

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2017**

H

2

**HOUSE BILL 299\***  
**Senate Health Care Committee Substitute Adopted 5/18/17**

Short Title: State Health Plan Administrative Changes.-AB

(Public)

Sponsors:

Referred to:

March 13, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CLARIFYING AND ADMINISTRATIVE CHANGES TO THE LAWS  
3 RELATING TO THE NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS  
4 AND STATE EMPLOYEES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 135-48.44(a) reads as rewritten:

7 "**§ 135-48.44. Cessation of coverage.**

8 (a) Coverage under this Plan of an employee and his or her surviving spouse or eligible  
9 dependent children or of a retired employee and his or her surviving spouse or eligible  
10 dependent children shall cease on the earliest of the following dates:

11 ...

12 (6) The last day of the month in which a covered individual is found to have  
13 knowingly and willfully made or caused to be made a false statement or  
14 false representation of a material fact regarding eligibility or enrollment  
15 information or in a claim for reimbursement of medical services under the  
16 Plan. The State Treasurer may make an exception to the provisions of this  
17 subdivision when persons subject to this subdivision have had a cessation of  
18 coverage for a period of five years and have made a full and complete  
19 restitution to the Plan for all fraudulent claim amounts. Nothing in this  
20 subdivision shall be construed to obligate the State Treasurer to make an  
21 exception as allowed for under this subdivision.

22 ...."

23 **SECTION 2.** G.S. 135-48.40(c)(2) reads as rewritten:

24 "(2) Employees and members of the General Assembly with 10 but less than 20  
25 years of retirement service credit provided the employees were first hired on  
26 or after October 1, 2006, and the members first took office on or after  
27 February 1, 2007. For such future retirees, the State shall pay fifty percent  
28 (50%) of the Plan's total employer premiums. Individual retirees shall pay  
29 the balance of the total premiums not paid by the ~~State.~~State, unless  
30 prohibited by law. The total premium is the sum of the Plan's total employer  
31 premium contribution rate plus the employee or retiree's contribution for  
32 individual and dependent coverage."

33 **SECTION 3.(a)** G.S. 135-48.42(a) reads as rewritten:

34 "(a) Except as otherwise required by applicable federal law, new employees must be  
35 given the opportunity to enroll or decline enrollment for themselves and their dependents  
36 within 30 days from the date of employment or from first becoming eligible on a partially



1 contributory or other contributory basis. Coverage may become effective on the first day of the  
 2 month following date of entry on payroll or on the first day of the following month. New  
 3 employees age 19 and older not enrolling themselves and their dependents age 19 and older  
 4 within 30 days, or not adding dependents when first eligible as provided herein may enroll  
 5 during annual enrollment, but may be subject to a 12-month waiting period for preexisting  
 6 health conditions, except for employees who elect to change their coverage in accordance with  
 7 rules established by the State Treasurer for optional or alternative plans available under the  
 8 Plan. Children born to covered employees ~~having coverage type (2) or (3), as outlined in G.S.~~  
 9 ~~135-48.43(d)~~ shall be ~~automatically covered at the time of birth without any waiting period for~~  
 10 ~~preexisting health conditions. Children born to covered employees having coverage type (1)~~  
 11 ~~shall be automatically covered at birth without any waiting period for preexisting health~~  
 12 ~~conditions~~ so long as the ~~claims processor~~ Plan receives notification within 30 days of the date  
 13 of ~~birth that the employee desires to change from coverage (1) to coverage type (2) or (3),~~  
 14 ~~provided that birth and~~ the employee pays any additional premium required by the coverage  
 15 type selected retroactive to the first day of the month in which the child was born."

16 **SECTION 3.(b)** This section becomes effective October 1, 2017, and applies to  
 17 children born to covered employees on or after that date.

18 **SECTION 4.** G.S. 135-48.5(a) reads as rewritten:

19 "(a) There are hereby established two health benefit trust funds, to be known as the  
 20 Public Employee Health Benefit Fund and the Health Benefit Reserve Fund for the payment of  
 21 hospital and medical benefits. As used in this section, the term "health benefit trust funds"  
 22 refers to the fund type described under G.S. 143C-1-3(a)(10).

