

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 299  
Senate Health Care Committee Substitute Adopted 5/18/17  
PROPOSED SENATE COMMITTEE SUBSTITUTE H299-PCS30420-SH-27

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



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

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

19 **SECTION 4.** G.S. 135-48.20 is amended by adding a new subsection to read:

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

- 25 (1) The person was not acting within the scope of that person's official duties.
- 26 (2) The person was not acting in good faith.
- 27 (3) The person committed gross negligence or willful or wanton misconduct that  
28 resulted in damages or injury.
- 29 (4) The person derived an improper personal financial benefit, either directly or  
30 indirectly, from the transaction.
- 31 (5) The person incurred the liability from the operation of a motor vehicle."

32 **SECTION 5.** G.S. 135-48.1 reads as rewritten:

33 **"§ 135-48.1. General definitions.**

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

- 36 (1) Authorized representatives who are assisting the State Health Plan Division  
37 staff. – Staff of the Department of the State Treasurer, staff of the  
38 Department of Justice, or persons providing internal auditing assistance  
39 required under G.S. 143-746(b).
- 40 (1a) Benefit period. – The period of time during which charges for covered  
41 services provided to a Plan member must be incurred in order to be eligible  
42 for payment by the Plan.

43 ...."

44 **SECTION 6.** Part 1 of Article 3B of Chapter 135 of the General Statutes is  
45 amended by adding a new section to read:

46 **"§ 135-48.16. Fraud detection and audit programs.**

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

- 50 (1) Persons, books, records, reports, vouchers, correspondence, files, personnel  
51 files, investments, and any other documentation of any employing unit. The

1 Plan shall have the authority to examine and make copies of the information  
2 described in this subdivision only insofar as it directly relates to a specific  
3 investigation or audit. The review of State tax returns shall be limited to  
4 matters of official business, and the Plan's report shall not violate the  
5 confidentiality provisions of the tax laws. A confidentiality agreement may  
6 be put in place with an agency providing documentation to the Plan.

7 (2) Persons, records, papers, reports, vouchers, correspondence, books, and any  
8 other documentation that is in the possession of any individual, private  
9 corporation, institution, association, board, or other organization that pertain  
10 to any benefits received, disbursed, or otherwise handled pursuant to a grant  
11 or contract from the federal government that is administered by the State  
12 Health Plan, the State, or its political subdivisions. Providers of social and  
13 medical services to a beneficiary shall make copies of records they maintain  
14 for services provided to the beneficiary.

15 Authorized representatives who are assisting the State Health Plan Division staff must have  
16 a HIPAA business associate agreement with the State Health Plan and enter into a HIPAA data  
17 sharing agreement with any vendor whose records they are copying.

18 (b) Records of Providers of Social and Medical Services. – Providers of social and  
19 medical services who provide ready access to the Plan under subdivision (2) of subsection (a)  
20 of this section shall make copies of records they maintain for services provided to a beneficiary  
21 available to the Plan or to the authorized representatives who are assisting the State Health Plan  
22 Division staff. The Plan, or authorized representatives who are assisting the State Health Plan  
23 Division staff, shall request records in writing by providing the name of each beneficiary from  
24 whom records are sought, the purpose of the request, the authority for the request, and a  
25 reasonable period of time for the production of record copies by the provider. A provider may  
26 charge and the Plan, or authorized representatives who are assisting the State Health Plan  
27 Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee to the provider for  
28 copies of the records provided.

29 (c) Fraud Detection and Audit Reports and Work Papers. – The Plan shall maintain for  
30 10 years a complete file of all compliance investigative reports, fraud investigative reports, and  
31 reports of other examinations, investigations, surveys, and reviews issued under the Plan's  
32 authority under G.S. 135-48.30(a)(9). Fraud or compliance investigation work papers and other  
33 evidence or related supportive material directly pertaining to the work of the State Health Plan  
34 Division of the Department of State Treasurer shall be retained according to an agreement  
35 between the Plan and State Archives. To promote intergovernmental cooperation and avoid  
36 unnecessary duplication of fraud investigative effort, and notwithstanding local unit personnel  
37 policies to the contrary, pertinent work papers and other supportive material relating to issued  
38 fraud or compliance investigation reports may be, at the discretion of the Executive  
39 Administrator of the Plan, and unless otherwise prohibited by law, made available for  
40 inspection by duly authorized representatives of the State and federal government who desire  
41 access to, and inspection of, such records in connection with some matter officially before  
42 them, including criminal investigations. Except as provided in this section, or upon an order  
43 issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is  
44 necessary to a proper administration of justice, fraud investigation work papers and related  
45 supportive material shall be kept confidential, including any information developed as a part of  
46 the investigation."

47 **SECTION 7.(a)** G.S. 105-259(b) is amended by adding a new subdivision to read:

48 "(39a) To furnish to the Department of State Treasurer periodically upon request  
49 the State tax return of a beneficiary, or the wage and income statement of a  
50 beneficiary, or the NC-3 information of an employer for the purpose of  
51 assisting a fraud or compliance investigation or audit under

1 G.S. 135-48.30(a)(9), or in accordance with G.S. 135-48.16; provided,  
2 however, that no federal tax information may be disclosed under this  
3 subdivision unless such a disclosure is permitted by section 6103 of the  
4 Code."

