

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 578\*  
Committee Substitute Favorable 4/28/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H578-PCS50340-ME-16

Short Title: State Health Plan/Additional Changes.

(Public)

Sponsors:

Referred to:

April 4, 2011

A BILL TO BE ENTITLED

1 AN ACT (1) TO ALLOW THE STATE HEALTH PLAN FOR TEACHERS AND STATE  
2 EMPLOYEES TO PROVIDE THE BASIC PLAN PREMIUM-FREE USING  
3 AVAILABLE CASH BALANCE RESERVES, (2) TO DELAY IMPLEMENTATION OF  
4 CERTAIN CHANGES TO THE STATE HEALTH PLAN UNTIL SEPTEMBER 2011, (3)  
5 TO COMPLY WITH THE FEDERAL AFFORDABLE CARE ACT, (4) TO CLARIFY  
6 THE STATE HEALTH PLAN'S SUBROGATION RIGHTS, (5) TO GRANT THE  
7 STATE TREASURER IMMEDIATE ACCESS TO CONFIDENTIAL STATE HEALTH  
8 PLAN DOCUMENTS TO PLAN FOR THE TRANSFER, AND (6) TO CLARIFY THE  
9 BOARD COMPOSITION AND STAGGER INITIAL APPOINTMENTS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.(a)** Notwithstanding Section 1.2(a) of Senate Bill 323 of the 2011  
12 Regular Session, if the State Health Plan for Teachers and State Employees has sufficient  
13 available cash balance reserves to do so, the State Health Plan may offer the Basic Plan  
14 premium-free to employees during fiscal year 2011-2012.

15 **SECTION 1.(b)** Notwithstanding Section 1.2(a) of Senate Bill 323 of the 2011  
16 Regular Session, the State Health Plan for Teachers and State Employees is directed to find  
17 savings through wellness programs, Medicare Advantage plans, alternative plan designs, or  
18 other resources and, if those found savings and any available cash balance reserves allow the  
19 State Health Plan to do so, the State Health Plan may offer a premium-free plan option to  
20 employees during fiscal year 2012-2013.

21 **SECTION 2.** Delayed implementation of certain changes. – (a) Section 1.11 of  
22 Senate Bill 323 of the 2011 Regular Session reads as rewritten:

23 "**SECTION 1.11.** Except as otherwise provided, Part I of this act becomes effective ~~July 1,~~  
24 ~~2011.~~ September 1, 2011. Sections 1.1, 1.7, 1.8, and 1.10(c) become effective July 1, 2011."

25 **SECTION 2.(b)** Section 1.4 of Senate Bill 323 is repealed.

26 **SECTION 2.(c)** Effective September 1, 2011, G.S. 135-45(g) reads as rewritten:

27 "(g) The Executive Administrator and Board of Trustees shall not change the Plan's  
28 comprehensive health benefit coverage, co-payments, deductibles, out-of-pocket expenditures,  
29 and lifetime maximums in effect on ~~July 1, 2009,~~ September 1, 2011, that would result in a net  
30 increased cost to the Plan or in a reduction in benefits to Plan members unless and until the  
31 proposed changes are directed to be made in an act of the General Assembly."  
32



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1           **SECTION 2.(d)** When revising the General Statutes as directed by Senate Bill 323  
2 of the 2011 Regular Session, the Revisor of Statutes shall make the following changes to what  
3 appears in Senate Bill 323:

- 4           (1) In Section 1.7(c), notwithstanding Section 1.11, as amended by this act, the  
5 deletion of the word "noncontributory" and replacement with the words  
6 "partially contributory" in G.S. 135-45.3(a) shall be made effective  
7 September 1, 2011, rather than July 1, 2011. The remainder of the changes  
8 in Section 1.7(c) shall remain effective July 1, 2011, as provided in Section  
9 1.11 of Senate Bill 323 of the 2011 Regular Session, as amended by Section  
10 2(a) of this act.
- 11           (2) In Section 2.10, within the changes to G.S. 135-48.43 the designation of a  
12 second subsection "(d)" shall instead be "(e)" and the following subsection's  
13 designation as "(e)" shall instead be "(f)".
- 14           (3) In Section 2.10, the reservation of "§ 135.48.36" shall instead be a  
15 reservation of "§ 135-48.36".