23 All premiums, fees, charges, rebates, refunds or any other receipts including, but not limited  
 24 to, earnings on investments, occurring or arising in connection with health benefits programs  
 25 established by this Article, shall be deposited into the Public Employee Health Benefit Fund.  
 26 Disbursements from the Fund shall include any and all amounts required to pay the benefits  
 27 and administrative costs of such programs as may be determined by the Executive  
 28 Administrator and Board of Trustees.

29 Any unencumbered balance in excess of prepaid premiums or charges in the Public  
 30 Employee Health Benefit Fund at the end of each fiscal year shall be used ~~first, in the following~~  
 31 order:

- 32 (1) First, to provide an actuarially determined Health Benefit Reserve Fund for  
 33 incurred but unrepresented ~~claims, second, claims.~~
- 34 (2) Second, up to fifty percent (50%) of any unencumbered balance remaining  
 35 after providing for incurred but unrepresented claims may be set aside by the  
 36 State Treasurer, subject to approval by the Board of Trustees, to reduce the  
 37 State's unfunded actuarial accrued liability for post-employment retiree  
 38 health benefits.
- 39 (3) Third, to reduce the premiums required in providing the benefits of the  
 40 health benefits ~~programs, and third programs.~~
- 41 (4) Fourth, to improve the plan, as may be provided by the ~~General~~  
 42 Assembly. State Treasurer, subject to approval by the Board of Trustees.

43 The balance in the Health Benefits Reserve Fund may be transferred from time to time to  
 44 the Public Employee Health Benefit Fund to provide for any deficiency occurring therein. The  
 45 Public Employee Health Benefit Fund and the Health Benefit Reserve Fund shall be deposited  
 46 with the State Treasurer and invested as provided in G.S. 147-69.2 and 147-69.3."

47 **SECTION 5.** G.S. 135-48.22 is amended by adding a new subdivision to read:

48 "(7) Approve set-asides to reduce the State's unfunded actuarial accrued liability  
 49 for post-employment retiree health benefits as provided in G.S. 135-48.5(a)  
 50 and G.S. 135-48.30(a)(18)."

51 **SECTION 6.** G.S. 135-48.30(a) is amended by adding a new subdivision to read:

1           "(18) Set aside funds from the Public Employee Health Benefit Fund to reduce the  
2           State unfunded actuarial accrued liability for post-employment retiree health  
3           benefits as provided in G.S. 135-48.5(a), subject to approval by the Board of  
4           Trustees."

5           **SECTION 7.** G.S. 135-48.20 is amended by adding a new subsection to read:

6           "(n) Immunity. – Except to the extent provided under Article 31A of Chapter 143 of the  
7           General Statutes and to the extent of insurance coverage purchased pursuant to G.S. 58-32-15,  
8           a person serving on the Board of Trustees shall be immune individually from civil liability for  
9           monetary damages for any act, or failure to act, arising out of that service, except where any of  
10           the following apply:

11           (1) The person was not acting within the scope of that person's official duties.

12           (2) The person was not acting in good faith.

13           (3) The person committed gross negligence or willful or wanton misconduct that  
14           resulted in damages or injury.

15           (4) The person derived an improper personal financial benefit, either directly or  
16           indirectly, from the transaction.

17           (5) The person incurred the liability from the operation of a motor vehicle."

18           **SECTION 8.** G.S. 135-48.1 reads as rewritten:

19           "**§ 135-48.1. General definitions.**

20           As used in this Article unless the context clearly requires otherwise, the following  
21           definitions apply:

22           (1) Authorized representatives who are assisting the State Health Plan Division  
23           staff. – Staff of the Department of the State Treasurer, staff of the  
24           Department of Justice, or persons providing internal auditing assistance  
25           required under G.S. 143-746(b).

26           (1a) Benefit period. – The period of time during which charges for covered  
27           services provided to a Plan member must be incurred in order to be eligible  
28           for payment by the Plan.

29           ....."

30           **SECTION 9.** Part 1 of Article 3B of Chapter 135 of the General Statutes is  
31           amended by adding a new section to read:

32           "**§ 135-48.16. Fraud detection and audit programs.**

33           (a) Access to Persons and Records. – In the course of conducting an investigation or an  
34           audit under G.S. 135-48.30(a)(9), the Plan, or authorized representatives who are assisting the  
35           State Health Plan Division staff, shall have ready access to the following:

36           (1) Persons, books, records, reports, vouchers, correspondence, files, personnel  
37           files, investments, and any other documentation of any employing unit. The  
38           Plan shall have the authority to both examine and make copies of the  
39           information described in this subdivision. The review of State tax returns  
40           shall be limited to matters of official business, and the Plan's report shall not  
41           violate the confidentiality provisions of the tax laws.

