



House of Representatives

File No. 731

General Assembly

February Session, 2008

(Reprint of File No. 486)

Substitute House Bill No. 5536
As Amended by House Amendment Schedules
"A" and "B"

Approved by the Legislative Commissioner
April 25, 2008

**AN ACT ESTABLISHING THE CONNECTICUT HEALTHCARE
PARTNERSHIP.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in sections 1 to
2 7, inclusive, of this act:

3 (1) "Labor organization" means any organization that exists and is
4 constituted for the purpose, in whole or in part, of collective
5 bargaining or of dealing with employers concerning grievances, terms
6 or conditions of employment, or other mutual aid or protection.

7 (2) "Nonstate public employer" means a municipality or other
8 political subdivision of the state, including a board of education, quasi-
9 public agency or public library.

10 (3) "Nonstate public employee" means any employee or elected
11 officer of a nonstate public employer.

12 (4) "Municipal-related employer" means any property management
13 business, food service business or school transportation business that

14 is a party to a contract with a nonstate public employer.

15 (5) "Municipal-related employee" means any employee of a
16 municipal-related employer performing services in connection with a
17 contract with a nonstate public employer.

18 (6) "Nonstate public collective bargaining agreement" means the
19 collective bargaining agreement in effect between any collective
20 bargaining agent of any nonstate public employees and their
21 employer.

22 (7) "Small employer" means any person, firm, corporation, limited
23 liability company, partnership or association actively engaged in
24 business or self-employed for at least three consecutive months who,
25 on at least fifty per cent of its working days during the preceding
26 twelve months, employed no more than fifty employees, as described
27 in subsection (b) of this section, the majority of whom were employed
28 within this state. "Small employer" does not include any nonstate
29 public employer. In determining the number of eligible employees,
30 companies which are affiliates, as defined in section 33-840 of the
31 general statutes, or which are eligible to file a combined tax return
32 under chapter 208 of the general statutes shall be considered one
33 employer.

34 (8) "Nonprofit employer" means a nonprofit corporation, as
35 described in section 33-1002 of the general statutes. Nonprofit
36 employer does not include a nonstate public employer.

37 (9) "State employee plan" or "state plan" means the group
38 hospitalization, medical, pharmacy and surgical insurance plan offered
39 to state employees and retirees pursuant to section 5-259 of the general
40 statutes.

41 (10) "Health Care Costs Containment Committee" means the
42 committee established pursuant to the ratified agreement between the
43 state and state employees' Bargaining Agent Coalition pursuant to
44 subsection (f) of section 5-278 of the general statutes.

45 (b) No employee shall be enrolled in the state plan if such employee
46 is covered through such employee's employer by health insurance
47 plans or insurance arrangements issued to or in accordance with a
48 trust established pursuant to collective bargaining subject to the
49 federal Labor Management Relations Act.

50 Sec. 2. (NEW) (*Effective September 1, 2008*) (a) Notwithstanding any
51 provision of title 38a of the general statutes, the Comptroller shall offer
52 coverage under the state employee plan to nonstate public employees,
53 municipal-related employees, employees of small employers and
54 employees of nonprofit employers and shall pool such employees with
55 the state employee plan, provided the Comptroller receives an
56 application from an employer of any such employees and the
57 application is approved in accordance with sections 1 to 7, inclusive, of
58 this act. Premium payments for such coverage shall be remitted by the
59 employer to the Comptroller and shall be the same as those paid by the
60 state inclusive of any premiums paid by state employees, except as
61 otherwise provided in this section or section 4 of this act. The
62 Comptroller may charge each employer participating in the plan
63 pursuant to sections 1 to 7, inclusive, of this act an administrative fee
64 calculated on a per member per month basis. The Comptroller shall
65 offer participation in such plan for no shorter than three-year intervals
66 and, at the end of any interval, an employer may apply for coverage
67 for an additional interval. The Comptroller shall develop procedures
68 by which employers receiving coverage for their employees pursuant
69 to the plan may withdraw from such coverage. Any such procedures
70 shall provide that nonstate public employees covered by collective
71 bargaining shall withdraw from such coverage in accordance with
72 chapters 68, 113 and 166 of the general statutes. Nothing in sections 1
73 to 7, inclusive, of this act shall (1) require the Comptroller to offer
74 coverage to every employer seeking coverage under sections 1 to 7,
75 inclusive, of this act from every vendor providing coverage under the
76 state employee plan, or (2) prevent the Comptroller from procuring
77 coverage for nonstate employees from vendors other than those
78 providing coverage to state employees. The Comptroller shall create

79 applications for the purposes of this act. Such applications shall require
80 an employer to disclose whether the employer will offer any other
81 health plan to the employees who are offered the state plan.

82 (b) Nonstate public employees may receive coverage under the state
83 plan in accordance with this subsection.

