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HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE BILL NO. 81

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE PUBLIC OFFICERS AND EMPLOYEES HEALTH CARE INSURANCE PROGRAM AND STATE EMPLOYEES PENSION PLAN.

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

Section 1. Amend § 5202 (a), Title 29 of the Delaware Code by deleting from the first sentence the words "the following whichever is applicable" and inserting the words "a regular officer or employee and eligible spouse and child dependents not eligible for federal Medicare as follows", and by deleting existing paragraphs (1), (2), (3) and (4) and inserting new paragraphs (1), (2), (3), (4) and (5) to read as follows:

"(1) Ninety-six percent of the total cost of the basic individual, individual and spouse, individual and child, or family health care insurance plan as set forth in Section 5203 of Title 29;

(2) Ninety-five percent of the total cost of a Consumer-Directed Health plan for individual, individual and spouse, individual and child, or family;

(3) Ninety-three and one-half percent of the total cost of a HMO plan for individual, individual and spouse, individual and child, or family;

(4) Eight-six and three-quarter percent of the total cost of a Comprehensive PPO plan for individual, individual and spouse, individual and child, or family; or

(5) Beginning January 1, 2006, employees identified under Title 14 who are receiving a short-term disability benefit for a period greater than 90 days pursuant to § 5253(b) of this title and have exhausted all of their paid leave, an amount equivalent to that provided under paragraphs (1), (2), (3) or (4) of Section 5202 (a).".

Section 2. Amend § 5202 (b)(1), Title 29 of the Delaware Code by inserting after the word "pensioners" the words "not eligible for federal Medicare and their eligible dependents" and by deleting existing subparagraphs a., b., c. and d., and inserting new subparagraphs a., b., c. and d. to read as follows:

"a. Ninety-six percent of the total cost of the basic individual, individual and spouse, individual and child, or family health care insurance plan as set forth in Section 5203 of Title 29;

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b. Ninety-five percent of the total cost of a Consumer-Directed Health plan for individual, individual and spouse, individual and child, or family;

c. Ninety-three and one-half percent of the total cost of a HMO plan for individual, individual and spouse, individual and child, or family; or

d. Eighty-six and three-quarter percent of the total cost of a Comprehensive PPO plan for individual, individual and spouse, individual and child, or family.".

Section 3. Amend § 5202 (b)(2), Title 29 of the Delaware Code by redesignating such section as Section 5202 (b)(3); by inserting the words "and before January 1, 2007" after the date "July 1, 1991"; by inserting the words "and (b)(2)" after the words "paragraph (b)(1)" in subparagraphs a., b., and c.; and by inserting a new Section 5202(b)(2) to read as follows:

"(2) For eligible pensioners who are eligible for federal Medicare:

a. who retire before July 1, 2012, or who are receiving a disability pension or primary survivors receiving a survivor's pension under § 8372(a) of Title 11, due to death in the line of duty of the employee, the State shall pay 100% of the premium or subscription charges for the coverage provided, unless they are subject to the schedule based on years of service, as set forth in paragraph (b)(3) of this Section.

b. who retire after July 1, 2012, the State shall pay 95% of the premium or subscription charges for the coverage provided, unless they are subject to the schedules based on years of service, as set forth in paragraphs (b)(3) and (b)(4) of this Section.".

Section 4. Amend § 5202 (b), Title 29 of the Delaware Code by adding a new Section 5202 (b)(4) to read as follows:

"(4) For eligible pensioners who were first employed by the State on or after January 1, 2007, the State shall pay premium and subscription charges as follows:

a. For eligible pensioners employed by the State for at least 15 but less than 17.5 years at the time of retirement, 50 percent of premium or subscription charges paid for by the state as set forth in paragraph (b)(1) and (b)(2) of this section;

b. For eligible pensioners employed by the State for at least 17.5 but less than 20 years at the time of retirement, 75 percent of the premium or subscription charges as set forth in paragraph (b)(1) and (b)(2) of this section; or

c. For eligible pensioners employed by the State for 20 or more years at the time of retirement, 100 percent of the premium or subscription charges as set forth in paragraph (b)(1) and (b)(2) of this section.".

