



# New Jersey School Boards Association

## **ANALYSIS OF NEW HEALTH BENEFIT PREMIUM SHARING REQUIREMENTS**

On June 28, Governor Chris Christie signed the landmark pension and health benefits reform legislation into law on June 28, 2011. It made numerous, significant changes to New Jersey's public sector pensions and benefits.

The pension changes include the elimination of cost of living adjustments for current and future retirees and an increased employee contribution rate. In school districts, teachers and other certified staff, who make up the bulk of employees, belong to the Teachers' Pension and Annuity Fund (TPAF), for which the state pays the employers' annual contribution. For local school boards, therefore, the greatest financial impact of the legislation will result from its health benefits provisions, which increase contributions to insurance premiums for most employees.

**Health Insurance Changes Most Significant for Boards** Health insurance is a significant cost driver in local school districts and has historically been a critical part of the collective negotiations process. The law requires that employees pay a percentage of their health care premiums in a tiered system based on salaries and the level of coverage that employees choose.

**Does the Law Apply to Districts That Are Not in the School Employees Health Benefits Plan?** Yes, the increased contribution rates apply to all school employees—those in districts served by the state-operated School Employees Health Benefits Program (about half of all districts), those that use private insurance carriers, and those that are self-insured.

**When Do the New Contribution Rates Start?** The new contribution rates become effective immediately for some public employees and become effective upon the expiration of collective negotiation agreements for others.

- For non-unionized staff, the general rule is that the new premium sharing is effective immediately
- For employees with individual employment contracts, the new contributions became effective immediately, “unless local legal counsel determines that, under the facts and circumstances...., applying [the law] would result in an impermissible contract impairment.” See *Page 2 Local Finance Notice 2011-34 (November 23, 2011)*, available at <http://www.nj.gov/dca/lgs/>.

- For union employees, the contributions are effective immediately for bargaining units which were working under an expired agreement on June 28, 2011
- Unionized employees are shielded from the new contributions until the collective negotiation agreement in force on June 28, 2011 expires
- If, for example, the collective negotiations agreement expires on June 30, 2012, the new contributions will commence on July 1, 2012
- If the collective negotiations agreement expired on June 30, 2011, the new contributions became effective on July 1, 2011. According to *Local Finance Notice 2011-34*, this is true even if the successor collective negotiations agreement was already approved and ready for a July 1, 2011 implementation

The law allows for an administrative delay while the district's payroll system is modified to account for the new contributions. The implementation date is as soon as administratively feasible as determined by each employer. Once the contributions are implemented, boards may not retroactively recover uncollected contributions.

**Reopeners or Extension of Existing Contracts** Any extension or alteration of a collective negotiations agreement in force on June 28, 2011 shall be considered a new contract entered into after June 28, 2011 and will not further shield employees from the contributions required under the law. *Local Finance Notice 2011-34* indicates that questions involving whether particular circumstances constitute an extension or alteration should be addressed by the legal counsel based on the particular circumstances and contract language.

**New Hires** Employees hired after June 28, 2011 and after the CNA in effect on that date expires, must contribute at the full percentage immediately. There is no phase-in for such employees. Once the CNA that was in effect on June 28, 2011 expires, new hires must contribute at the full percentage (Year 4) called for in the law. In contrast, according to DCA, new employees hired into a bargaining unit which is operating under an unexpired collective negotiations agreement (CNA) that was in force on June 28, 2011, are treated like their fellow bargaining unit members and once the CNA expires, their contributions will be phased in over four years. (Note that employees hired the day after the CNA expires (July 1 for most school districts) are treated as if they were hired under the expired contract, and will contribute at the phased-in percentage rather than the full percentage.)

The following table is taken from *Local Finance Notice 2011-20R (November 23, 2011)*. The full Notice is available at <http://www.nj.gov/dca/lgs/>.

