S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to authorizing cities, towns, villages, school districts, boards of cooperative educational services, library districts, fire districts, improvement districts and special districts to enter into cooperative agreements for the provision of centralized public employee administrative and personnel services; and to amend the insurance law, in relation to authorizing the provision of health insurance coverage to municipal employees pursuant to standardized health insurance contracts and authorizing reduction of premiums for municipal cooperative health benefit plans which offer employee wellness programs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 92-a of the general municipal law, is amended by adding a new subdivision 8 to read as follows:

8. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PUBLIC CORPORATION WHICH PROVIDES HEALTH INSURANCE BENEFITS TO ITS OFFICERS AND EMPLOYEES PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE LAW.

S 2. Subdivision a of section 119-n of the general municipal law, as amended by chapter 413 of the laws of 1991, is amended to read as follows:

a. The term "municipal corporation" means a county outside the city of New York, a city, a town, a village, a board of cooperative educational services, A PUBLIC LIBRARY AS DEFINED IN SECTION TWO HUNDRED FIFTY-THREE OF THE EDUCATION LAW, A fire district or a school district.

S 3. Subdivision 2 of section 119-o of the general municipal law is amended by adding a new paragraph b-1 to read as follows:

B-1. THE ESTABLISHMENT OF A CENTRALIZED OFFICE TO COLLECTIVELY PROVIDE:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(I) EMPLOYEE PAYROLL, TIME, ATTENDANCE AND PERSONNEL ADMINISTRATION SERVICES;
(II) PARTICIPATION IN THE NEW YORK STATE HEALTH INSURANCE PROGRAM;
(III) A PERSONNEL OFFICE TO PROVIDE INFORMATION ON EMPLOYEE HEALTH INSURANCE AND OTHER EMPLOYEE BENEFITS;
(IV) EMPLOYEE HEALTH INSURANCE BENEFITS FROM MORE THAN ONE HEALTH INSURANCE CARRIER OR ORGANIZATION, WHICH GRANTS EACH EMPLOYEE THE CHOICE OF WHICH HEALTH INSURANCE PLAN WHICH WILL PROVIDE COVERAGE;
(V) EMPLOYEE PARTICIPATION IN TAX DEFERRED RETIREMENT PLANS, HEALTH CARE PLANS AND CHILD CARE PLANS;
(VI) MUNICIPAL COOPERATIVE HEALTH BENEFIT PLANS PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE LAW;
(VII) ADEQUATE AND ONGOING FINANCIAL CONTROLS AND SECURITY ARRANGEMENTS TO ENSURE THAT THE PARTICIPATING MUNICIPAL CORPORATIONS AND DISTRICTS REMAIN SOLVENT;
(VIII) THE PREPARATION AND DISSEMINATION OF INFORMATIONAL AND SOLICITATION MATERIALS TO FACILITATE COMPARISON OF THE VARIOUS EMPLOYEE HEALTH INSURANCE PLANS OFFERED BY THE PARTICIPATING MUNICIPAL CORPORATIONS AND DISTRICTS;
(IX) FOR THE ENROLLMENT, BILLING, PREMIUM COLLECTION, PREMIUM DISBURSEMENT AND RECONCILIATION, COMMISSION DISBURSEMENT, AND OTHER PROCESSING SERVICES FOR HEALTH INSURANCE BENEFITS PROVIDED TO MUNICIPAL EMPLOYEES;
(X) CONTRACTING WITH QUALIFIED THIRD PARTIES FOR THE PROVISION OF ANY SERVICE NECESSARY TO CARRY OUT SUCH OFFICE'S POWERS AND DUTIES; AND
(XI) NEGOTIATION WITH PARTICIPATING HEALTH INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS WITH REGARD TO THE ADMINISTRATIVE EXPENSES PORTION OF PREMIUM RATES CHARGED FOR HEALTH CARE COVERAGE OFFERED TO MUNICIPAL EMPLOYEES BY SUCH OFFICE.

S 4. Clause (iii) of subparagraph (B) of paragraph 1 of subsection (c) of section 4326 of the insurance law, as added by chapter 1 of the laws of 1999, is amended to read as follows:

(iii) at least thirty percent of its eligible employees receiving annual wages from the employer at a level equal to or less than thirty thousand dollars. The thirty thousand dollar figure shall be adjusted periodically pursuant to subparagraph (F) of this paragraph[.]; OR

S 5. Paragraph 1 of subsection (c) of section 4326 of the insurance law is amended by adding a new subparagraph (B-1) to read as follows:

(B-1) A MUNICIPAL EMPLOYER AS DEFINED IN AND IN ACCORDANCE WITH SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX-A OF THIS ARTICLE.