Section 5. Amend § 5202(d), Title 29 of the Delaware Code by inserting after the words and punctuation "For the purposes of this chapter," in the first sentence the words, numbers and punctuation "eligible employees who were each first employed as a regular officer or employee by the State on or before December 31, 2011", and by inserting after the word "wife" in the first sentence the words, numbers and punctuation "legally married on or before December 31, 2011"; by redesignating paragraph (d)(4) as paragraph (d)(5), and by inserting a new paragraph (d)(4) to read as follows:

"(d)(4) If the 2 employees enroll under an employee and spouse or family contract, there shall be a $25 per month charge to the employee who enrolls for the coverage. If the employees choose to enroll in separate plans, employee only and employee and children contracts, a $25 per month charge shall apply to both contracts."

Section 6. Amend § 5203(a), Title 29 of the Delaware Code by deleting the words "be equivalent to the "Standard 80" hospital and surgical/medical plan currently offered by Blue Cross and Blue Shield of Delaware, Incorporated" and inserting the words "shall be equivalent to the "minimum creditable coverage" as defined by applicable federal law".

Section 7. Amend § 5203(b), Title 29 of the Delaware Code by deleting the words ""Delaware-65" hospital and surgical/medical plan for full-time employees and" and inserting the words "a plan which is supplemental to Medicare parts A and B, or constructed as a plan under Medicare part C, for".

Section 8. It is the intent of the Delaware General Assembly to address the issue of voluntary overtime being used to inflate final pension calculations. Conversely, in order to protect the health and safety of employees and the people they serve, it is imperative that mandatory overtime also not be over utilized by management. Therefore, all Executive Branch Agencies with employees who are eligible to receive overtime shall devise a written policy establishing reasonable limits on employees' overtime. Such policy shall take into account the health and safety of employees, and shall establish reasonable limitations on mandatory and voluntary overtime. Cabinet Secretaries for each of the Executive Branch Agencies with overtime eligible employees shall submit such plan to the Director of Office of Management and Budget via their certified bargaining representative where applicable and to the General Assembly on or before June 30, 2012 on the substance of their written policy and on the use of overtime in their Agency.

Section 9. Amend §5501, Title 29 of the Delaware Code by redesignating subsection (g), (h), and (i) as (h), (i), and (j) respectively and inserting a new subsection (g) as follows:

(g) "Final average compensation" for Post-2011 employees shall include;

(1) 1/36 of the compensation, minus overtime payments, paid to an employee during any period of 36 consecutive months or any 36 months comprised of 3 periods of 12 consecutive months in that employee's years of service credited under paragraphs (d)(1), (2) and (3) of this section in which that employee's compensation was highest, or the average

monthly compensation paid to an employee during the period of that employee's service credited under paragraphs (d)(1), (2) and (3) of this section if such period is less than 36 months; plus

(2) Teachers who receive awards under the "Teacher of the Year" program under § 8903 of Title 14 and Merit System employees who receive awards under the "Delaware Award for Excellence and Commitment in State Service" program shall have added to their compensation the dollar amount of such awards, granted during their employment, in determining the final average compensation to be used in the computation of their pension; plus

(3) Employees that receive a final lagged payment for credited service as defined under § 2712 of this title shall have added to their creditable compensation the amount of lag pay that is received in determining the final average compensation to be used in the computation of their pension."

Section 10. Amend § 5501, Title 29 of the Delaware Code by adding a new subsection (k) to read as follows:

"(k) "Post-2011 employee" shall mean an employee, as defined in Section 5501(e) of this Chapter, who is first employed by the State on or after January 1, 2012.".