### Employee Contribution and CNA Status Principles Table

Status of contract/employee	CNA expires after 6/28/11	CNA expired prior to 6/28/11
<b>Existing employee as 6/28/11</b>	While the CNA is in effect the employee makes health benefits contributions pursuant to current contract provisions until it expires; then implement c.78 phase-in.	Employee makes health benefits contributions at the c. 78 Year 1 phase-in upon implementation regardless of: when new contract commences, what a negotiated contract provided, or contract negotiation status.
<b>New employee hired after 6/28/11</b>	While the CNA is in effect the employee makes health benefits contributions pursuant to current contract provisions until it expires; then implement c.78  <b>For employees hired after the CNA expires:</b> the employee makes health benefits contributions at the 4 phase-in rate (full contribution) upon starting employment; <i>except that, if an employee is hired the day after a CNA expires, the employee contributes at the Year 1 phase-in rate (this employee is considered an existing employee on the day the c. 78 health care contribution commences)</i>	Employee makes health benefits at the c.78 Year 4 phase-in rate (full contribution) upon starting employment.

\*c.78 refers to the June 28, 2011 health care reforms.

**Cost of Coverage** The new contributions require that school employees pay a percentage of health insurance premiums. How the cost of providing health insurance is calculated depends on how the insurance is provided.

- For districts that participate in the School Employees Health Benefits Program (SEHBP), the cost of coverage is defined as the premium for medical and prescription drug plan coverage, but excluding dental, vision, or other health care provided.
- For districts that are not participants in the SEHBP, the cost of coverage is defined as the premium or periodic charges for health care, prescription drug, dental, and vision benefits, and for any health care benefit. Insurance such as long term care and disability policies are not to be included.
- Guidance for self-insured districts can be found in *Local Finance Notice 2011-20R* (November 23, 2011) available at <http://www.nj.gov/dca/lgs/>.

**Premium Sharing Requirements** Once fully phased-in, the employee contribution will be calculated as follows:

<b>Individual Coverage</b>		<b>Mbr &amp; Child or Spouse</b>		<b>Family Coverage</b>	
<i>Base Salary</i>	<i>Percent of Premium</i>	<i>Base Salary</i>	<i>Percent of Premium</i>	<i>Base Salary</i>	<i>Percent of Premium</i>
< \$20,000	4.5%	< \$25,000	3.5%	< \$25,000	3%
\$20,000 - \$24,999	5.5%	\$25,000 - \$29,999	4.5%	\$25,000 - \$29,999	4%
\$25,000 - \$29,999	7.5%	\$30,000 - \$34,999	6%	\$30,000 - \$34,999	5%
\$30,000 - \$34,999	10%	\$35,000 - \$39,999	7%	\$35,000 - \$39,999	6%
\$35,000 - \$39,999	11%	\$40,000 - \$44,999	8%	\$40,000 - \$44,999	7%
\$40,000 - \$44,999	12%	\$45,000 - \$49,999	10%	\$45,000 - \$49,999	9%
\$45,000 - \$49,999	14%	\$50,000 - \$54,999	15%	\$50,000 - \$54,999	12%
\$50,000 - \$54,999	20%	\$55,000 - \$59,999	17%	\$55,000 - \$59,999	14%
\$55,000 - \$59,999	23%	\$60,000 - \$64,999	21%	\$60,000 - \$64,999	17%
\$60,000 - \$64,999	27%	\$65,000 - \$69,999	23%	\$65,000 - \$69,999	19%
\$65,000 - \$69,999	29%	\$70,000 - \$74,999	26%	\$70,000 - \$74,999	22%
\$70,000 - \$74,999	32%	\$75,000 - \$79,999	27%	\$75,000 - \$79,999	23%
\$75,000 - \$79,999	33%	\$80,000 - \$84,999	28%	\$80,000 - \$84,999	24%
\$80,000 - \$94,999	34%	\$85,000 - \$99,999	30%	\$85,000 - \$89,999	26%
> \$95,000	35%	> \$100,000	35%	\$90,000 - \$94,999	28%
				\$95,000 - \$99,999	29%
				\$100,000 - \$109,999	32%
				> \$110,000	35%

**Phase-in** For those employees who are employed on the date that the new contribution commences (see also, section above on “new hires”) the new contributions are phased-in.

- In the first year the employee will pay 25 percent of the cost of coverage called for in the chart
- In the second year, that employee will pay half of the contribution specified in the chart
- In the third year the employee will pay 75 percent of the specified contribution
- In the fourth year, the employee will pay the entire contribution called for in the chart

**1.5% Floor Contribution** Regardless of contribution called for under the law’s phase-in provision, under no circumstances, shall such an employee pay less than 1.5 percent of

their base salary for public employer provided health insurance. The 1.5 percent, however, is not in addition to the new contributions.