16           **SECTION 2.(e)** Credits toward deductibles and coinsurance maximums that Plan  
17 members earn for services incurred during the months of July and August of 2011 shall be  
18 carried forward and applied toward meeting the new deductibles and coinsurance maximums  
19 for the period beginning September 1, 2011. If a Plan member fully meets his or her deductible  
20 or coinsurance maximum during the months of July and August of 2011, then that Plan member  
21 shall receive credit for the amount of the deductible or coinsurance maximum that the Plan  
22 member met during that time, but shall then be subject to meeting any additional amounts  
23 required by the new deductible and coinsurance maximums effective September 1, 2011.

24           **SECTION 3.** Affordable Care Act compliance. – (a) G.S. 135-45.1(10), as  
25 amended by Section 1.7(a) of Senate Bill 323 of the 2011 Regular Session, reads as rewritten:

26           "(10) Dependent child. – Subject to the eligibility requirements of  
27 G.S. 135-45.2(d), any of the ~~following~~: following up to the first month  
28 following the dependent child's 26th birthday:

- 29           a. A natural or legally adopted child or children of the ~~employee up to~~  
30 ~~the first of the month following the child's 26th birthday~~, employee,  
31 whether or not the child is living with the employee.
- 32           b. A foster child or children of the ~~employee up to the first month~~  
33 ~~following the child's 19th birthday~~, employee, whether or not the  
34 child is living with the employee, as long as the employee is legally  
35 responsible for the child's maintenance and support.
- 36           c. A child for which an employee is a court-appointed guardian, as long  
37 as the employee is legally responsible for the child's maintenance and  
38 support.
- 39           d. A stepchild ~~who primarily resides with~~ of a member who is married  
40 to the stepchild's natural parent.
- 41           e. ~~Any child under age 19 who has reached his or her 18th birthday,~~  
42 ~~provided the employee was legally responsible for the child's~~  
43 ~~maintenance and support on his or her 18th birthday.~~

44           Dependent children of firefighters, rescue squad workers, and members of  
45 the National Guard are subject to the same terms and conditions as are other  
46 dependent children covered by this subdivision."

47           **SECTION 3.(b)** G.S. 135-45.2(d), as amended by Section 1.7(b) of Senate Bill 323  
48 of the 2011 Regular Session, reads as rewritten:

49           "(d) A foster child is covered as a dependent child (i) if living in a regular parent-child  
50 relationship with the expectation that the employee will continue to rear the child into  
51 adulthood, (ii) if at the time of enrollment, or at the time a foster child relationship is

1 established, whichever occurs first, the employee applies for coverage for such child and  
2 submits evidence of a bona fide foster child relationship, identifying the foster child by name  
3 and setting forth all relevant aspects of the relationship, (iii) if the claims processor accepts the  
4 foster child as a participant through a separate written document identifying the foster child by  
5 name and specifically recognizing the foster child relationship, and (iv) if at the time a claim is  
6 incurred, the foster child relationship, as identified by the employee, continues to exist.  
7 Children placed in a home by a welfare agency which obtains control of, and provides for  
8 maintenance of the child, are not eligible participants.

9 A dependent child shall not be eligible for coverage under the Plan if the dependent child is  
10 eligible for employer based health care outside of the State Health Plan for Teachers and State  
11 ~~Employees. Employees, other than a parent's plan.~~ Coverage of a dependent child may be  
12 extended beyond the 26th birthday if the dependent is physically or mentally incapacitated to  
13 the extent that he or she is incapable of earning a living and (i) such handicap developed or  
14 began to develop before the dependent's 19th birthday, or (ii) such handicap developed or  
15 began to develop before the dependent's 26th birthday if the dependent was covered by the Plan  
16 in accordance with G.S. 135-45.2(c)(7)."