S 6. The insurance law is amended by adding a new section 4326-a to read as follows:

S 4326-A. STANDARDIZED HEALTH INSURANCE CONTRACTS FOR MUNICIPAL EMPLOYERS. (A) FOR THE PURPOSES OF THIS SECTION, "MUNICIPAL EMPLOYER" SHALL MEAN A MUNICIPAL CORPORATION OR A DISTRICT, AS DEFINED IN SECTION ONE HUNDRED NINETEEN-N OF THE GENERAL MUNICIPAL LAW, OR ANY COMBINATION THEREOF.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MUNICIPAL EMPLOYER MAY OFFER ITS EMPLOYEES, THAT ARE NOT OTHERWISE QUALIFIED TO PURCHASE A STANDARDIZED HEALTH INSURANCE CONTRACT SPECIFIED IN SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS ARTICLE SHALL BE ELIGIBLE TO PURCHASE SUCH STANDARDIZED HEALTH INSURANCE CONTRACTS; PROVIDED, HOWEVER, THAT SUCH MUNICIPAL EMPLOYERS AND EMPLOYEES THAT PURCHASE SUCH CONTRACTS SHALL NOT DIRECTLY OR INDIRECTLY RECEIVE ANY PREMIUM REDUCTIONS DUE TO STOP LOSS FUND SUBSIDIES RECEIVED BY INSURERS AND

HEALTH MAINTENANCE ORGANIZATIONS PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SEVEN OF THIS ARTICLE.

(C) ALL HEALTH MAINTENANCE ORGANIZATIONS THAT ARE REQUIRED TO OFFER CONTRACTS PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS ARTICLE AND ALL COMPANIES SUBJECT TO ARTICLE FORTY-TWO OF THIS CHAPTER AND CORPORATIONS SUBJECT TO THIS ARTICLE THAT VOLUNTARILY OFFER CONTRACTS PURSUANT TO SUCH SECTION SHALL NOT RECEIVE STOP LOSS FUNDS OR REIMBURSEMENTS FOR CLAIMS LOSSES SUSTAINED BY STANDARDIZED HEALTH INSURANCE CONTRACTS ISSUED TO MUNICIPAL EMPLOYERS AND EMPLOYEES PURSUANT TO THIS SECTION.

(D) PREMIUM RATE CALCULATIONS FOR CONTRACTS ISSUED TO MUNICIPAL EMPLOYERS AND EMPLOYEES PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE FOLLOWING:

(1) COVERAGE MAY BE COMMUNITY RATED OR EXPERIENCE RATED, AND INCLUDE RATE TIERS FOR INDIVIDUALS, TWO ADULT FAMILIES AND AT LEAST ONE OTHER FAMILY TIER. THE RATE DIFFERENCES MUST BE BASED UPON THE COST DIFFERENCES FOR THE DIFFERENT FAMILY UNITS AND THE RATE TIERS MUST BE UNIFORMLY APPLIED;

(2) IF GEOGRAPHIC RATING AREAS ARE UTILIZED, SUCH GEOGRAPHIC AREAS MUST BE REASONABLE AND IN A GIVEN CASE MAY INCLUDE A SINGLE COUNTY; AND

(3) CLAIMS EXPERIENCE UNDER CONTRACTS ISSUED TO MUNICIPAL EMPLOYERS AND EMPLOYEES MAY BE POOLED SEPARATELY FOR RATE SETTING PURPOSES.

S 7. Subsections (a) and (f) of section 4702 of the insurance law, as added by chapter 689 of the laws of 1994, are amended and a new subsection (i-1) is added to read as follows:

(a) "Community rating" means a rating methodology in which the premium equivalent rate for all persons covered under a municipal cooperative health benefit plan is the same, based upon the experience of the entire pool of risks covered under the plan, without regard to age, sex, health status or occupation and such that refunds, rebates, credits or dividends based upon age, sex, health status or occupation are not permitted; PROVIDED, HOWEVER, THAT, SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, SUCH PLAN MAY PROVIDE AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. SUCH PLAN SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

(f) "Municipal corporation" means within the state of New York, a city [with a population of less than one million or], a county outside the city of New York, town, village, board of cooperative educational services, school district, A FIRE DISTRICT, a public library, as defined in section two hundred fifty-three of the education law, or district, as defined in section one hundred nineteen-n of the general municipal law.

