C shall be the blended premium of the coverage types for each plan. If the blended premium projected by the actuary of the coverage types for each plan for plan year 2021 exceeds the preliminary baseline premium for each plan for plan year 2020 by three percent or more, an increase in the employee and retiree contribution rates shall be calculated and

applied. The percentage of base salary or retirement allowance contribution required to be contributed by an employee and retiree shall be multiplied by the percentage of the premium increase that exceeds three percent to determine the new percentage to be contributed. For this purpose, the eight percent top rate of contribution shall be increased above eight percent.

The increase in the blended premium from plan year 2021 to plan year 2022, from plan year 2022 to plan year 2023, and from plan year 2023 to plan year 2024 shall be calculated and applied in the manner specified above to increase the employee and retiree contribution rate, if applicable, except that the prior plan year's percentage for contribution, including any adjustments to the rates made by the commission pursuant to subsection e. of this section, shall be used to determine the increase in the contribution rate.

If the blended premium of the coverage types for any of the specified plans decreased from one plan year to another for plan years 2021, 2022, 2023, and 2024 by three percent or more, the percentage of base salary or retirement allowance contribution required to be contributed by an employee and retiree shall be reduced by the percentage of the decrease that exceeds three percent to determine the new percentage to be contributed, with the prior plan year's percentage for contribution, including any adjustments to the rates made by the commission pursuant to subsection e. of this section, to be used to determine the decrease in the contribution rate.

The calculations in this subsection shall be made and applied for plan years 2021, 2022, 2023, and 2024 only.

g. Commencing January 1, 2020, retirees receiving health care benefits coverage in the program who are not enrolled in Medicare shall be eligible to select coverage under only Plans A, B, or C.

Commencing January 1, 2020, retirees receiving health care benefits coverage in the program who are enrolled in Medicare shall be eligible to select coverage under only the Medicare Advantage Plan or the NJ Direct 15/25 plan. Retirees receiving health care benefits coverage in the program who are enrolled in Medicare shall not be eligible to select coverage under Plans A, B, or C.

Retirees receiving health care benefits coverage in the program in accordance with this subsection who are or are not enrolled in Medicare and required by law to contribute to the cost of the health care coverage in retirement shall be required to contribute the lesser of the amount specified pursuant to P.L.2011, c.78 or the amount specified in section 1 of P.L. , c. (C. )(pending before the Legislature as this bill), as adjusted or increased or decreased by the commission, using the amount of the annual retirement allowance to identify the percentage rate of contribution and to calculate the contribution amount.

Selection of a plan provided by this subsection for health care benefits coverage shall be in the sole discretion of the retiree.

If a retiree who is not enrolled in Medicare fails to select a plan for health care benefits coverage, the program shall enroll the retiree and the retiree's dependent in Plan B for the plan year. If a retiree who is enrolled in Medicare fails to select a plan for health care benefits coverage, the program shall enroll the retiree and the retiree's dependent in the Medicare Advantage Plan for the plan year.

h. The commission shall, in coordination with the Division of Pensions and Benefits, prepare an employee and retiree guidance tool to provide employees and retirees with confidential consultation online with regard to the employee's or retiree's decision to select a plan during the period of open enrollment or at other times. The guidance tool shall use actual claims data of that employee or retiree. The guidance tool shall be available for the open enrollment period for plan selection for the 2020 plan year.

i. All other provisions of law shall remain applicable to the extent not inconsistent with this section.

3. a. Notwithstanding the provisions of any other law or regulation to the contrary, a board of education providing health care benefits coverage for employees in accordance with P.L.1979, c.391 (C.18A:16-12) shall provide the equivalent of Plans A, B, and C of the School Employees' Health Benefits Program as described in section 2 of P.L. , c. (C. )(pending before the Legislature as this bill) for its employees and their dependents for the period from January 1, 2020 through December 31, 2024. Plan C may be a high deductible plan. If Plan C is a high deductible plan, it shall have an annual deductible of at least $1,500.

b. Other health care benefits plans may be provided by the board of education as may be required to permit employees to select and enroll, or remain enrolled, in a plan that is provided for in collective negotiations agreements in effect on the effective date of this act, P.L. , c. (pending before the Legislature as this bill), until the expiration of those agreements if the agreements provide for selection and enrollment in such other plans. Collective negotiations agreements in effect on the effective date of this act may be altered, reopened, or amended to provide for selection and enrollment by the employees in the three new plans. Collective negotiations agreements entered into after that effective date shall provide for selection and enrollment by employees in the three plans, in addition to any other plans that may be provided for in the collective negotiations agreement. Collective negotiations agreements that are entered into after December 31, 2024 shall continue to permit employees to select and enroll, or remain enrolled, in one of the three plans, in addition to any other plans provided for in the collective negotiation agreement.

c. Selection of health care benefits coverage under one of the three plans by an employee for the employee and the employee's

dependents shall be in the sole discretion of the employee. An employee may select any other plan provided by the board of education as may be provided for by an applicable binding collective negotiations agreement that covers the employee.