17 **SECTION 3.(c)** G.S. 135-45.3, as amended by Section 1.7(c) of Senate Bill 323 of  
18 the 2011 Regular Session, as modified by Section 2(d)(1) of this act, reads as rewritten:

19 "**§ 135-45.3. Enrollment.**

20 (a) Except as otherwise required by applicable federal law, new employees must be  
21 given the opportunity to enroll or decline enrollment for themselves and their dependents  
22 within 30 days from the date of employment or from first becoming eligible on a  
23 noncontributory basis. Coverage may become effective on the first day of the month following  
24 date of entry on payroll or on the first day of the following month. New employees age 19 and  
25 older not enrolling themselves and their dependents age 19 and older within 30 days, or not  
26 adding dependents when first eligible as provided herein may enroll on the first day of any  
27 month but will be subject to a 12-month waiting period for preexisting health conditions,  
28 except for employees who elect to change their coverage in accordance with rules established  
29 by the Executive Administrator and Board of Trustees for optional or alternative plans  
30 available under the Plan. Children born to covered employees having coverage type (2) or (3),  
31 as outlined in G.S. 135-45.4(d) shall be automatically covered at the time of birth without any  
32 waiting period for preexisting health conditions. Children born to covered employees having  
33 coverage type (1) shall be automatically covered at birth without any waiting period for  
34 preexisting health conditions so long as the claims processor receives notification within 30  
35 days of the date of birth that the employee desires to change from coverage (1) to coverage type  
36 (2) or (3), provided that the employee pays any additional premium required by the coverage  
37 type selected retroactive to the first day of the month in which the child was born.

38 ...

39 (c) Eligible employees younger than age 19 and dependents younger than age 19 may  
40 be enrolled at any time and shall not be subject to any waiting period for a preexisting  
41 condition.

42 ...."

43 **SECTION 3.(d)** G.S. 135-45.4, as amended by Section 1.7(d) of Senate Bill 323 of  
44 the 2011 Regular Session, reads as rewritten:

45 "**§ 135-45.4. Effective dates of coverage.**

46 (a) Employees and Retired Employees. –

47 ...

48 (3) Employees age 19 and older not enrolling or adding dependents age 19 and  
49 older when first eligible in accordance with G.S. 135-45.3 may enroll later  
50 on the first of any following month but will be subject to a 12-month waiting  
51 period for a preexisting health condition, except employees who elect to

1 change their coverage in accordance with rules adopted by the Executive  
 2 Administrator and Board of Trustees for optional alternative plans offered  
 3 under the Plan.

4 ...

5 (b) Waiting Periods and Preexisting Conditions. –

6 ...

7 (2) Employees age 19 and older not enrolling or not adding dependents age 19  
 8 and older when first eligible may enroll later on the first of any following  
 9 month, but will be subject to a twelve-month waiting period for preexisting  
 10 conditions except as provided in subdivision (a)(3) of this section. The  
 11 waiting period under this subdivision is subject to applicable federal law.

12 ...

13 (5) To administer the 12-month waiting period for preexisting conditions for  
 14 employees age 19 and older and dependents age 19 and older under this  
 15 Article, the Plan must give credit against the 12-month period for the time a  
 16 person was covered under a previous plan if the previous plan's coverage  
 17 was continuous to a date not more than 63 days before the effective date of  
 18 coverage. As used in this subdivision, a "previous plan" means any policy,  
 19 certificate, contract, or any other arrangement provided by any accident and  
 20 health insurer, any hospital or medical service corporation, any health  
 21 maintenance organization, any preferred provider organization, any multiple  
 22 employer welfare arrangement, any self-insured health benefit arrangement,  
 23 any governmental health benefit or health care plan or program, or any other  
 24 health benefit arrangement. Waiting periods for preexisting conditions  
 25 administered under this Article are subject to applicable federal law.

26 ...."

27 **SECTION 3.(e)** This section becomes effective July 1, 2011.

