

**Pension and Health Benefits Review Commission
Vote Results
June 19, 2009**

S-2742 (Weinberg)/A-3956 (Johnson)

Makes various revisions to laws regulating certain health benefits plans.

Motion: Recommend enactment of a requirement for a quality assurance audit for insurance carriers and disclosures as to selective contracting arrangements but does not support the concept of a minimum loss ratio requirement in the large employer market and a requirement that employees of local unit or school boards receive benefit of certain negotiated rate structures within the State Health Benefits Program (SHBP) and the School Employees Health Benefits Program (SEHBP).

Discussion: This bill would apply an 80% minimum loss ratio requirement to insurers that provide large group health insurance policies, beginning in January 1, 2010. Currently, this 80% loss ratio only applies to the insurers participating in the individual and small employer markets in the State. The Commission is concerned that applying an 80% minimum loss ratio requirement will increase costs to the SHBP and the SEHBP. In addition, this bill would mandate a requirement that employees of local unit or school boards receive benefit of certain negotiated rate structures within the SHBP and the SEHBP. The carrier contracts are based upon the provisions of the SHBP and change when the benefits of the SHBP change. Unless the other groups are offering exactly the same benefits with the same restrictions or latitude for the carrier and claims experience duplicates those of the State plan, using the same rates makes no sense. Without an examination of the claims experience of the other groups, mandating the use of the same rates may not be appropriate for the other group.

S-2719 (Van Drew)

Allows public employers to offer retirees with other health care coverage incentive to waive SHBP coverage.

Motion: Recommend not to enact.

Discussion: The enactment of this bill may have potential income tax consequences when offering cash incentives in lieu of health benefit coverage. Post-retirement medical benefits are normally non-taxable benefits to the retiree. However, an election to receive cash in lieu of post-retirement medical benefits may render both the cash payment and the value of health benefit coverage taxable to the retiree, regardless which is elected, under the Internal Revenue Code's rules of constructive receipt. In addition, there may be additional costs to the SHBP due to anti-selection. Healthy retirees may be able to obtain affordable health coverage outside of the SHBP, leaving more unhealthy retirees in the plan. The unhealthy retirees will incur larger claims and effectively increase the cost per retiree in the plan.

A-3869 (Watson Coleman)

Permits qualified members of State Police Retirement System to serve until age 60.

Motion: The bill is tabled pending additional information from the Division of Pensions and Benefits.

A-3832 (Rumpf/Van Pelt)/S-2566 (Connors)

"Breann's Law" requires health insurers, the State Health Benefits Program and NJ FamilyCare to provide "out of network" coverage for children with catastrophic illnesses.

Motion: Recommend not to enact since it will increase State and local employer SHBP costs.

Discussion: The Commission cannot support the enactment of this bill since it will increase costs of the SHBP. The insurance carriers participating in the SHBP (Horizon Blue Cross Blue Shield of New Jersey, Aetna HMO and Cigna Healthcare) have entered into special contractual arrangements with doctors to develop an extensive nationwide network of providers that provide medical services at costs predetermined to be “reasonable and customary.” Covered members need only pay the appropriate co-payment in order to avail themselves of these in-network medical services. The enactment of this bill would undermine the cost controls inherent in this type of arrangement by mandating full coverage for out-of-network medical services whose costs may exceed the reasonable and customary charges the Plan's carriers have negotiated with the doctors participating in their network. In addition, the enactment of this bill would be contrary to recently enacted reforms designed to reign in the upward spiraling public employer pension and health benefits costs. The health benefit reforms included a change in the plan design of the SHBP, requiring employee contributions and requiring the carriers in the plan to utilize a disease and chronic care management plan.

S-2783 (Van Drew)

Permits municipality, fire district or authority to approve transfer of certain firefighters from PERS to PFRS.

Motion: Recommend not to enact.

Discussion: The enactment of this bill would continue a disparity in the PFRS enrollment provisions as they apply to firemen employed by a county or State. State law regarding membership in the PFRS restricts enrollment to police and firemen age 35 and under. The law does provide the following exceptions:

- Eligible periods of military service during periods of conflict may be used to reduce enrollment age and
- Any former State trooper, sheriff's officer, deputy sheriff's officer or county or municipal policeman is permitted to use previous service as a police officer to reduce actual age in order to meet maximum age requirement of 35 years for the position of a municipal police officer.

Municipal laws restrict the appointment of personnel to a municipal police or fire department to individuals age 35 and under. No existing law provides similar age restrictions when police and fire personnel are appointed by a county, fire district, authority or the State. Because of the PFRS age restriction, however, officers appointed by these entities are required to join PERS. If this bill is enacted, a PFRS enrollment disparity initiated with the enactment of Chapter 326, P.L. 2005 would continue because certain firemen hired over the age of 35 would again be allowed enrollment in the PFRS, however, their counterparts employed on the county and State level would not. In addition, the Age Discrimination in Employment ACT (ADEA) generally precludes age restrictions in the administration in an employer funded pension plan. This federal law, however, provides an exception in regards to police officers and firefighters.

S-2791 (Turner)

Requires spousal consent to election of certain pension payout options under TPAF, JRS and PERS.

Motion: Recommend to enact.

Discussion: The Commission supports this bill because it duplicates a provision that is required for qualified pension plans in private industry. The Employee Retirement Income Security Act (ERISA) provides that a pension plan must distribute benefits in the form of a qualified joint and survivor annuity, unless the participant elects otherwise and such waiver is subject to spousal

consent, in order to maintain a tax-qualified status. A “qualified joint and survivor annuity” (QJSA) means an annuity:

- For the life of the participant, with a survivor benefit for the life of a spouse that is not less than 50% and not more than 100% of the amount of the annuity payable during the joint lives of the participant and spouse, and
- That is the actuarial equivalent of an annuity for the life of the participant.

Governmental pension plans are generally exempt from ERISA's provisions. Although the State-administered plan do have a spousal notification procedure if a member elects to choose a pension benefit payment option that does not provide for the payment of a refund or annuity to a beneficiary upon the death of the retiree, the spouse has no recourse to prevent the participant's selection. Consequently, the current procedures fall far short of the spousal protections offered under ERISA