84 (1) A nonstate public employer may submit an application to the
85 Comptroller for coverage under the state plan of such employer's
86 employees.

87 (2) If a nonstate public employer submits an application for
88 coverage of all of its employees, the Comptroller shall provide such
89 coverage no later than the first day of the third calendar month
90 following such application. A board of education and a municipality
91 shall be considered separate employers for purposes of this act.

92 (3) If a nonstate public employer submits an application for less
93 than all of its employees, or indicates in the application the employer
94 will offer other health plans to employees who are offered the state
95 health plan, the Comptroller shall forward such application to the
96 Health Care Cost Containment Committee not later than five business
97 days after receiving such application. Said committee may, not later
98 than thirty days after receiving such application, certify to the
99 Comptroller that the application will shift a significantly
100 disproportional part of a nonstate public employer's medical risks to
101 the state employee plan. If the Comptroller receives such certification,
102 the Comptroller shall not provide coverage to such employer. If the
103 Comptroller does not receive such certification, the Comptroller shall
104 provide coverage no later than the first day of the third calendar
105 month following the deadline for receiving the certification.

106 (4) Any other provisions of the general statutes notwithstanding,
107 initial participation in the state employee plan shall be a permissive
108 subject of collective bargaining and shall be subject to binding interest
109 arbitration only if the collective bargaining agent and the employer
110 mutually agree to bargain over such initial participation. Such mutual

111 agreement shall be in writing and signed by authorized
112 representatives of the collective bargaining agent and the employer.
113 Continuation in the state employee plan, after initial participation,
114 shall be a mandatory subject of bargaining, and shall be subject to
115 binding interest arbitration in accordance with the same procedures
116 and standards that apply to any other mandatory subject of bargaining
117 pursuant to chapters 68, 113 and 166 of the general statutes.

118 (c) Employees of small employers may join the plan in accordance
119 with this subsection.

120 (1) A small employer may submit an application to the Comptroller
121 for coverage under the state plan of such employer's employees.

122 (2) The Comptroller shall not grant applications for coverage under
123 the state plan if the Comptroller determines that such coverage would
124 cause the plan to be subject to the requirements of the Employee
125 Retirement Income Security Act of 1974. The Comptroller shall resume
126 granting applications for coverage under the state plan if the
127 Comptroller determines that the state plan is compliant with said act.

128 (3) Premium rates for small employers shall be the total premium
129 rate paid by the state inclusive of any premiums paid by state
130 employees for a particular health care product offered by the
131 Comptroller, except that an insurance carrier offering coverage under
132 the state plan may adjust such rate to reflect one or more of the
133 characteristics identified in subparagraph (A) of subdivision (5) of
134 section 38a-567 of the general statutes.

135 (4) If a small employer submits an application for coverage of all
136 employees of such small employer, the Comptroller shall provide such
137 coverage no later than the first day of the third calendar month
138 following such application.

139 (5) If a small employer submits an application for less than all of its
140 employees or indicates in the application the employer will offer other
141 health plans to employees who are offered the state health plan, the

142 Comptroller shall forward such application to the Health Care Cost
143 Containment Committee not later than five business days after
144 receiving such application. Said committee may, not later than thirty
145 days after receiving such application, certify to the Comptroller that
146 the application will shift a significantly disproportional part of a small
147 employer's medical risks to the state employee plan. If the Comptroller
148 receives such certification, the Comptroller shall not provide coverage
149 to such employer. If the Comptroller does not receive such
150 certification, the Comptroller shall provide coverage no later than the
151 first day of the third calendar month following the deadline for
152 receiving the certification.

153 (d) Employees of municipal-related employers, which are not small
154 employers, and the employees of nonprofit employers, which are not
155 small employers, may join the plan in accordance with this subsection.

156 (1) A municipal-related employer, which is not a small employer,
157 and a nonprofit employer, which is not a small employer may submit
158 an application to the Comptroller for coverage under the state plan of
159 such employer's employees.

160 (2) The Comptroller shall not grant applications for coverage under
161 the state plan if the Comptroller determines that such coverage would
162 cause the plan to be subject to the requirements of the Employee
163 Retirement Income Security Act of 1974. The Comptroller shall resume
164 granting applications for coverage under the state plan if the
165 Comptroller determines that the state plan is compliant with said act.

166 (3) If a municipal-related employer, which is not a small employer,
167 or a nonprofit employer, which is not a small employer, submits an
168 application for all of its employees, the Comptroller shall provide such
169 coverage no later than the first day of the third calendar month
170 following such application.