Section 11. Amend § 5522, Title 29 of the Delaware Code by adding new subsections (e), (f) and (g) to read as follows:

"(e) A Post-2011 employee shall become eligible to receive a service pension, beginning with the month after the employee has terminated employment, if:

(1) The employee has 10 years of credited service, exclusive of service credited under § 5501(d) (12) of this title, and has attained age 65;

(2) The employee has 20 years of credited service, exclusive of service credited under § 5501(d) (12) of this title, and has attained age 60; or

(3) The employee has 30 years of credited service.

(f) A Post-2011 employee shall become eligible to receive a reduced service pension, beginning with the month after he or she has terminated employment, if:

(1) He or she has 15 years of credited service, exclusive of service credited under § 5501(d) (12) of this title, and has attained age 55; the amount of the service pension payable to such an employee shall be reduced by 4/10 percent of each month the employee is under age 60; or

(2) He or she has 25 years of credited service, exclusive of service credited under § 5501(d)(12) of this title, regardless of age; the amount of the service pension payable to such an employee shall be reduced by 4/10 percent of each month the employee has less than 30 years.

(g) A former Post-2011 employee with a vested right to a service pension shall become eligible to receive such pension, computed in accordance with this chapter beginning with the first month after his or her attainment of age 65 if credited service is equal to or greater than 10 years.".

Section 12. Amend § 5523(a), Title 29 of the Delaware Code by inserting after "employee" and before "who has 5 years" the phrase "who is not a Post-2011 employee and", and adding to the end of said subsection a new sentence to read as follows:

"A Post-2011 employee who has 10 years of credited service exclusive of service under § 5501(d)(12) of this title shall have a vested right to a pension.".

Section 13. Amend §5527(d)(1), Title 29 of the Delaware Code by deleting the sentence that begins with "An elected official shall be eligible" and replacing it with the following: "An elected official elected prior to January 1, 2012 shall be eligible to receive a pension beginning with the first month after the attainment of age 60, provided that he or she shall have served at least 5 years at the time of his or her termination of service as an elected official, or beginning with the first month after attainment of age 55, provided that he or she shall have served at least 10 years at the time of his or her termination of service as an elected official. An elected official elected on or after January 1, 2012 shall be eligible to receive a pension beginning with the first month after the attainment of age 60, provided that he or she shall have served at least 20 years at the time of his or her termination of service as an elected official, or beginning with the first month after attainment of age 65, provided that he or she shall have served at least 10 years at the time of his or her termination of service as an elected official."

Section 14. Amend § 5543(a), Title 29 of the Delaware Code by inserting between "$6,000" and "." in the first sentence the words "provided, however, that Post-2011 employees will pay an employee contribution rate of 5% of total annual compensation in excess of $6,000".

Section 15. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

Section 16. Sections 1, 2, 3 and 5 of this Act shall be effective as of July 1, 2012. Sections 4 ,9, 10, 11, 12, 13, 14 and 15 of this Act shall be effective as of January 1, 2012. Sections 6, 7 and 8 of this Act shall be effective upon enactment.

Ssynopsis

Sections 1 and 2 of the Bill establish a fixed cost share effective July 1, 2012 for the different health insurance

plans offered by the State for regular officers or employees of the State and their dependents, and a fixed cost share for pensioners and their dependents who are not eligible for federal Medicare. For the basic health care insurance plan, as set forth in Section 5203 of Title 29, the State will pay 96% of the total cost of the plan. For the Consumer-Directed Health plan, the State will pay 95% of the total cost of the plan. The State will pay 93.5% of the total cost of the HMO plan, and the State will pay 86.75% of the total cost of the PPO plan.

The expected rate impact to eligible employees effective July 1, 2012 based on 2011 rates is as follows: This Bill eliminates the offer of a free plan, and as a result, a single employee in the State's basic plan would now be paying approximately $20.58 per month, and an eligible employee enrolled in the family plan will be paying $53.23 per month. There are currently only 447 active employees and 132 retirees enrolled in the State's basic plan. A single employee who is enrolled in the Blue Cross HMO Basic plan will be paying approximately $11.85 more per month, and a family in that same plan will be paying approximately $5.39 more per month. A single employee who is enrolled in the Aetna HMO plan will be paying approximately $12.26 more per month, and a family in that same plan will be paying approximately $9.42 more per month. Finally, a single employee who is enrolled in the PPO plan will be paying approximately $4.94 more per month, and a family in that same plan will be paying approximately $8.81 more per month.