If an employee fails to select a plan for health care benefits coverage of the employee and the employee's dependent, the board of education shall enroll the employee and the employee's dependent in Plan B for the plan year.

d. An employee who selects Plan A, B, or C shall be required to contribute only a percentage of base salary for the cost of the health care benefits coverage, notwithstanding any other provision of law to the contrary that may specify a contribution amount or calculation of contribution. The contribution rate shall be the rate established by the School Employees' Health Benefits Commission pursuant to section 1 of P.L. , c. (C. )(pending before the Legislature as this bill).

No contribution shall be required for an employee who selects coverage under Plan C if that plan is a high deductible plan with an annual deductible of at least $1,500.

e. The actual premium cost for Plans A, B, and C, for both medical and prescription coverage, shall be tracked each plan year by the board of education following the plans' initial offering in plan year 2020. The premium cost increases shall be monitored and compared to the national, regional, and State trends of healthcare costs.

If the projected blended premium of the coverage types for Plan A, B, or C in a plan year exceeds the baseline premium for plan year 2020, the board of education shall make plan design changes to lower the premium or reduce the rate of premium increases, or both. Action to lower the premium or reduce the rate of premium increases shall commence upon receipt of an actuary's rate renewal recommendation for premiums for the next plan year.

f. Commencing in plan year 2020, the preliminary baseline premium rates for Plans A, B, or C shall be the blended premium of the coverage types for each plan. If the blended premium projected by the actuary of the coverage types for each plan for plan year 2021 exceeds the preliminary baseline premium for each plan for plan year 2020 by three percent or more, an increase in the employee contribution rates shall be calculated and applied. The percentage of base salary contribution required to be contributed by an employee shall be multiplied by the percentage of the premium increase that exceeds three percent to determine the new percentage of base salary to be contributed. For this purpose, the eight percent top rate of contribution shall be increased above eight percent.

The increase in the blended premium from plan year 2021 to plan year 2022, from plan year 2022 to plan year 2023, and from plan year 2023 to plan year 2024 shall be calculated in the manner specified above and applied to increase the employee contribution

rate, if applicable, except that the prior plan year's percentage for contribution, not including any adjustments to the rates made by the commission pursuant to subsection e. of P.L. , c. (pending before the Legislature as this bill), shall be used to determine the increase in the contribution rate.

If the blended premium of the coverage types for any of the specified plans decreased from one plan year to another for plan years 2021, 2022, 2023, and 2024 by three percent or more, the percentage of base salary contribution required to be contributed by an employee shall be reduced by the percentage of the decrease that exceeds three percent to determine the new percentage of base salary to be contributed, with the prior plan year's percentage for contribution, not including any adjustments to the rates made by the commission pursuant to subsection e. of P.L. , c. (pending before the Legislature as this bill), to be used to determine the decrease in the contribution rate.

The calculations in this subsection shall be made and applied for plan years 2021, 2022, 2023, and 2024 only.

g. This section shall apply also when the health care benefits coverage is provided through an insurance fund or joint insurance fund or in any other manner.

h. The board of education shall prepare an employee guidance tool to provide employees with confidential consultation online with regard to the employee's decision to select a plan during the period of open enrollment or at other times. The guidance tool shall use actual claims data of that employee. The guidance tool shall be available for the open enrollment period for plan selection for the 2020 plan year.

i. All other provisions of law shall remain applicable to the extent not inconsistent with this section.