171 (4) If a municipal-related employer, which is not a small employer,
172 or a nonprofit employer, which is not a small employer, submits an
173 application for less than all of its employees, or indicates in the

174 application the employer will offer other health plans to employees
175 who are offered the state health plan, the Comptroller shall forward
176 such application to the Health Care Cost Containment Committee not
177 later than five business days after receiving such application. Said
178 committee may, not later than thirty days after receiving such
179 application, certify to the Comptroller that the application will shift a
180 significantly disproportional part of such employer's medical risks to
181 the state employee plan. If the Comptroller receives such certification,
182 the Comptroller shall not provide coverage to such employer. If the
183 Comptroller does not receive such certification, the Comptroller shall
184 provide coverage no later than the first day of the third calendar
185 month following the deadline for receiving the certification.

186 (e) The Comptroller shall not forward an employer's application for
187 coverage for review by the Health Care Cost Containment Committee,
188 pursuant to this section, due to (1) the decision by individual
189 employees to decline coverage from their employer for themselves or
190 their dependents; or (2) the employer's decision to not offer coverage
191 to temporary, part-time or durational employees.

192 (f) Notwithstanding any provision of the general statutes, the state
193 employee plan shall not be deemed (1) an unauthorized insurer, or (2)
194 a multiple employer welfare arrangement. Any licensed insurer in this
195 state may conduct business with the state employee plan.

196 Sec. 3. (NEW) (*Effective September 1, 2008*) (a) Employers eligible,
197 pursuant to sections 1 to 7, inclusive, of this act, to seek coverage for
198 their employees under the state employee plan may seek such
199 coverage for their retirees in accordance with sections 1 to 7, inclusive,
200 of this act. Premium payments for such coverage shall be remitted by
201 the employer to the Comptroller and shall be the same as those paid by
202 the state, inclusive of any premiums paid by retired state employees.

203 (b) If an employer seeks coverage for all of such employer's retirees
204 in accordance with this section and all of such employer's employees in
205 accordance with section 2 of this act, the Comptroller shall provide

206 coverage no later than the first day of the third calendar month
207 following such application. If an employer seeks coverage for less than
208 all of such employer's retirees, regardless of whether the employer is
209 seeking coverage for all of such employer's active employees, the
210 Comptroller shall forward such application to the Health Care Cost
211 Containment Committee not later than five business days after
212 receiving such application. Said committee may, not later than thirty
213 days after receiving such application, certify to the Comptroller that,
214 with respect to such retirees, the application will shift a significantly
215 disproportional part of an employer's medical risks to the state
216 employee plan. If the Comptroller receives such certification, the
217 Comptroller shall not provide coverage to such employer's retirees. If
218 the Comptroller does not receive such certification, the Comptroller
219 shall provide coverage no later than the first day of the third calendar
220 month following the deadline for receiving the certification.

221 (c) Nothing in sections 1 to 8, inclusive, of this act shall diminish any
222 right to retiree health insurance pursuant to a collective bargaining
223 agreement or to any other provision of the general statutes.

224 Sec. 4. (NEW) (*Effective September 1, 2008*) (a) Each employer shall
225 pay monthly the amount determined by the Comptroller, pursuant to
226 sections 1 to 7, inclusive, of this act, for coverage of its employees or its
227 employees and retirees, as appropriate under the state employee plan.
228 An employer may require each covered employee to contribute a
229 portion of the cost of such employee's coverage under the plan, subject
230 to any collective bargaining obligation applicable to such employer. If
231 any payment due by an employer under this subsection is not paid
232 after the date due, interest shall be added to such payment at the
233 prevailing rate of interest, as determined by the Comptroller. Such
234 interest shall be paid by the employer.

235 (b) There is established, within the General Fund, a separate,
236 nonlapsing account to be known as the state plan premium account.
237 All premiums paid by employers and employees pursuant to sections
238 1 to 7, inclusive, of this act shall be deposited into said account. The

239 account shall be administered by the Comptroller, with the advice of
240 the Health Care Costs Containment Committee, for payment of
241 insurance premiums.

242 (c) In the event a nonstate public employer fails to make premium
243 payments, the Comptroller may direct the State Treasurer, or any other
244 officer of the state that is the custodian of any moneys made available
245 by reason of any grant, allocation or appropriation by the state or
246 agencies thereof payable to a nonstate public employer at any time
247 subsequent to the failure of such nonstate public employer, to pay such
248 premiums and interest to withhold the payment of such moneys in
249 accordance with this subsection. Such moneys shall be withheld until
250 the amount of the premium or interest then due and unpaid has been
251 paid to the state, or until the Treasurer or such officers determine that
252 arrangements, satisfactory to the Treasurer, have been made for the
253 payment of such premium and interest, except that such moneys shall
254 not be withheld if such withholding will adversely affect the receipt of
255 any federal grant or aid in connection with such moneys. In the event
256 that a municipal-related employer, small employer or nonprofit
257 employer fails to make premium payments, the Comptroller may
258 terminate employee participation in the state employee plan and
259 request the Attorney General to recover any premium and interest
260 costs.