(I-1) "STOP-LOSS INSURANCE" MEANS AN INSURANCE POLICY WHEREBY THE INSURER AGREES TO PAY CLAIMS OR INDEMNIFY A MUNICIPAL CORPORATION FOR LOSSES INCURRED UNDER A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN IN EXCESS OF SPECIFIED LOSS LIMITS FOR INDIVIDUAL CLAIMS AND/OR FOR ALL CLAIMS COMBINED, OR ANY SIMILAR ARRANGEMENT.

S 8. Paragraphs 2 and 3 of subsection (a) of section 4704 of the insurance law, paragraph 2 as amended by section 3 of part A of chapter

494 of the laws of 2009 and paragraph 3 as added by chapter 689 of the laws of 1994, are amended to read as follows:

(2) except for any plan that provided medical, surgical and hospital services on or before January first, nineteen hundred ninety-three pursuant to a municipal cooperation agreement, the number of municipal corporations participating in the municipal cooperative health benefit plan shall be at least [three] TWO;

(3) except for any plan that provided medical, surgical and hospital services to at least three hundred fifty covered employees (including retirees and not including dependents) on or before January first, nineteen hundred ninety-three pursuant to a municipal cooperation agreement, the number of covered employees (including retirees and not including dependents) of municipal corporations participating in the municipal cooperative health benefit plan shall be at least [two thousand] FIVE HUNDRED;

S 9. Subsection (b) of section 4704 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

(b) The superintendent shall refuse to grant a certificate of authority to an applicant that fails to meet the requirements of this section. Notice of refusal shall be in writing and shall set forth the basis for the refusal. If the applicant submits a written request within [thirty] SIXTY days after receipt of the notice of refusal, the superintendent shall promptly conduct a hearing to give the applicant the opportunity to show cause why the refusal should not be made final.

S 10. Paragraphs 1, 2 and 5 of subsection (d) of section 4705 of the insurance law, paragraphs 1 and 5 as added by chapter 689 of the laws of 1994 and paragraph 2 as amended by chapter 681 of the laws of 2002, are amended to read as follows:

(1) shall design the plan OR PLANS of benefits provided OR OFFERED by the municipal cooperative health benefit plan and prepare the plan document and summary plan description in accordance with section four thousand seven hundred nine of this article, AND SHALL INCLUDE A WELLNESS PROGRAM OPTION;

(2) may enter into an agreement with a contract administrator or other service provider, determined by the governing board to be qualified, to receive, investigate, recommend, audit, approve or make payment of claims under the municipal cooperative health benefit plan OR PLANS, provided that:

(A) the charges, fees and other compensation for any contracted services shall be clearly stated in written administrative services contracts as required in subdivision six of section ninety-two-a of the general municipal law;

(B) payment for contracted services shall be made only after such services are rendered; AND

(C) no member of the plan's governing board or any member of such member's immediate family shall be an owner, officer, director, partner, or employee of any contract administrator retained by the plan[; and

(D) all such agreements shall comply with the requirements of subdivision six of section ninety-two-a of the general municipal law].

(5) shall prepare an annual budget for the municipal cooperative health benefit plan to determine the premium equivalent rates for participating municipal corporations to be deposited in the plan's joint fund or funds during the fiscal year, provided that:

(A) the governing board shall designate the bank or trust company in which joint funds, including reserve funds, are to be deposited and

which shall be located in this state, duly chartered under federal law or the laws of this state; and

(B) the governing board shall establish premium equivalent rates for participating municipal corporations on the [bases] BASIS of a community rating methodology filed with and approved by the superintendent and, in determining the annual premium equivalent rates, the governing board:

(i) may contract for necessary actuarial services to estimate expected plan expenditures during the fiscal year;

(ii) shall maintain reserves in amounts equal to or exceeding the minimum amounts required by section four thousand seven hundred six of this article; and

(iii) shall maintain a stop-loss policy or policies, to the extent required by section four thousand seven hundred seven of this article;

S 11. Subparagraphs (A) and (B) of paragraph 5 of subsection (a) of section 4706 of the insurance law, as added by chapter 689 of the laws of 1994, are amended to read as follows:

(A) five percent of the annualized earned premium equivalents during the current fiscal year of a municipal cooperative health benefit plan which consists of [five] TWO or more participating municipal corporations and covers [two thousand] FIVE HUNDRED or more employees and retirees; or

(B) seven percent of the annualized earned premium equivalents during the current fiscal year of the municipal cooperative health benefit plan which consists of [four] TWO or fewer participating municipal corporations or covers fewer than [two thousand] FIVE HUNDRED employees and retirees.

S 12. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.