4. a. As used in this section, "employer" means a local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, school district under partial or full State intervention, charter school, any officer, board, or commission under the authority of the Commissioner of Education or the State Board of Education, and any other public entity which is established pursuant to authority provided by Title 18A of the New Jersey Statutes, but excluding State public institutions of higher education and those public entities where the employer is the State of New Jersey.

b. An employer covered by this section that deducts contributions for health care benefits under any law, regulation, or collective negotiations agreement shall specify in its budget and describe in the supporting documentation submitted to the commissioner pursuant to subsection c. of section 5 of P.L.1996, c.138 (C.18A:7F-5) the following information:

(1) the types and extent of health insurance coverage provided to its employees including, but not limited to, medical coverage, prescription coverage, dental coverage, vision coverage, and any other coverage provided;

(2) the total cost of premiums for each type of coverage provided;

(3) the total projected employee contributions for each type of coverage offered; and

(4) the total cost of coverage broken out by employer and employees.

c. Any audit performed or required of an employer's expenditures shall include the actual amounts of employee contributions collected for health care benefits. If there is a premium rebate, dividend, or rate reduction provided to the employer by an insurance carrier, the information shall be clearly delineated and included in the audit, and reported to the majority representative.

d. Notwithstanding the provisions of any law or regulation to the contrary, an employer including, but not limited to, an employer that participates in the School Employees' Health Benefits Program, shall clearly delineate in its budget and audit documents all fees paid to insurance brokers or agents.

e. An employer that deducts contributions for health care benefits from an employee's salary shall provide the employee with a written explanation of each type of coverage provided to the employee and to the employee's dependents. The explanation shall include the following information:

(1) the total premium cost for each coverage, listed separately;

(2) the total amount of salary deducted for each coverage, which shall be provided after July 1 and at any time thereafter if there is any change in the amount of the employee's health care benefits-related salary deduction; and

(3) the time period for which each coverage is provided.

5. This act shall take effect immediately.

STATEMENT

This bill requires the School Employees' Health Benefits Commission to provide only three plans that employees may select during the period from January 1, 2020 through December 31, 2024 for health care benefits coverage. No other plans may be provided by the program even if there are collective negotiations agreements in effect on the effective date of this bill that provide for selection and enrollment in other plans. Collective negotiations agreements in effect on the effective date of this bill may be altered, reopened, or amended to provide for the selection by the employees of one of

the three new plans. Collective negotiations agreements entered into after the effective date of the bill will provide for the selection by employees of only one of those three plans offered by the program. Collective negotiations agreements that are entered into after December 31, 2024 will continue to permit employees to select and enroll, or remain enrolled, in one of the three plans only until the provisions of the School Employees' Health Benefits Program are amended by law to provide for other plans or the plan design committee provides for other plans.

The three plans will be:

Plan A that shall have an initial plan year 2020 premium that is at a minimum 15 percent lower than the 2019 SEHBP Direct 10 plan premium;

Plan B that shall have an initial plan year 2020 premium that is at a minimum 25 percent lower than the 2019 SEHBP Direct 10 plan premium;

Plan C that shall have an initial plan year 2020 premium that is at a minimum 31 percent lower than the 2019 SEHBP Direct 10 plan premium.

Plan C may be a high deductible plan with an annual deductible of at least $1,500.

If an employee fails to select a plan for health care benefits coverage, the program will enroll the employee and the employee's dependent in Plan B for the plan year.

The bill requires the School Employees' Health Benefits Commission to develop a contribution rate chart to be used to determine the amount of contribution to be paid annually by employees and retirees who select health care benefits coverage under Plan A, B, or C to be offered by the School Employees' Health Benefits Program. As established by the commission, the contribution rates will range from two percent to eight percent on a sliding scale. The increments for the percentages and for the annual base salary amounts will be set by the commission.

The contribution percentage for each range for Plan A must be higher than the contribution percentage for each range for Plan B and Plan C. The contribution percentage for each range for Plan C must be lower than the contribution percentage for each range for Plan A and Plan B. The contribution percentage for each range for Plan B must be between the contribution percentage for each range for Plan A and Plan C. The amounts for the ranges must be identical for each plan.

The contribution percentages for coverage of an employee, or retiree, and child or children must at all times be less than contribution percentages for coverage of an employee, or retiree, and spouse.

No contribution will be required for an employee who selects coverage under a Plan C that is a high deductible plan.

The bill requires the premium cost for Plans A, B, and C, for both medical and prescription coverage, to be tracked for each plan year by the commission following the plans' initial offering in plan year 2020. The premium cost increases are to be monitored and compared to the national, regional, and State trends of healthcare costs.

If the projected blended premium of the coverage types for each plan in a plan year exceeds the baseline premium for plan year 2020, the plan design committee or the commission, as appropriate, must lower the premium or reduce the rate of premium increases, or both. Action to lower the premium or reduce the rate of premium increases will commence upon receipt of the program actuary's rate renewal recommendation for premiums for the next plan year.