261 Sec. 5. (NEW) (*Effective from passage*) The Comptroller shall not offer
262 coverage under the state employee plan pursuant to sections 1 to 7,
263 inclusive, of this act until the State Employees' Bargaining Agent
264 Coalition has provided its consent to the clerks of both houses of the
265 General Assembly to incorporate the terms of sections 1 to 7, inclusive,
266 of this act into its collective bargaining agreement.

267 Sec. 6. (NEW) (*Effective January 1, 2009*) No later than January 1,
268 2010, the Comptroller, shall report to the General Assembly, in
269 accordance with section 11-4a of the general statutes,
270 recommendations for the terms and conditions under which access to
271 the state employee plan may be provided to those not authorized

272 access pursuant to sections 1 to 8, inclusive, of this act.

273 Sec. 7. (NEW) (*Effective from passage*) There is established a Nonstate
274 Public Health Care Advisory Committee. The committee shall make
275 advisory recommendations concerning health care coverage of
276 nonstate public employees to the Health Care Costs Containment
277 Committee. The advisory committee shall consist of nonstate public
278 employers and employees participating in the state plan and shall
279 include the following members appointed by a method to be
280 determined by the Comptroller: (1) Three municipal employer
281 representatives, one of whom represents towns with populations of
282 one hundred thousand or more, one of whom represents towns with
283 populations of at least twenty thousand but under one hundred
284 thousand, and one of whom represents towns with populations under
285 twenty thousand; (2) three municipal employee representatives, one of
286 whom represents employees in towns with populations of one
287 hundred thousand or more, one of whom represents employees in
288 towns with populations of at least twenty thousand but under one
289 hundred thousand, and one of whom represents employees in towns
290 with populations under twenty thousand; (3) three board of education
291 employers, one of whom represents towns with populations of one
292 hundred thousand or more, one of whom represents towns with
293 populations of at least twenty thousand but under one hundred
294 thousand, and one of whom represents towns with populations under
295 twenty thousand; (4) three board of education employee
296 representatives, one of whom represents towns with populations of
297 one hundred thousand or more, one of whom represents towns with
298 populations of at least twenty thousand but under one hundred
299 thousand, and one of whom represents towns with populations under
300 twenty thousand; and (5) one neutral chairperson, who shall be a
301 member of the National Academy of Arbitrators or an arbitrator
302 authorized by the American Arbitration Association or the Federal
303 Mediation and Conciliation Service to serve as a neutral arbitrator in
304 labor relations cases.

305 (b) There is established a Private Sector Health Care Advisory

306 Committee. The committee shall make advisory recommendations
307 concerning health care coverage of employees to the Health Care Costs
308 Containment Committee. The advisory committee shall consist of the
309 following members appointed by a method to be determined by the
310 Comptroller: (1) Five private sector employer representatives; (2) five
311 private sector employee representatives; and (3) one neutral
312 chairperson, who shall be a member of the National Academy of
313 Arbitrators or an arbitrator authorized by the American Arbitration
314 Association or the Federal Mediation and Conciliation Service to serve
315 as a neutral arbitrator in labor relations cases.

316 Sec. 8. (NEW) (*Effective January 1, 2009*) Notwithstanding any
317 provision of the general statutes, two or more municipalities may form
318 a single group, by written agreement, for the purpose of procuring
319 health insurance for their employees. Such written agreement shall
320 establish the membership of such group, the duration of such health
321 insurance coverage, requirements regarding the payment of premiums
322 for such health insurance coverage, and the procedure for a
323 municipality to withdraw from such group and terminate such health
324 insurance coverage. A group established pursuant to this section shall
325 procure such health insurance coverage on a fully underwritten basis.
326 Such health insurance coverage shall meet the requirements set forth in
327 chapter 700c of the general statutes. Any group established pursuant to
328 this section shall not be deemed a fictitious group if the group is
329 procuring health insurance coverage in accordance with this section.

330 Sec. 9. Subparagraph (B) of subdivision (4) of section 38a-564 of the
331 2008 supplement to the general statutes is repealed and the following
332 is substituted in lieu thereof (*Effective January 1, 2009*):

333 (B) "Small employer" does not include (i) a municipality procuring
334 health insurance pursuant to section 5-259 of the 2008 supplement to
335 the general statutes or section 2 of this act, (ii) a private school in this
336 state procuring health insurance through a health insurance plan or an
337 insurance arrangement sponsored by an association of such private
338 schools, (iii) a nonprofit organization procuring health insurance

