



SENATE BILL 218: State Health Plan Administrative Changes.

2017-2018 General Assembly

Committee:	Senate Pensions and Retirement and Aging. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 6, 2017
Introduced by:	Sens. Krawiec, Hise, Pate	Prepared by:	Jason Moran-Bates Staff Attorney
Analysis of:	PCS to First Edition S218-CSBC-9		

OVERVIEW: *Senate Bill 218 would make administrative changes to statutes governing the North Carolina State Health Plan for Teachers and State Employees (Plan) that: 1) allow revocation of coverage for misrepresentations made by covered individuals; 2) pertain to the premium split between the state and certain General Assembly retirees; 3) provide coverage to children newly born to existing covered employees; 4) prioritize the order in which excess funds in the Public Employee Health Benefit Fund are used; 5) grant powers to the Board of Trustees and State Treasurer pertaining to the unfunded actuarial liability; 6) provide members of the Board of Trustees with immunity from civil liability for most actions taken in their official capacity; 7) include a definition of "authorized representatives who are assisting the State Health Plan Division staff" to the definition section for the Plan; 8) add a new section to the Plan statutes pertaining to fraud and detection audit programs; and 9) require the Department of Revenue to furnish certain tax, wage, or income information for a beneficiary to the Department of State Treasurer.*

[As introduced, this bill was identical to H299, as introduced by Reps. Dobson, Corbin, Clampitt, Henson, which is currently in House Insurance.]

CURRENT LAW: When appropriate, the current law is in italics.

BILL ANALYSIS:

Section 1 would amend G.S. 135-48.44(a)(6) to clarify that an individual would lose coverage under the plan on the last day of the month the individual is found to have made a false representation of a material fact regarding eligibility or enrollment information.

Currently, individuals lose coverage only if they make false representations of material facts in a claim for reimbursement.

Section 2 would amend G.S. 135-48.40(c)(2) pertaining to one-half contributory coverage to clarify that General Assembly members and employees with 10 but less than 20 years of retirement service credit will have the State pay 50% of the balance toward their employer premiums, and the members and employees shall pay the balance of the total premium unless prohibited by law. Section 2 also amends G.S. 135-48.40(c)(2) to define "total premium" as the sum of the Plan's employer contribution rate and the employee or retiree's contribution rate.

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Current law does not include the "unless prohibited by law" exception to the premium split or define the term "total premium."

Section 3 would amend G.S. 135-48.42(a) pertaining to enrollment to clarify that children born to covered employees will be covered from birth so long as the participants notify the Plan within 30 days of birth and pay premiums retroactive to the first day of the month in which the child was born.

Section 4 would amend G.S. 135-48.5(a), which creates two health benefit trust funds, the Public Employee Health Benefit Fund and the Health Benefit Reserve Fund, to clarify the order for using funds in the Public Employee Health Benefit Fund that are in excess of the amount needed to pay benefit and administrative costs. The excess funds shall be used in the following order:

- First, to establish a reserve for incurred but unrepresented claims.
- Second, to be set aside to reduce the Plan's unfunded actuarial accrued liability for post-employment retiree health benefits. Any amount set aside must be approved by the Board of Trustees and limited to no more than 50% of the excess funds in the Public Employee Health Benefit Fund after establishing a reserve for incurred but unrepresented claims.
- Third, to reduce the premiums required by the Plan.
- Fourth, to improve the Plan as provided by the State Treasurer, subject to approval by the Board of Trustees.

Currently there is no provision to use the excess funds to be set aside to reduce unfunded actuarial accrued liability for post-employment retiree health benefits, and the General Assembly, not the State Treasurer, has the authority to use funds to improve the Plan

Section 5 would amend G.S. 135-48.22, pertaining to the powers and duties of the trustees, to include the ability to approve set-asides to reduce the State's unfunded actuarial accrued liability for post-employment retiree health benefits in the powers delegated to the Board of Trustees.

Section 6 would amend G.S. 135-48.30(a), which outlines the powers and duties of the State Treasurer to provide that the State Treasurer the power to set aside funds from the Plan to reduce the Plan's unfunded actuarial accrued liability for post-employment retiree health benefits.

Section 7 would amend G.S. 135-48.20, which established the Board of Trustees to add a new subsection making individual members of the Board of Trustees immune from civil liability for actions taken in their official capacity except when:

- The member was not acting within the scope of the member's duties.
- The member was not acting in good faith.
- The member committed gross negligence or willful or wonton misconduct.
- The member derived an improper personal financial benefit from a transaction.
- The member incurred liability from the operation of a motor vehicle.

Section 8 would amend the definitions for the Plan in G.S. 135-48.1 to add a definition for "Authorized representatives who are assisting the State Health Plan Division staff." The definition used is the same as the one in the Local Governmental Employees' Retirement System (LGERS) and Teachers' and State Employees' Retirement System (TSERS) statutes.

Section 9 would add several new provisions to the Plan related to fraud detection and audit programs.

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The first provision, substantially similar to those in LGERS and TSERS, would allow the Plan or its representatives to have access to people, books, records, reports, vouchers, correspondence, files, and investments of any employing unit, and the authority to inspect and make copies of that information.

The Plan or its representatives would also have access to people, records, papers, reports, vouchers, correspondence, and books in the possession of any person or organization that pertain to benefits handled pursuant to a grant or contract with the federal government, the State, or any political subdivision of the State.

Providers of social and medical services who provide access to the Plan must make copies of records maintained for services provided to beneficiaries and provide those copies to the Plan or its representatives when the Plan requests the documentation in writing. Requests must state the purpose and authority for the request and allow a reasonable time to produce the documents. Similar provisions are found in LGERS and TSERS.

Section 9 would also establish a records retention policy, similar to the LGERS and TSERS policies. The Plan would be required to maintain complete files of investigative reports for ten years, with those files being retained according to an agreement between the Plan and the State Archives. The files must be kept confidential; however, at the discretion of the Executive Administrator of the Plan the records may be made available to a representative of the State or federal government in connection with an official matter or criminal investigation. The records may also be disclosed if an order requiring disclosure is issued in Wake County Superior Court.

Section 10 would amend G.S. 105-259(b), pertaining to the disclosure of tax records, to allow State employees who have access to tax information to disclose information requested by the State Treasurer in connection with an investigation under G.S. 135-6(q), G.S. 135-48.16, or G.S. 128.28(r).

EFFECTIVE DATE: Section 3 would be effective October 1, 2017, and apply to children born to covered employees on or after that date. The remainder of bill would become effective when it becomes law.