

# STATE OF NEW YORK

543

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. STECK, ASHBY, BARRETT, BLANKENBUSH, BRABENEC, COOK, DeSTEFANO, ENGLEBRIGHT, FAHY, FERNANDEZ, FRIEND, GALEF, J. M. GIGLIO, GOTTFRIED, GUNTHER, HAWLEY, HEVESI, JONES, LUPARDO, McDONALD, McMAHON, MONTESANO, PALMESANO, PEOPLES-STOKES, PICHARDO, REYES, STIRPE, WALLACE, WOERNER, ZEBROWSKI -- read once and referred to the Committee on Insurance

AN ACT authorizing municipalities to join a county self-funded or self-insured health plan

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Notwithstanding article 44 or 47 of the insurance law or  
2 any other provision of law to the contrary, and subject to the require-  
3 ments set forth in this section, a municipality is permitted, with the  
4 consent of the county and the governing body of such municipality, to  
5 join a county self-funded or self-insured health plan in any county in  
6 which such municipality is located in whole or in part. Municipality is  
7 defined as any city, town, village or any other municipal corporation, a  
8 school district or any governmental entity operating a public school,  
9 college or university, a public improvement or special district, a  
10 public authority, commission, or public benefit corporation, or any  
11 other public corporation, agency or instrumentality or unit of govern-  
12 ment which exercises governmental powers under the laws of the state but  
13 is not a part of, nor a department of, nor an agency of the state. In  
14 order for a municipality or municipalities to join the county self-fund-  
15 ed or self-insured health plan, the county shall file with the super-  
16 intendent of financial services certification that, with inclusion of  
17 the lives to be covered in the plan following admission of the munici-  
18 pality or municipalities, the county self-funded or self-insured health  
19 plan meets the following six requirements:

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

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1 (a) That the county and any municipality or municipalities joining  
2 such plan have mutually consented to join such plan.

3 (b) That it maintain a reserve fund, calculated as a percentage of  
4 total annual incurred claims, of a minimum of 12% of claims.

5 (c) That it has a surplus account, established and maintained for the  
6 sole purpose of satisfying unexpected obligations of the benefit plan in  
7 the event of termination or abandonment of the plan, which shall not be  
8 less than 5% of the annualized earned premium equivalents during the  
9 current fiscal year of the plan.

10 (d) That it has in effect a specific stop loss per individual claim  
11 only, no aggregate, and with a minimum deductible of \$200,000 to  
12 \$250,000.

13 (e) That it has a minimum of 1,000 covered lives including retirees,  
14 but not including dependents.

15 (f) That joint and several liability of participating municipalities  
16 for the obligations of the plan is hereby abolished, and such liability  
17 shall be governed as follows:

18 1. If the plan does not have admitted assets, as defined in section  
19 107 of the insurance law, at least equal to the aggregate of its liabil-  
20 ities and reserves and minimum surplus as provided in subdivision (b) of  
21 this section, the governing board of such plan shall, within 30 days  
22 thereafter, order an assessment for the amount that will provide suffi-  
23 cient funds to remove such impairment and collect from each municipal  
24 corporation a pro rata share of such assessed amount.

25 2. Every municipal corporation that participated in the plan at any  
26 time during the two-year period prior to the issuing of an assessment  
27 order by the plan's governing board shall, if notified of such assess-  
28 ment, pay its pro rata share of such assessment within 90 days after the  
29 issuance of that assessment order.

30 3. A municipal corporation's pro rata share of any assessment shall be  
31 determined by applying the ratio of (i) the total assessment to the  
32 total contributions or premium equivalents earned during the period  
33 covered by the assessment on all municipal corporations subject to  
34 assessment to (ii) the contribution or premium equivalent earned during  
35 such period attributable to such municipal corporation.

36 4. The contingent liability of municipal corporations for additional  
37 premium equivalents or assessments shall not be included as an asset in  
38 the financial statements of the self-funded or self-insured health plan.

39 The superintendent of financial services shall have the authority to  
40 review such certification to determine that the six aforementioned  
41 requirements have been met; provided, however, that in the absence of a  
42 finding of the superintendent to the contrary within a six-month period  
43 following the filing of such certification, the admission of the muni-  
44 cipality to the county self-funded or self-insured health plan shall take  
45 effect. In January of every year following the initial filing of such  
46 certification, the county shall file a subsequent certification that the  
47 six aforementioned requirements remain in full force and effect.

48 § 2. This act shall take effect immediately.