28 **SECTION 4.** Subrogation by Plan. – G.S. 135-45.14(g) reads as rewritten:

29 "(g) Right of Recovery. – Whenever payments have been made by the Plan or its Claims  
 30 Processor with respect to covered services in a total amount which is, at any time, in excess of  
 31 the maximum amount of payment necessary at that time to satisfy the intent of this provision,  
 32 irrespective of to whom paid, the Plan or its Claims Processor shall have the right to recover  
 33 such payments, to the extent of such excess, from among one or more of the following, as the  
 34 Plan or its Claims Processor shall determine: any persons to or for or with respect to whom  
 35 such payments were made, any insurance companies, or any other organizations."

36 **SECTION 5.** Treasurer's access to records. – Notwithstanding G.S. 135-43, the  
 37 Department of the State Treasurer shall have immediate access to all records, including  
 38 confidential records, of the State Health Plan for Teachers and State Employees in order to plan  
 39 for the January 1, 2012, transfer of the State Health Plan to the Department of State Treasurer.  
 40 The Department of the State Treasurer shall assume the same level of responsibility for  
 41 maintaining the confidentiality of the records as the Executive Administrator and Board of  
 42 Trustees of the State Health Plan for Teachers and State Employees.

43 **SECTION 6.** Governance adjustments. – (a) Effective January 1, 2012,  
 44 G.S. 135-48.20, as enacted by and amended by Senate Bill 323 of the 2011 Regular Session,  
 45 reads as rewritten:

46 "**§ 135-48.20. Board of Trustees established.**

47 ...

48 (i) In making appointments, the appointing authorities shall ensure that one of the  
 49 appointees under subsection (e) of this section, one of the appointees under subsection (f) of  
 50 this section, and one of the appointees under subsection (g) of this section, and one of the  
 51 appointees under subsection (h) of this section are one of the following:

- 1 (1) An employee of a State department, agency, or institution;
- 2 (2) A teacher employed by a North Carolina public school system;
- 3 (3) A retired employee of a State department, agency, or institution; or
- 4 (4) A retired teacher from a North Carolina public school system.

5 ~~Each~~ In making appointments to the Board under this section, each appointing authority  
6 shall consult with all other appointing authorities prior to making its own appointments to  
7 ensure that the ~~Board's composition reflects a diversity of employees, teachers, retired~~  
8 ~~employees, and retired teachers.~~ Board includes members of each of the groups listed in  
9 subdivisions (1) through (4) of this subsection.

10 (j) In making appointments, ~~except for the appointees under subsection (i) of this~~  
11 ~~section,~~ the appointing authorities shall appoint individuals from the following areas of  
12 expertise:

- 13 (1) Actuarial science.
- 14 (2) Health economics.
- 15 (3) Health benefits and administration.
- 16 (4) Health law and policy.

17 In making appointments to the Board under this section, each appointing authority shall  
18 consult with all other appointing authorities prior to making its own appointments to ensure that  
19 each of the areas of expertise ~~required by~~ listed in subdivisions (1) through (4) of this  
20 subsection is represented by at least one member of the Board. ~~Each appointing authority shall~~  
21 ~~consider the expertise of the other members of the Board and make appointments so that the~~  
22 ~~Board's composition reflects a diversity of expertise.~~

23 ...."

24 **SECTION 6.(b)** Section 2.13(b) of Senate Bill 323 of the 2011 Regular Session is  
25 repealed.

26 **SECTION 6.(c)** Notwithstanding the two-year term limitation in  
27 G.S. 135-48.20(m), as enacted by Senate Bill 323 of the 2011 Regular Session, the terms of  
28 appointees under G.S. 135-48.20 shall be as follows and shall begin January 1, 2012:

- 29 (1) Two and one-half years. – Appointees under G.S. 135-48.20(i).
- 30 (2) Three and one-half years. – Appointees not under G.S. 135-48.20(i).

31 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes  
32 law. No section of this act, however, becomes effective unless Senate Bill 323 of the 2011  
33 Regular Session becomes law.