Section 3 of the Bill would require pensioners who retire after July 1, 2012 and who become eligible for Medicare to pay 5% of the Medicare supplement offered by the State. For each Medicare-eligible retiree or dependent who receives the Medicare supplement, the expected cost impact is approximately $20 per month.

Section 4 of the Bill would change the number of years it takes for employees hired after January 1, 2007 to vest for the State share of retiree healthcare. Under current law, State employees vest for 50% of the State share at 10 years of service, 75% of the State share at 15 years of service, and 100% of the State share at 20 years of service. Pursuant to this Bill, employees who were hired on or after January 1, 2007 would vest for 50% of the State share at 15 years, 75% of the State share at 17.5 years of service, and 100% of the State share at 20 years of service.

Section 5 of the Bill would eliminate double state share for new hires who are employed after December 31, 2011 as well as for current employees who become benefit eligible, and legally married after December 31, 2011. In addition, Section 5 establishes a $25 per month charge for current employees who are Double State Share eligible, effective July 1, 2012.

Section 6 of the Bill would delete the reference to the "Standard 80" health care plan offered by Blue Cross Blue Shield, as the reference to the "Standard 80 plan" is an antiquated reference that is not indicative of the plan features provided for in the State's basic health care plan. In addition, Section 6 would establish a floor of coverage the State will provide as mandated by federal law.

Section 7 of the Bill would also delete an antiquated reference to the "Delaware 65" plan, which is no longer indicative of the supplemental Medicare coverage offered by the State.

Section 8 of the Bill declares the intent of the General Assembly to prevent the limited abuse of the State Employee's Pension Plan when employees voluntarily work overtime in order to inflate their final pension calculation. In addition, this Section recognizes that to protect the health and safety of employees and the citizens they serve, Agency management should also reasonably limit the assignment of mandatory overtime. This Section would require every Cabinet Secretary in each of the Executive Branch Agencies to devise a written policy by June 30, 2012 that would reasonably limit the use of mandatory and voluntary overtime.

Section 9 of the Bill would redefine "final average compensation" such that for employees hired on or after January 1, 2012 overtime payments will no longer be included in the definition of "final average compensation".

Section 10 of the Bill differentiates employees for purposes of applying the State's pension benefits: individuals first employed by the State before January 1, 2012, and individuals first employed by the State on or after January 1, 2012, who will be called "Post-2011 employees".

Section 11 of the Bill would change the normal retirement age for employees hired on or after January 1, 2012. Under current law, employees are eligible to retire at age 62 with five years of service, at age 60 with 15 years of service, or at any age with 30 years of service. Pursuant to this Bill, Post-2011 employees would be eligible to retire at age 65 with 10 years of service, at age 60 with 20 years of service, and at any age with 30 years of service.

This Section would also increase the early retirement reduction factor for employees who retire prior to the normal retirement age as set forth above. Under current law, at age 55 and 15 years of service an employee may retire early, but the employee's pension would be reduced by $2/10^{th}$ of a percent for each month the employee is under the age of 60. Pursuant to this Bill, the employee's pension would be reduced by $4/10^{th}$ of a percent for each month the employee is under the age of 60.

Section 12 of the Bill changes the number of years it takes employees hired on or after January 1, 2012 to vest for a pension, from 5 years to 10 years.

Section 13 of the Bill would change the number of years it would take an elected official elected on or after January 1, 2012 to vest for a pension, from 5 years to 10 years. In addition this Section changes the normal retirement age for elected officials elected on or after January 1, 2012 to conform to the changes to the normal retirement age for employees referenced in Section 10 of the Bill.

Section 14 of the Bill would increase the employee contribution to the Pension Fund from 3% to 5% of annual compensation after the first $6,000for employees hired on or after January 1, 2012.