For plan year 2020, the SEHBP commission must make such modifications to the plans offered by the program as will result in net savings for the plan year for the State of $100 million and for employers other than the State of $200 million in the aggregate. The commission must make such modifications to plan design without the approval of the plan design committee if necessary. If these net savings are not achieved in plan year 2020, the commission must make further modifications, without the approval of the plan design committee if necessary, to achieve the remainder of the savings in plan year 2021.

To achieve the net savings in plan year 2020 or 2021, the commission will make plan design changes or shall adjust contribution rates, while still remaining within the two percent and eight percent rate range. The adjustment in the contributions rates will be in addition to the application of the increase in the contribution rates if applicable for plan year 2021.

Net savings from plan design modifications adopted by the plan design committee after July 1, 2019 for plan year 2020 must be included in the calculations by the commission for the net savings required for plan year 2020.

Net savings shall be certified by the State Treasurer and verified by the actuary for the program.

Commencing in plan year 2020, the preliminary baseline premium rates for Plan A, B, or C will be the blended premium for the coverage types for each plan. If the blended premium projected by the actuary of the coverage types for each plan for plan year 2021 exceeds the preliminary baseline premium for each plan from plan year 2020 by three percent or more, an increase in the employee contribution rates will be calculated and applied. The percentage required to be contributed by an employee will be multiplied by the percentage of the premium increase that exceeds three percent to determine the new percentage to be contributed. For this purpose, the eight percent top rate of contribution may be increased above eight percent.

The premium increase from plan year 2021 to plan year 2022, from plan year 2022 to plan year 2023, and from plan year 2023 to plan year 2024 will be calculated and applied to increase the employee contribution rate, if applicable, in the manner specified above except that the prior plan year's percentage for contribution shall be used to determine the increase in the contribution rate.

If the premium for any of these specified plans decreased from one plan year to another for plan years 2021, 2022, 2023, and 2024 by three percent or more, the percentage required to be contributed will be reduced by the percentage of the premium decrease that exceeds three percent to determine the new percentage to be contributed, with the prior plan year's percentage for contribution to be used to determine the decrease in the contribution rate.

These calculations will be made and applied for plan years 2021, 2022, 2023, and 2024 only.

Retirees receiving health care benefits coverage in the SEHBP program who are not enrolled in Medicare will be eligible to select coverage under only Plans A, B, or C.

Retirees receiving health care benefits coverage in the program who are enrolled in Medicare will be eligible to select coverage under only the Medicare Advantage Plan or the NJ Direct 15/25 plan.

Retirees receiving health care benefits coverage in the program who are not enrolled in Medicare or who are enrolled in Medicare and required by law to contribute to the cost of the health care coverage in retirement shall be required to contribute the lesser of the amount specified pursuant to P.L.2011, c.78 or the amount specified in accordance with the contribution rate chart developed by the SEHBP commission using the amount of the annual retirement allowance to identify the percentage rate of contribution and to calculate the contribution amount.

For local boards of education that do not participate in the SEHBP, this bill requires that they offer plans A, B, or C during the same period of time and may offer other plans as required to comply with collective negotiations agreements; apply the same contribution rates as the SEHBP develops for Plan A, B, and C; and apply the same increase and decrease in the contribution rates under the conditions as for those who are in SEHBP.

The bill requires the commission and boards of education to prepare an employee guidance tool to provide employees with confidential consultation online with regard to the employee's decision to select a plan during the period of open enrollment or at other times. The guidance tool must use actual claims data of that employee. The guidance tool must be available for the open enrollment period for plan selection for the 2020 plan year.

The bill also:

Provides that an education employer that deducts contributions for health care benefits under any law, regulation, or collective

negotiations agreement must specify in its budget and describe in the supporting documentation submitted to the Commissioner of Education certain information on health insurance coverage provided to its employees.

Requires that any audit performed or required of an employer's expenditures will include the actual amounts of employee contributions collected for health care benefits.

Requires an education employer to clearly delineate in its budget and audit documents all fees paid to insurance brokers or agents.

Requires an education employer that deducts contributions for health care benefits from an employee's salary to provide the employee with a written explanation of each type of coverage provided to the employee and to the employee's dependents.

Provides that the bill will not be construed to prohibit a local public entity from renegotiating the terms and conditions of employment set forth in a collective bargaining agreement in effect on the effective date of this bill in order to account for any modification thereof attributable to this bill.