

2843

2011-2012 Regular Sessions

I N S E N A T E

February 2, 2011

Introduced by Sens. CARLUCCI, KLEIN, SAVINO, VALESKY -- 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:

1 Section 1. Section 92-a of the general municipal law, is amended by
2 adding a new subdivision 8 to read as follows:
3 8. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PUBLIC CORPO-
4 RATION WHICH PROVIDES HEALTH INSURANCE BENEFITS TO ITS OFFICERS AND
5 EMPLOYEES PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE LAW.
6 S 2. Subdivision a of section 119-n of the general municipal law, as
7 amended by chapter 413 of the laws of 1991, is amended to read as
8 follows:
9 a. The term "municipal corporation" means a county outside the city of
10 New York, a city, a town, a village, a board of cooperative educational
11 services, A PUBLIC LIBRARY AS DEFINED IN SECTION TWO HUNDRED FIFTY-THREE
12 OF THE EDUCATION LAW, A fire district or a school district.
13 S 3. Subdivision 2 of section 119-o of the general municipal law is
14 amended by adding a new paragraph b-1 to read as follows:
15 B-1. THE ESTABLISHMENT OF A CENTRALIZED OFFICE TO COLLECTIVELY
16 PROVIDE:

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

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1 (I) EMPLOYEE PAYROLL, TIME, ATTENDANCE AND PERSONNEL ADMINISTRATION
2 SERVICES;
3 (II) PARTICIPATION IN THE NEW YORK STATE HEALTH INSURANCE PROGRAM;
4 (III) A PERSONNEL OFFICE TO PROVIDE INFORMATION ON EMPLOYEE HEALTH
5 INSURANCE AND OTHER EMPLOYEE BENEFITS;
6 (IV) EMPLOYEE HEALTH INSURANCE BENEFITS FROM MORE THAN ONE HEALTH
7 INSURANCE CARRIER OR ORGANIZATION, WHICH GRANTS EACH EMPLOYEE THE CHOICE
8 OF WHICH HEALTH INSURANCE PLAN WHICH WILL PROVIDE COVERAGE;
9 (V) EMPLOYEE PARTICIPATION IN TAX DEFERRED RETIREMENT PLANS, HEALTH
10 CARE PLANS AND CHILD CARE PLANS;
11 (VI) MUNICIPAL COOPERATIVE HEALTH BENEFIT PLANS PURSUANT TO ARTICLE
12 FORTY-SEVEN OF THE INSURANCE LAW;
13 (VII) ADEQUATE AND ONGOING FINANCIAL CONTROLS AND SECURITY ARRANGE-
14 MENTS TO ENSURE THAT THE PARTICIPATING MUNICIPAL CORPORATIONS AND
15 DISTRICTS REMAIN SOLVENT;
16 (VIII) THE PREPARATION AND DISSEMINATION OF INFORMATIONAL AND SOLIC-
17 ITATION MATERIALS TO FACILITATE COMPARISON OF THE VARIOUS EMPLOYEE
18 HEALTH INSURANCE PLANS OFFERED BY THE PARTICIPATING MUNICIPAL CORPO-
19 RATIONS AND DISTRICTS;
20 (IX) FOR THE ENROLLMENT, BILLING, PREMIUM COLLECTION, PREMIUM
21 DISBURSEMENT AND RECONCILIATION, COMMISSION DISBURSEMENT, AND OTHER
22 PROCESSING SERVICES FOR HEALTH INSURANCE BENEFITS PROVIDED TO MUNICIPAL
23 EMPLOYEES;
24 (X) CONTRACTING WITH QUALIFIED THIRD PARTIES FOR THE PROVISION OF ANY
25 SERVICE NECESSARY TO CARRY OUT SUCH OFFICE'S POWERS AND DUTIES; AND
26 (XI) NEGOTIATION WITH PARTICIPATING HEALTH INSURERS AND HEALTH MAINTE-
27 NANCE ORGANIZATIONS WITH REGARD TO THE ADMINISTRATIVE EXPENSES PORTION
28 OF PREMIUM RATES CHARGED FOR HEALTH CARE COVERAGE OFFERED TO MUNICIPAL
29 EMPLOYEES BY SUCH OFFICE.