339 pursuant to section 5-259 of the 2008 supplement to the general
 340 statutes, unless the Secretary of the Office of Policy and Management
 341 and the State Comptroller make a request in writing to the Insurance
 342 Commissioner that such nonprofit organization be deemed a small
 343 employer for the purposes of this chapter, (iv) an association for
 344 personal care assistants procuring health insurance pursuant to section
 345 5-259 of the 2008 supplement to the general statutes, or (v) a
 346 community action agency procuring health insurance pursuant to
 347 section 5-259 of the 2008 supplement to the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>September 1, 2008</i>	New section
Sec. 3	<i>September 1, 2008</i>	New section
Sec. 4	<i>September 1, 2008</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>January 1, 2009</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>January 1, 2009</i>	New section
Sec. 9	<i>January 1, 2009</i>	38a-564(4)(B)

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
State Comptroller	GF - Cost	500,000	520,000
State Comptroller - state employee and retiree health insurance accounts	Various - See Below	See Below	See Below
Department of Revenue Services	GF - See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Various Municipalities	Savings	Potential	Potential

Explanation

The bill provides an additional health insurance option to municipalities, small employers and non profits by permitting the comptroller to offer coverage under the state employee health plan to their employees. The bill requires that the total premium the municipal employers pay be the same as those the state pays for the same insurance plans. It specifies that municipal employers may require an employee contribution toward the premium, subject to any collective bargaining agreement. It also permits the comptroller to charge participating employers an administrative fee on a per member per month basis. The bill specifies that the comptroller is not required to offer coverage from each vendor now participating in the state plan.

Funding in the amount of \$500,000 and two positions are appropriated to the Comptroller’s office to administer the Connecticut Healthcare Partnership in sHB 5021, the Appropriations Act, as favorably reported by the Appropriations Committee. The two positions funded for ¾ year are: 1. Benefit Coordinator \$56,000

(\$75,000, annually) and 2. Benefit Officer \$42,000 (\$56,000, annually). They will coordinate the actuarial reviews of applications, monitor claims data from the insurers, and manage plan coordination and implementation issues. \$40,000 is provided for a neutral Healthcare Cost Containment Committee chair. The balance of the funding, \$362,000, is for actuarial consultants necessary to evaluate the risk of groups applying to the plan.

Permitting additional participants to join the existing state employee health plan could potentially impact the existing pool. The bill addresses a potential negative impact to the state employee pool by preventing an employer from shifting a significantly disproportional part of its medical risks to the state employee plan. The cost of the state employee health plans is based upon the demographics and claims experience of the existing composition of state employees and retirees. To the extent that additional covered lives impact the loss ratio of the plans, a resulting impact may be experienced on the plans costs to the state. While at least 20 other states allow municipalities to participate in their state employee health plans, 11 of these states require non-state employees to be in a separate rating pool.

Current law exempts new or renewal contracts or policies written to provide health care coverage to municipal employees under a plan procured pursuant to Connecticut General Statute 5-259(i) from the Insurance Premiums Tax. To the degree that this bill results in an increase in the number of municipalities procuring coverage under Connecticut General Statute 5-259(i) then the state would experience a revenue loss to the Insurance Premiums Tax.

There are approximately, 110,000 municipal employees (including boards of education). Municipal participation in the state plan is voluntary but does require a minimum of three years participation. It is anticipated that certain municipalities will achieve savings from the state's large-group purchasing power, pooled risk and administrative economies of scale. In order for a municipality to determine if it can

achieve a savings under the state plan, it must examine not only the rates and plan design but also 2 to 3 years of its utilization data.

House "A" replaced the original bill and has the fiscal impact described above.

House "B" modifies the criteria for representatives of the Non-state Public Health Care Advisory Committee and has no fiscal impact.

Background

State Employee Health Plan

The benefits provided under the state employee health plans are established in a collectively bargained agreement between the State of Connecticut and the State Employees Bargaining Agent Coalition (SEBAC). The current 20-year agreement expires in 2017.

Currently, the state plan is provided on a fully insured basis through 4 vendors (Anthem Blue Cross and Blue Shield, Health Net, Oxford/United Health and Pharmacare) offering 12 plans for active and retired employees. It covers approximately 55,000 employees, 37,000 retirees and their dependents.

The FY 08 premiums rates for the state employee plans are published as an attachment to the Comptroller's Numbered Memorandum 2007-10 and can be found using the following link: <http://www.osc.state.ct.us/2007memos/attachments/att200710.asp>

As a result of the recent negotiation with the state's health care vendors, it is anticipated that the state employee health plan premiums for FY 09 will not contain an increase. The finalized FY 09 premium rates will be published in a Comptroller's Numbered Memorandum expected before the end of April.

The recent (3/20/08) Memorandum of Understanding between the state and SEBAC provides that beginning in FY 09, pharmacy benefits provided to state employees are to be funded on a self-insured basis.

