



SPONSOR: Sen. Townsend & Sen. Sokola & Sen. Lockman &
Sen. Hocker & Sen. Pettyjohn & Rep. Longhurst &
Rep. Schwartzkopf & Rep. Minor-Brown & Rep. Ramone
& Rep. Yearick

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 29

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEE BENEFITS CONSOLIDATION ACT.

1 WHEREAS, promoting and protecting the health and wellness of Delaware’s senior citizens is one of the highest
2 priorities of the General Assembly; and

3 WHEREAS, State pensioners served the Delaware community for years and deserve quality healthcare through a
4 sustainable State-funded plan; and

5 WHEREAS, over the past several years, the State Employee Benefits Committee (SEBC) and the Retirement
6 Benefit Study Committee (RBSC) held many public meetings to study State retiree healthcare benefits and found that under
7 the current state pensioner healthcare plans, vesting schedules, and funding models that the retiree benefit trust fund (“trust
8 fund”) is woefully underfunded and unsustainable; and

9 WHEREAS, specifically, the RBSC’s analysis indicated a current shortfall of \$10 billion and a projected shortfall
10 of \$37 billion in the trust fund by 2050 if the 2022 status quo continues; and

11 WHEREAS, the SEBC and RBSC analyses and public meetings indicated that a transition to a Delaware-specific
12 Medicare Advantage plan, alongside higher contributions in the annual State budget to the trust fund and additional
13 measures, would enable the State to continue to provide a strong package of healthcare benefits to State retirees on
14 Medicare while also stabilizing the trust fund; and

15 WHEREAS, the SEBC, which has the legal responsibility to establish and oversee retiree healthcare,
16 competitively bid the administration of the State Group Health Insurance Plans offered to State pensioners as the previous
17 five-year Medicare Supplement contract prepared to expire on January 1, 2023; and

18 WHEREAS, after many public meetings, in early 2022, the SEBC received and awarded a bid by Highmark Blue
19 Cross Blue Shield Delaware (“Highmark Delaware”) to provide retiree healthcare under a Medicare Advantage plan,
20 beginning January 1, 2023 (the “State Medicare Advantage Plan” or “Plan”); and

21 WHEREAS, on June 28, 2022, the Governor signed the Fiscal Year 2023 state budget, which passed the General
22 Assembly with overwhelming bipartisan support, included language that recategorized the State plan from Medicare

23 Supplement to Medicare Advantage, and included one-time supplemental funding for the trust fund equal to one percent of
24 the prior year's budget; and

25 WHEREAS, in the months after the Governor signed the FY23 budget, it became clear that many State pensioners
26 were not aware of the SEBC and RBSC's public meetings and did not have an understanding of the forthcoming changes,
27 and that some of the terms of the forthcoming changes themselves were still being negotiated; and

28 WHEREAS, after realizing that the impending transition in health plans was unexpected news to many State
29 retirees, members of the General Assembly organized a series of public meetings throughout Delaware to solicit public
30 input and to provide details and clarification about the State Medicare Advantage plan; and

31 WHEREAS, in response to legislators' and public input, the Governor's cabinet and staff negotiated for stronger
32 transparency and accountability provisions of the contract with Highmark Delaware; and

33 WHEREAS, following a legal challenge to the transition to the Plan, on October 19, 2022, the Superior Court
34 issued an opinion and order staying the implementation of the Plan; and

35 WHEREAS, it is in the interest of all Delawareans, including State retirees, that changes to State retiree healthcare
36 benefits and ongoing annual funding for the trust fund are effective in stabilizing the trust fund while also continuing to
37 provide strong, effective, and sustainable healthcare to State retirees; and

38 WHEREAS, following the October 19, 2022, opinion and order from the Superior Court, the retiree healthcare
39 benefits under the previous Medicare Supplement plan have been extended until at least January 1, 2024, and there now is a
40 need to consider the benefits and fiscal impact of any plan that will commence thereafter.

41 NOW, THEREFORE:

42 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

43 Section 1. Amend Chapter 96, Title 29 of the Delaware Code by making deletions as shown by strike through and
44 insertions as shown by underline as follows:

45 § 9601. Title.

46 This chapter shall be known as the "State Employee Benefits Consolidation Act."

47 § 9602. State Employee Benefits Committee.