30 S 4. Clause (iii) of subparagraph (B) of paragraph 1 of subsection (c)
31 of section 4326 of the insurance law, as added by chapter 1 of the laws
32 of 1999, is amended to read as follows:
33 (iii) at least thirty percent of its eligible employees receiving
34 annual wages from the employer at a level equal to or less than thirty
35 thousand dollars. The thirty thousand dollar figure shall be adjusted
36 periodically pursuant to subparagraph (F) of this paragraph[.]; OR
37 S 5. Paragraph 1 of subsection (c) of section 4326 of the insurance
38 law is amended by adding a new subparagraph (B-1) to read as follows:
39 (B-1) A MUNICIPAL EMPLOYER AS DEFINED IN AND IN ACCORDANCE WITH
40 SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX-A OF THIS ARTICLE.

41 S 6. The insurance law is amended by adding a new section 4326-a to
42 read as follows:
43 S 4326-A. STANDARDIZED HEALTH INSURANCE CONTRACTS FOR MUNICIPAL
44 EMPLOYERS. (A) FOR THE PURPOSES OF THIS SECTION, "MUNICIPAL EMPLOYER"
45 SHALL MEAN A MUNICIPAL CORPORATION OR A DISTRICT, AS DEFINED IN SECTION
46 ONE HUNDRED NINETEEN-N OF THE GENERAL MUNICIPAL LAW, OR ANY COMBINATION
47 THEREOF.

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

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

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

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

14 (1) COVERAGE MAY BE COMMUNITY RATED OR EXPERIENCE RATED, AND INCLUDE
15 RATE TIERS FOR INDIVIDUALS, TWO ADULT FAMILIES AND AT LEAST ONE OTHER
16 FAMILY TIER. THE RATE DIFFERENCES MUST BE BASED UPON THE COST DIFFER-
17 ENCES FOR THE DIFFERENT FAMILY UNITS AND THE RATE TIERS MUST BE UNIFORM-
18 LY APPLIED;

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

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

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

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

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

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

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

1 494 of the laws of 2009 and paragraph 3 as added by chapter 689 of the
2 laws of 1994, are amended to read as follows:

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

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

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

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

25 S 10. Paragraphs 1, 2 and 5 of subsection (d) of section 4705 of the
26 insurance law, paragraphs 1 and 5 as added by chapter 689 of the laws of
27 1994 and paragraph 2 as amended by chapter 681 of the laws of 2002, are
28 amended to read as follows:

29 (1) shall design the plan OR PLANS of benefits provided OR OFFERED by
30 the municipal cooperative health benefit plan and prepare the plan docu-
31 ment and summary plan description in accordance with section four thou-
32 sand seven hundred nine of this article, AND SHALL INCLUDE A WELLNESS
33 PROGRAM OPTION;

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

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

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

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

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

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

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

1 which shall be located in this state, duly chartered under federal law
2 or the laws of this state; and
3 (B) the governing board shall establish premium equivalent rates for
4 participating municipal corporations on the [bases] BASIS of a community
5 rating methodology filed with and approved by the superintendent and, in
6 determining the annual premium equivalent rates, the governing board:
7 (i) may contract for necessary actuarial services to estimate expected
8 plan expenditures during the fiscal year;
9 (ii) shall maintain reserves in amounts equal to or exceeding the
10 minimum amounts required by section four thousand seven hundred six of
11 this article; and
12 (iii) shall maintain a stop-loss policy or policies, to the extent
13 required by section four thousand seven hundred seven of this article;
14 S 11. Subparagraphs (A) and (B) of paragraph 5 of subsection (a) of
15 section 4706 of the insurance law, as added by chapter 689 of the laws
16 of 1994, are amended to read as follows:
17 (A) five percent of the annualized earned premium equivalents during
18 the current fiscal year of a municipal cooperative health benefit plan
19 which consists of [five] TWO or more participating municipal corpo-
20 rations and covers [two thousand] FIVE HUNDRED or more employees and
21 retirees; or
22 (B) seven percent of the annualized earned premium equivalents during
23 the current fiscal year of the municipal cooperative health benefit plan
24 which consists of [four] TWO or fewer participating municipal corpo-
25 rations or covers fewer than [two thousand] FIVE HUNDRED employees and
26 retirees.
27 S 12. This act shall take effect on the first of January next succeed-
28 ing the date on which it shall have become a law.