The savings associated with this change is estimated to be \$14.5 million. Per the agreement, this savings will be deposited in the state's Other Post Employment Benefits (OPEB) trust fund which was established to begin to address the state's unfunded retiree health liability estimated at \$21.7 billion.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5536 (as amended by House "A" and "B")******AN ACT ESTABLISHING THE CONNECTICUT HEALTHCARE PARTNERSHIP.*****SUMMARY:**

This bill allows municipalities, certain municipal service contractors, nonprofit organizations, and small businesses to join the state employee health insurance plan for their employees and retirees. Under it, all new employees will be pooled together with state employees in the state insurance plan.

It requires the comptroller to provide insurance coverage for these employers when they apply to cover all their employees or all of their retirees. When an employer applies to cover some employees or some retirees, she must deny coverage if the Health Care Cost Containment Committee (HCCCC) certifies to her that the application would shift a significantly disproportionate part of the employer's medical risks to the state plan.

The bill requires that premiums the municipal and other employers pay be the same as those the state pays for the same insurance plans. It allows employers to require an employee contribution toward the premium. It also permits the comptroller to charge participating employers an administrative fee based on a per member, per month basis.

Under the bill, employers joining must commit to participate in the state plan for three years, at the end of which they may renew for another three years. The comptroller must develop procedures for employers to withdraw from coverage and for employers with public employee collective bargaining, the procedures must comply with

state collective bargaining law.

The bill specifies that it allows the comptroller to procure coverage for nonstate employees from insurance vendors other than those providing coverage for state employees. It is unclear whether this provision conflicts with the requirement to pool all the new employees and retirees in the state employee plan. The bill also specifies the comptroller is not required to offer coverage from each vendor now participating in the state plan.

If an employer fails to make premium payments, the state can charge interest at the prevailing rate. In the case of a municipality, it can also withhold grants or other assistance to the town until the premiums are paid.

The bill requires the State Employees' Bargaining Agent Coalition (SEBAC) to consent to adding new employees to the state plan before the plan can be opened up. SEBAC is the bargaining coalition that negotiates state employee health and retirement benefits for all state unions.

The bill also establishes a Nonstate Public Health Care Advisory Committee and a Private Sector Health Care Advisory Committee to each make recommendations concerning municipal and private sector coverage, respectively, to the Health Care Cost Containment Committee, created through the SEBAC agreement.

It also requires the comptroller to submit a report to the General Assembly with recommendations on how the state employee health plan can be further expanded to include individuals not authorized under the bill.

The bill permits two or more municipalities to join together as a single entity to obtain health insurance for their employees. It requires the group to be fully insured and meet existing health insurance requirements.

*House Amendment "A" replaces the original bill. It (1) requires the comptroller to create an application for employers seeking coverage from the state plan, (2) requires the comptroller to develop procedures for employers to withdraw from the coverage, (3) changes the bill's effective dates, (4) allows coverage for nonstate employees by vendors who do not provide state employee coverage, (5) makes initial participation in the plan a permissive subject of collective bargaining and exiting the plan a mandatory subject of bargaining, and (6) permits two or more municipalities to join together as a single entity to obtain employee health insurance.

*House Amendment "B" changes the population size ranges of the representatives appointed to the Nonstate Public Health Care Advisory Committee.

EFFECTIVE DATE: September 1, 2008, except the definitions, the provision creating the advisory committees, and the SEBAC approval are effective upon passage; and the report and the authority for two or more municipalities to join together to purchase health insurance are effective January 1, 2009.

§ 1 — COVERED EMPLOYERS AND EMPLOYEES

The bill includes definitions for the employers and the employees it allows into the state employee health plan.

"Nonstate public employer" is a municipality or other political subdivision of the state, including a board of education or a quasi-public agency or public library. A nonstate public employee is a regular employee or elected officer of a nonstate public employer.

"Municipal-related employer" is any property management business, food service business, or school transportation business that is under contract with a nonstate public employer. A municipal-related employee is an employee of a municipal-related employer performing services in connection with a nonstate public employer contract.

“Small employer” is any person, firm, corporation, limited liability company, partnership or association actively engaged in business or self-employed for at least three consecutive months who, on at least 50% of its working days during the preceding year, employed no more than 50 eligible employees, as described in the bill, the majority of whom were employed within this state. In determining the number of eligible employees, companies which are affiliates, as defined in state business law as being under the control of another business, or which are eligible to file a combined tax return under state corporation business tax law must be considered one employer. Small employer does not include a town or other state political subdivision.

“Nonprofit employer” is a nonprofit corporation, as defined by law. It does not include a town or other state political subdivision.

The bill provides an exception to the small employer 50 employee rule for employers who are either municipal-related employers or nonprofits.

It also specifies state plan enrollees must not include those covered through their employer by health insurance plans or insurance arrangements issued to or in accord with a trust established through collective bargaining under the federal Labor Management Relations Act (e.g., Taft-Hartley Act).