48 (a) There is hereby established a State Employee Benefits Committee ("Committee"). The Committee shall be
49 comprised of the Lieutenant Governor, the Insurance Commissioner, the Chief Justice of the Supreme Court, the State
50 Treasurer, the Director of the Office of Management and Budget, the Controller General, the Secretary of the Department
51 of Human Resources Resources, and the Secretary of Health and Social Services, or their ~~designees~~ designees, and 1 State
52 retiree, appointed by the Governor. In addition, ~~the Governor shall appoint 4~~ 2 ~~Committee member~~ members, 1 appointed

53 by the President Pro Tempore of the Senate, and 1 appointed by the Speaker of the House of Representatives, shall be
54 appointed from among the following persons organizational representatives: The President of the Delaware State Education
55 Association or his or her designee, the Executive Director of the American Federation of State County and Municipal
56 Employees or his or her designee, the President of the Correctional Officers Association of Delaware or his or her designee,
57 ~~or and~~ the President of the Delaware State Troopers Association or his or her designee. ~~The appointment term shall be for 3~~
58 years. Of the initial 2 organizational representatives appointed, 1 must be appointed for a 1-year term, and 1 must be
59 appointed for a 2-year term. Thereafter, all members shall serve 2-year terms. An organizational representative appointed
60 ~~by the Governor, after serving a 3 year term, shall not serve another term until all the organizational representatives named~~
61 ~~in this subsection have served a 3 year term.~~ The Director of the Office of Management and Budget and the Secretary of
62 Human Resources shall co-chair the Committee.

63 (b) The State Employee Benefits Committee shall have the following powers, duties and functions:

64 (1) With the exception of deferred compensation pursuant to Chapter 60A of this title, and any other
65 investment or retirement savings plan, control and management of all employee benefit coverages including
66 health-care insurance and blood bank, pursuant to Chapters 51 and 52 of this title; state employees group life
67 insurance pursuant to Chapter 32 of Title 18; and all other currently existing and future employee benefits
68 coverages, including but not limited to all forms of flexible benefits, dental, vision, prescription, long-term care
69 and disability coverages.

70 (2) Selection of all carriers or third-party administrators necessary to provide coverages to State
71 employees.

72 (3) Authority to contract on an insured or self insured basis.

73 (4) Authority to adopt rules and regulations for the general administration of the employee benefit
74 coverages.

75 (5) Authority to make and enter into any and all contracts with any agency of the State, or any outside
76 agency, for the purpose of assisting in the general administration of this section.

77 (c) All members of the Committee and all legal, actuarial and administrative personnel shall be entitled to
78 reimbursement for those travel and other expenses made necessary by their official duties that are approved by the Director
79 of Statewide Benefits.

80 (d) The Committee shall hold regular meetings at least once every 6 months, which meetings shall be open to the
81 public in accordance with § 10004 of this title.

82 ~~§ 9604.~~ § 9603. Duties of the Secretary of Human Resources.

- 83 (a) The duties of the Secretary of Human Resources under this chapter shall include:
- 84 (1) The placement of all insurance with such carriers as the Committee deems appropriate.
- 85 (2) The operation of the self-insurance fund, when and if a self-insurance fund shall be established by the
86 Committee for the operation of a self-insurance program.
- 87 (3) Centralized responsibility for the operation of the State employee benefits program vested in a single
88 agency with an adequate staff of legal, actuarial and administrative personnel.
- 89 (4) The establishment and operation of an open bid procedure to be maintained for purchasing new
90 employee benefits coverage from carriers and renewing existing contracts with such carriers which will permit the
91 free forces of market competition to operate to the benefit of the state employee benefits coverage programs.
- 92 (5) The maintenance in a safe and secure place of all policies with commercial insurers and all records
93 necessary and pertinent thereto.
- 94 (6) The maintenance in a safe and secure place of all records, accounts, claims files, statistical studies and
95 other such records and documents necessary and proper in the administration of any self-insured program, when
96 and if the Committee deems it necessary and proper to utilize same.
- 97 (7) Prompt notification to insurance carriers or third party administrators of the names and other
98 necessary data related to the employees and pensioners covered by State employee benefits programs and of all
99 changes and additions thereto, and payment of such obligations as are incurred pursuant to this section, including
100 the cost of premium or subscription charges for insurance coverage upon the written request of any State employee
101 or pensioner from the funds appropriated therefore and, in the event such appropriated funds are inadequate, pay
102 such additional sums as may be required from those moneys in the General Fund not otherwise appropriated.
- 103 (8) Communication to State employees of all State employee benefits coverages and any additions or
104 changes of benefits affecting State employees.
- 105 (9) Authority to act as agent of the State to enter into a contract or contracts with the carrier or carriers for
106 benefits programs for State employees and pensioners.
- 107 (10) Prompt notification of the health-care insurance carrier or third party administrator of the names and
108 other necessary data related to the employees and pensioners covered by the State employees' health insurance
109 program and of all changes and shall pay such obligations as are incurred pursuant to this section, including the
110 cost of premium or subscription charges for health-care insurance coverage upon the written request of any state
111 employee or pensioner from the funds appropriated therefore and, in the event such appropriated funds are