**Example of Phase-in of New Contribution** For a teacher earning \$80,000 per year and taking full family coverage the fully phased-in contribution required for family coverage is 24 percent. If the district is providing coverage through the School Employees Health Benefits Plan, then the full family coverage premium under NJDIRECT 10 (including prescription) is \$17,994. Once the collective negotiated agreement in force on June 28, 2011 expires the employee contribution would be calculated as follows:

- *Year 1* In the first year the employee would pay 6% of the premium or \$1,079.64 ( $\$17,994 \times 0.06$ ). However, remember that the employee must, at a minimum, pay 1.5% of the employee's base salary in order to receive employer provided health insurance. 1.5% of this employee's \$80,000 base salary is \$1,200. Thus, in the first year the employee will continue to pay 1.5% of base salary or \$1,200 per year
- *Year 2* this employee would pay 12% of the premium or \$2,159.28 ( $\$17,994 \times 0.12$ )
- *Year 3* this employee would pay 18% of the premium or \$3,238.92 ( $\$17,994 \times 0.18$ )
- *Year 4* this employee would pay 24% of the premium or \$4,318.56 ( $\$17,994 \times 0.24$ )

### **How are Preexisting Contractual Health Benefits Cost Sharing Provisions**

**Treated?** Such employee contributions remain in effect until a subsequent contract amends or removes it. According to DCA, once the new legal contributions are triggered, the employee contribution is the higher of the premium contribution required under the new law, 1.5% of base salary or the contribution required under the applicable collective negotiations agreement.

**Exceptions Approved by Department of Education** The New Jersey Department of Education (NJDOE) may approve a waiver for a board of education so that it can implement a collective negotiations agreement that provides for employee contributions that are different than those required under the law. To apply for the waiver, the board must certify in writing that that the aggregate savings during the term of the contract from plan changes and contributions are equal to or exceed the savings that would result from the employees making the contributions required by the law. And, the board must certify that the cost of the employer's plan is equal to or less than the cost of enrolling employees in the newly designed SEHBP.

The NJDOE will release guidelines for submitting alternate proposals. Once operative, the Department has 30 days to approve or reject the certification of savings. The certification is deemed approved if it is not rejected. No such collective negotiated agreement may be executed until it has been approved by NJDOE or the 30-day period has lapsed, whichever occurs first.

**Sunset Provision** The health care premium sharing component of the law expires on June 28, 2015. However, districts and their employees are bound by the contribution levels required in the law until the contributions are fully phased-in (four years after the new contributions commence) for a full year. For example, if the applicable contract expires on June 30, 2012, the phase in starts on July 1, 2012, Year 4 of the phase –in starts on July 1, 2015, and the premium sharing component of the law expires on June 30, 2016. The fully phased-in premium sharing rates are the basis for future negotiations.

**Section 125 Plans** The law mandates that boards of education establish certain Section 125 Plans (*IRS Code, 26 U.S.C. § 125*). It requires a “Premium Only Plan” so that direct health benefits contributions can be made with pretax dollars and a Flexible Spending Account that allows employee to set aside, pretax, a portion of earnings to pay qualified medical expenses. The law also specifically allows (but does not require) the establishment of Dependent Care Flexible Spending Accounts which allow employees to pay dependent care expenses with pretax dollars.

**Additional Resources** The Division of Pensions and Benefits has additional guidance at <http://www.nj.gov/treasury/pensions/>. Additional guidance for employers — including those who are **not** in the SHBP/SEHBP — is available from the Department of Community Affairs, Division of Local Government Services at <http://www.nj.gov/dca/lgs/>.

**Stay Tuned for Unfolding Developments** This benefit reform package will have significant fiscal implications for school boards in their budget preparation process and negotiations with their employee unions. School board members, administrators and their representatives are urged to check *School Board Notes* and the NJSBA website for the ongoing labor relations and implementation developments.

*This does not constitute legal advice, nor is it a substitute for consulting your board counsel.*