§ 2 — OPENING THE STATE EMPLOYEE HEALTH PLAN

By law, the comptroller solicits bids and enters into contracts with insurance carriers to provide health insurance for state employees and retirees. The bill requires the comptroller to offer insurance coverage for municipalities, other political subdivisions of the state, certain municipal service contractors, nonprofit organizations, and small businesses when their application for coverage is approved according to the bill’s provisions. A board of education and a municipality must be considered separate employers for purposes of the bill.

The bill specifies that it allows the comptroller to procure coverage

for nonstate employees from insurance vendors other than those providing coverage for state employees. It is unclear whether this provision conflicts with the requirement to pool all the new employees and retirees in the state employee plan. The bill also specifies the comptroller is not required to offer coverage from each vendor now participating in the state plan.

It requires the comptroller to create an application for employers seeking coverage from the state plan. The application must require an employer to disclose whether it will offer any other health plan to the employees who are offered the state plan.

The bill establishes two different processes for coverage to begin, depending on whether the application covers all or some of the employees. These rules apply to all nonstate employees and retirees.

If the application covers all of an employer's employees, the comptroller must begin coverage no later than the first day of the third calendar month following such application. This means if an application arrives anytime in January, the coverage must start April 1.

If the application covers some of an employer's employees or it indicates the employer will offer other health plans to employees who are offered the state health plan, the comptroller must forward the application to the HCCCC for review. Under the bill, the comptroller must deny coverage if the HCCCC certifies to her that the application is shifting a significantly disproportional part of the employer's medical risks to the state plan. Coverage must begin no later than the first day of the third calendar month after the application as long as the HCCCC has not informed the comptroller that the employees proposed for coverage constitute a disproportionate shift of the employer's medical risks to the state plan.

The comptroller must forward the application to the HCCC within five business days and the HCCC may, not later than 30 days after receiving the application, certify to the comptroller whether risk shifting is taking place.

Permissive and Mandatory Collective Bargaining

The bill makes the initial participation in the state employee plan a permissive subject of collective bargaining, despite any existing collective bargaining laws to the contrary. The decision to join the plan is subject to binding arbitration only if the union and the employer mutually agree to bargain over the initial participation. The mutual agreement must be in writing and signed by authorized representatives of the union and the employer.

Continuation in the state plan, after initial participation, is a mandatory subject of bargaining, and is subject to binding interest arbitration in accordance with the same procedures and standards that apply to any other mandatory subject of bargaining under state, municipal, and certified board of education employees collective bargaining law.

Private Sector and Federal Law

The private sector employers covered under the bill (i.e., small businesses, nonprofits, and municipal-related employers) cannot join the plan if the comptroller determines that their participation would subject the plan to the requirements of the Employee Retirement Income Security Act of 1974 (ERISA). If the comptroller later determines the state plan complies with ERISA, she must resume granting applications. ERISA is a federal law that sets standards, including fiduciary responsibilities, for most voluntary private sector retirement plans and employer-sponsored health plans (see BACKGROUND).

Exception to the HCCCC Review Requirement

Under the bill, the comptroller must forward an employer's application for HCCCC review when the application does not cover all the employer's employees. This requirement is waived when the only employees not covered are temporary, part-time or durational employees.

The bill also permits HCCCC review to be omitted in cases where

individual employees decline coverage from their employer for themselves or their dependents. This language appears unnecessary and has no practical affect because at the point in time when the application is being considered by the comptroller, there is not yet any coverage offered to employees for the employees to turn down.

§§ 2 & 4 — PREMIUMS, ADMINISTRATIVE FEE, AND EMPLOYEE COST SHARING

The bill requires that premiums employers, other than small employers, pay be the same as those the state pays for the same insurance plans. Each month, each employer must pay the comptroller an amount she determines for the coverage.

For all employers, the bill permits them to require covered employees to contribute a portion of the cost of the employees' coverage under the plan, as may be required under any applicable union contract.

It also permits the comptroller to charge participating employers an administrative fee based on a per member, per month basis.

Small Employer Premium May Vary

The bill permits an insurance carrier to adjust the rate charged to small employers for a particular health care product under the state plan to reflect one or more of the community rating characteristics identified in state insurance law. They include:

1. age, provided age brackets of fewer than five years are not permitted;
2. gender;
3. geographic area;
4. industry, within certain variation limits;
5. group size, within certain variation limits;

6. administrative costs savings as a result of being part of the state plan;
7. profit reduction as a result of being part of the state plan; and
8. family composition, with certain limits.

§ 3 — RETIREES

Employers eligible under the bill may also seek coverage for their retirees. The coverage must be provided no later than the first day of the third calendar month following such application, as long as the HCCCC has not informed the comptroller that the retirees proposed for coverage constitute a disproportionate shift of the employer's medical risks. If the HCCCC provides this notice, the comptroller must deny coverage.

The bill does not appear to include retirees in its other provisions that (1) require pooling with the state employee plan, (2) require the premiums be the same as the state pays, (3) permit a premium contribution by the individual covered, or (4) permit an administrative fee to be charged.