112 inadequate, pay such addition sums as may be required from those moneys in the General Fund not otherwise
113 appropriated.

114 (b) The Controller General's Office must provide comprehensive biannual public reports on the work of the
115 Committee to the General Assembly by May 30 and November 30 of each year.

116 § 9604. Retiree Healthcare Benefits Advisory Subcommittee.

117 (a) There is hereby established a Retiree Healthcare Benefits Advisory Subcommittee ("Subcommittee"). The
118 Subcommittee shall be comprised of the Lieutenant Governor, the Insurance Commissioner, the Director of the Office of
119 Management and Budget, the Secretary of Finance, the Secretary of the Department of Human Resources, 1 member of
120 each caucus of the Delaware House of Representatives appointed by the Speaker of the House, and 1 member of each
121 caucus of the Delaware State Senate appointed by the President Pro Tempore. In addition, the Governor shall appoint 1
122 retired state employee from each County and 1 representative of a union of state employees, the Speaker of the House shall
123 appoint 1 representative of a union of state employees, and the President Pro Tempore of the Senate shall appoint 1
124 representative of a union of state employees. The Lieutenant Governor shall serve as Chair, and the members of the
125 majority caucus from the House of Representatives and the Senate shall serve as Co-Vice Chairs of the Subcommittee. The
126 Delaware Department of Justice shall provide legal support and the Department of Human Resources shall provide
127 administrative support to the Subcommittee. Additional support shall be provided by the State Office of Pensions and
128 Department of Finance as may be requested by the Chairs.

129 (b) The General Assembly recognizes the importance and urgency of addressing State retiree healthcare
130 benefits. Thus, the Subcommittee shall have the following powers, duties and functions:

131 (1) Conduct public meetings and receive public comment about current and future State retiree
132 healthcare benefits, including the previously proposed Medicare Advantage Plan for State retirees, while taking
133 into consideration the previous work of the State Employee Benefits Committee and the Retirement Benefit Study
134 Committee.

135 (2) In the course of its work, consider how reporting and analyses regarding Medicare Advantage Plans
136 nationwide relate to the terms of the previously proposed Medicare Advantage Plan for State retirees;

137 (3) Study, review, and evaluate the fiscal and other implications of the extension of the existing Medicare
138 Supplement plan to January 1, 2024.

139 (4) Evaluate options for continuing to provide strong State retiree healthcare benefits in a fiscally
140 sustainable way.

141 (5) By May 1, 2023, issue findings and recommendations to the Governor and the General Assembly
142 about the foregoing as they relate to the Fiscal Year 2024 State budget.

SYNOPSIS

To foster sustainability in state retiree healthcare benefits and the development of a plan for strong benefits beyond the current Medicare Supplement plan offered through January 1, 2024, this Act does all of the following:

1. Expands the membership of the State Employee Benefits Committee by adding a state retiree to the Committee and adding an additional representative from public sector union organizations;
2. Requires the Controller General to provide comprehensive biannual public reports to the General Assembly regarding the work of the State Employee Benefits Committee; and
3. Establishes the Retiree Healthcare Benefits Advisory Subcommittee of the State Employee Benefits Committee, whose membership will include three state retirees and four members of the General Assembly, and whose charge includes holding public meetings and issuing recommendations to the Governor and the General Assembly by May 1, 2023.

Author: Senator Townsend