42           (2) Persons, records, papers, reports, vouchers, correspondence, books, and any  
43           other documentation that is in the possession of any individual, private  
44           corporation, institution, association, board, or other organization that pertain  
45           to any benefits received, disbursed, or otherwise handled pursuant to a grant  
46           or contract from the federal government, the State, or its political  
47           subdivisions. Providers of social and medical services to a beneficiary shall  
48           make copies of records they maintain for services provided to the  
49           beneficiary.

50           (b) Records of Providers of Social and Medical Services. – Providers of social and  
51           medical services who provide ready access to the Plan under subdivision (2) of subsection (a)

1 of this section shall make copies of records they maintain for services provided to a beneficiary  
2 available to the Plan or to the authorized representatives who are assisting the State Health Plan  
3 Division staff. The Plan, or authorized representatives who are assisting the State Health Plan  
4 Division staff, shall request records in writing by providing the name of each beneficiary from  
5 whom records are sought, the purpose of the request, the authority for the request, and a  
6 reasonable period of time for the production of record copies by the provider. A provider may  
7 charge and the Plan, or authorized representatives who are assisting the State Health Plan  
8 Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee to the provider for  
9 copies of the records provided.

10 (c) Fraud Detection and Audit Reports and Work Papers. – The Plan shall maintain for  
11 10 years a complete file of all compliance investigative reports, fraud investigative reports, and  
12 reports of other examinations, investigations, surveys, and reviews issued under the Plan's  
13 authority under G.S. 135-48.30(a)(9). Fraud or compliance investigation work papers and other  
14 evidence or related supportive material directly pertaining to the work of the State Health Plan  
15 Division of the Department of State Treasurer shall be retained according to an agreement  
16 between the Plan and State Archives. To promote intergovernmental cooperation and avoid  
17 unnecessary duplication of fraud investigative effort, and notwithstanding local unit personnel  
18 policies to the contrary, pertinent work papers and other supportive material relating to issued  
19 fraud or compliance investigation reports may be, at the discretion of the Executive  
20 Administrator of the Plan, and unless otherwise prohibited by law, made available for  
21 inspection by duly authorized representatives of the State and federal government who desire  
22 access to, and inspection of, such records in connection with some matter officially before  
23 them, including criminal investigations. Except as provided in this section, or upon an order  
24 issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is  
25 necessary to a proper administration of justice, fraud investigation work papers and related  
26 supportive material shall be kept confidential, including any information developed as a part of  
27 the investigation."

28 **SECTION 10.(a)** G.S. 105-259(b) is amended by adding a new subdivision to  
29 read:

30 "(39a) To furnish to the Department of State Treasurer periodically upon request  
31 the State tax return of a beneficiary, or the wage and income statement of a  
32 beneficiary, or the NC-3 information of an employer for the purpose of  
33 assisting a fraud or compliance investigation or audit under  
34 G.S. 135-48.30(a)(9), or in accordance with G.S. 135-48.16; provided,  
35 however, that no federal tax information may be disclosed under this subpart  
36 unless such a disclosure is permitted by section 6103 of the Code."

37 **SECTION 10.(b)** The Department of Revenue and the Department of the State  
38 Treasurer shall, within a reasonable time following the effective date of this act but not later  
39 than June 30, 2018, enter into a confidential information sharing agreement settling data  
40 transfer protocols, required security measures, audit mechanisms, and the like, so that the two  
41 departments can thereafter develop and implement the information exchange authorized by this  
42 act.

43 **SECTION 11.** G.S. 135-48.41 is amended by adding a new subsection to read:

44 "(k) If a retiree is a prisoner serving an active sentence in the State prison system and  
45 covered under G.S. 148-19, then the incarcerated retiree shall not, during the time of  
46 incarceration, be eligible for retiree coverage under G.S. 135-48.40(a)(1), 135-48.40(b)(3),  
47 135-48.40(c)(2), or 135-48.40(d)(11)."

48 **SECTION 12.** This act is effective when it becomes law.