The bill states that it does not diminish any retiree's right to health insurance under the union contract or any provision of state law.

§ 4 — STATE PLAN PREMIUM ACCOUNT

The bill establishes, within the General Fund, a separate, nonlapsing account called the state plan premium account. Employer and employee premiums paid under the provisions of the bill must be deposited into this account. The account is administered by the comptroller, in conjunction with the HCCCC, for insurance premium payments.

§ 4 — PENALTIES

The bill creates two types of penalties for employers who fail to pay or pay on time.

For all employers who do not pay by the date due, interest will be added to such payment at the prevailing rate of interest, as determined by the comptroller. The employer must pay the interest.

If a municipal employer fails to make premium payments, the comptroller can direct the state treasurer, or any other officer of the state that is the custodian of state grant money, allocation, or appropriation due to the municipality to withhold the payment under the authority of the bill. The money or aid is withheld until (1) the premium or interest due and unpaid has been paid or (2) the treasurer or other state officers determine that arrangements, satisfactory to the treasurer, have been made for the payment of such premium and interest. The bill provides an exception that such money must not be withheld if withholding impedes the receipt of any federal grant or aid in connection with that money.

It does not appear that this provision applies to other nonstate public employees such as school boards or public libraries.

If a municipal-related employer, small employer or nonprofit employer fails to make premium payments, the comptroller can terminate employee participation in the state plan and request the attorney general to recover any premium and interest costs.

§ 5 — STATE EMPLOYEES' BARGAINING AGENT COALITION (SEBAC) CONSENT

The bill prohibits health coverage to any new employee groups under the bill until SEBAC provides its consent to the clerks of both houses of the General Assembly. SEBAC is the union coalition that provides coalition bargaining for unionized state employees for health insurance and retirement benefit issues. (Individual unions negotiate individually for pay increases and other conditions-of-work matters.)

§ 6 — REPORT TO THE GENERAL ASSEMBLY

The bill also requires the comptroller to submit a report to the General Assembly with recommendations for terms and conditions on how the state employee health plan can be further expanded to include

individuals not authorized under the bill. The report is due to the legislature by January 1, 2010.

§ 7 — ADVISORY COMMITTEES

The bill establishes a Nonstate Public Health Care Advisory Committee (NPHCAC) and a Private Sector Health Care Advisory Committee (PSHCAC), each of which must make recommendations concerning municipal and private sector coverage, respectively, to the HCCCC created through SEBAC.

NPHCAC

The NPHCAC consists of participating municipal employers and employees and include the following members appointed by a method to be determined by the comptroller:

1. three municipal employer representatives;
2. three municipal employee representatives;
3. three board of education employers;
4. three board of education employee representatives; and
5. one neutral chairperson, who must be a member of the National Academy of Arbitrators or an arbitrator authorized by the American Arbitration Association or the Federal Mediation and Conciliation Service to serve as a neutral arbitrator in labor relations cases.

For each of the employer and employee categories (1-4 above), one representative must be from a town with a population of 100,000 or more, one from a town with a population of least 20,000 but under 100,000, and one from a town with a population under 20,000.

PSHCAC

PSHCAC consists of the following members appointed by a method to be determined by the comptroller:

1. five private sector employer representatives;
2. five private sector employee representatives; and
3. one neutral chairperson, who shall be a member of the National Academy of Arbitrators or an arbitrator authorized by the American Arbitration Association or the Federal Mediation and Conciliation Service to serve as a neutral arbitrator in labor relations cases.

JOINT MUNICIPAL HEALTH INSURANCE PURCHASES

The bill permits two or more municipalities to join together as a single entity, by written agreement, to obtain health insurance for their employees. It requires the group to be fully insured and meet existing health insurance requirements.

The agreement must establish membership for the group, the duration of the health coverage, requirements regarding premium payments for health coverage, and the procedures for a municipality to withdraw from such a group and terminate coverage.

BACKGROUND

Employee Retirement Income Security Act of 1974 (ERISA)

ERISA is a federal law that sets standards of protection for individuals in most voluntarily established, private sector retirement plans. ERISA requires plans to provide participants with plan information, including important facts about plan features and funding; sets minimum standards for participation, vesting, benefit accrual, and funding; provides fiduciary responsibilities for those who manage and control plan assets; and, if a defined benefit plan is terminated, guarantees payment of certain benefits through a federally chartered Pension Benefit Guaranty Corporation.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 7 Nay 1 (03/13/2008)

Appropriations Committee

Joint Favorable Substitute

Yea 39 Nay 14 (03/28/2008)

Insurance and Real Estate Committee

Joint Favorable

Yea 11 Nay 6 (04/16/2008)

Planning and Development Committee

Joint Favorable

Yea 11 Nay 5 (04/18/2008)