



SENATE BILL 408: Pensions Benefits Revision.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2019-2020 General Assembly

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| Committee: | Senate Pensions and Retirement and Aging. If favorable, re-refer to Rules and Operations of the Senate | Date: | April 30, 2019 |
| Introduced by: | Sens. Krawiec, Hise, Wells | Prepared by: | Tawanda N. Foster Committee Counsel |
| Analysis of: | First Edition | | |

OVERVIEW: *Senate Bill 408 does the following:*

- *Modifies the process for collecting reimbursements for overpayments made to reemployed beneficiaries;*
- *Extends the Legislative Enactment Implementation Arrangement (LEIA) under the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS);*
- *Allows the State Treasurer to perform criminal background checks; and*
- *Makes substantive changes to the North Carolina State Health Plan (SHP).*

BILL ANALYSIS: This bill does the following:

Section 1 allows the Retirement System to require an employing agency pay a portion of a return to work overpayment assessed to a retiree if actions by the employer are found to have partially caused the overpayment. Specifically, the Board may do any or all of the following:

1. Assess the employer a penalty of 10% of the compensation of the unreported reemployed beneficiaries (minimum penalty of \$25);
2. Reimburse the Retirement System for any retirement allowance paid to the beneficiary during a period when the allowance would have been suspended had the required report been received;
3. Pay any amount that the beneficiary would have been required to pay to the Retirement System had the required report been received.

This section is effective July 1, 2020 and applies to reports required to be made on or after that date.

Section 2 extends the Legislative Enactment Implementation Arrangement (LEIA) for an additional five years. The Board of Trustees cannot direct any employer contributions into the LEIA after November 1, 2026.

Section 3 allows the State Treasurer to obtain criminal background checks on current, prospective permanent or temporary employees, contractors, contractors' agents or employees, volunteers, and others

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engaged by the Department who have access to confidential health or financial information or data. Also, allows the State Treasurer to deny employment or terminate any individual who refuses to consent to a criminal record check or to the use of fingerprints or other identifying information required for the criminal background check.

Section 4 creates a new section in Part 3 of Article 3B of Chapter 135 to allow the SHP to garnish the wages of individuals who are no longer employed by a governmental employer to recover fraudulent or unpaid SHP claims. This section is effective October 1, 2019, and applies to notices of amounts due sent by the Plan on or after that date.

Section 5 clarifies when dependent children over the age of 26 of teachers and state employees may be covered under their parent's plan. This section is effective when it becomes law, and applies to all new enrollment or reenrollment in the State Health Plan on or after that date.

Section 6 modifies the State Health Plan subrogation provision to provide the priority of the Plan's lien on the total damages recovered and how deductions from the total recovery will occur. This section also adds subrogation rights against first party underinsured or MedPay coverage; establishes a time period for notifying the Plan of receipt of proceeds and distributing the Plan's lien; limits costs of collection to those that are both reasonable and proportionate; and permits the Plan, after a recovery occurs, to retrieve its lien from an insurance company or Plan member's attorney in addition to the Plan member. This section is effective when it becomes law and applies to claims brought by Plan members or Plan members' representatives or estates on or after that date, as well as liens arising on or after that date.

Section 7 clarifies the "first hired date" for purposes of establishing eligibility for five-year non-contributory retiree health plan coverage means the earliest date for which a member has not withdrawn service from the applicable retirement system.

Section 8 increases the threshold that would require approval of a contract by the SHP Board of Trustees from \$500,000 to one million dollars (\$1,000,000). This section is effective when it becomes law and applies to rules adopted on or after that date and contested cases brought on or after that date.

Section 9 modifies the process for giving notice and an opportunity to be heard regarding rules adopted by the State Treasurer. Rules adopted under this section are exempt from rulemaking under the APA.

Section 10 clarifies the adjudication process for appealed claims by the State Health Plan and removes the Board of Trustees requirements from the statute on administrative review. This section is effective when it becomes law and applies to administrative reviews and appeals requested or filed on or after that date.

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Section 11 provides the State Health Plan will use existing enrollment procedures to offer access to supplemental dental and vision insurance products and to increase transparency of the claims data on those products and other offerings by the State Health Plan.

Section 12 provides a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.