5 **SECTION 7.(b)** The Department of Revenue and the Department of the State  
6 Treasurer shall, within a reasonable time following the effective date of this act but not later  
7 than June 30, 2018, enter into a confidential information sharing agreement settling data  
8 transfer protocols, required security measures, audit mechanisms, and the like, so that the two  
9 departments can thereafter develop and implement the information exchange authorized by this  
10 act.

11 **SECTION 8.** G.S. 135-48.41 is amended by adding a new subsection to read:

12 "(k) If a retiree is a prisoner serving an active sentence in the State prison system and  
13 covered under G.S. 148-19, then the incarcerated retiree shall not, during the time of  
14 incarceration, be eligible for retiree coverage under G.S. 135-48.40(a)(1), 135-48.40(b)(3),  
15 135-48.40(c)(2), or 135-48.40(d)(11)."

16 **SECTION 9.(a)** G.S. 135-9 reads as rewritten:

17 **"§ 135-9. Exemption from garnishment, attachment, etc.**

18 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,  
19 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a  
20 person to a pension, or annuity, or a retirement allowance, to the return of contributions, the  
21 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued  
22 or accruing to any person under the provisions of this Chapter, and the moneys in the various  
23 funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any  
24 other process whatsoever, and shall be unassignable except as in this Chapter specifically  
25 otherwise provided. Application for System approval of a domestic relations order dividing a  
26 person's interest under the Retirement System shall be accompanied by an order consistent with  
27 the system-designed template order provided on the System's Web site. For orders entered on  
28 or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic  
29 relations order shall be limited to the lifetime of that former spouse and, upon the death of that  
30 former spouse, the former spouse's share shall revert to the member. Notwithstanding any  
31 provisions to the contrary, any overpayment of benefits or erroneous payments to a member in  
32 a State-administered retirement system or the former Disability Salary Continuation Plan or the  
33 Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan  
34 premiums or claims paid on behalf of, any member or beneficiary who is later determined to  
35 have been ineligible for those benefits, benefits or unentitled to those amounts, may be offset  
36 against any retirement allowance, return of contributions or any other right accruing under this  
37 Chapter to the same person, the person's estate, or designated beneficiary."

38 **SECTION 9.(b)** G.S. 128-31 reads as rewritten:

39 **"§ 128-31. Exemptions from execution.**

40 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,  
41 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a  
42 person to a pension, an annuity, or a retirement allowance, to the return of contributions, the  
43 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued  
44 or accruing to any person under the provisions of this Article, and the moneys in the various  
45 funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any  
46 other process whatsoever, and shall be unassignable except as in this Article specifically  
47 otherwise provided. Application for System approval of a domestic relations order dividing a  
48 person's interest under the Retirement System shall be accompanied by an order consistent with  
49 the system-designed template order provided on the System's Web site. For orders entered on  
50 or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic  
51 relations order shall be limited to the lifetime of that former spouse and, upon the death of that

1 former spouse, the former spouse's share shall revert to the member. Notwithstanding any  
2 provisions to the contrary, any overpayment of benefits or erroneous payments to a member in  
3 a State-administered retirement system, the Disability Salary Continuation Plan, or the  
4 Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan  
5 premiums or claims paid on behalf of, any member who is later determined to have been  
6 ineligible for those ~~benefits,~~ benefits or unentitled to those amounts, may be offset against any  
7 retirement allowance, return of contributions or any other right accruing under this Chapter to  
8 the same person, the person's estate, or designated beneficiary."

9 **SECTION 9.(c)** G.S. 120-4.29 reads as rewritten:

10 **"§ 120-4.29. Exemption from garnishment, attachment.**

11 Except for the applications of the provisions of G. S. 110-136, and in connection with a  
12 court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension,  
13 annuity, or retirement allowance, to the return of contributions, or to the receipt of the pension,  
14 annuity or retirement allowance itself, any optional benefit or any other right accrued or  
15 accruing to any person under the provisions of this Article, and the moneys in the various funds  
16 created by this Article, are exempt from levy and sale, garnishment, attachment, or any other  
17 process whatsoever, and shall be unassignable except as this Article specifically provides.  
18 ~~Notwithstanding any provisions to the contrary, any overpayment of benefits to a member in a~~  
19 ~~State-administered retirement system or Disability Salary Continuation Plan may be offset~~  
20 ~~against any retirement allowance, return of contributions or any other right accruing under this~~  
21 ~~Chapter to the same person, the person's estate, or designated beneficiary.~~ Notwithstanding any  
22 provisions to the contrary, any overpayment of benefits or erroneous payments to a member in  
23 a State-administered retirement system, the Disability Salary Continuation Plan, or the  
24 Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan  
25 premiums or claims paid on behalf of, any member who is later determined to have been  
26 ineligible for those benefits or unentitled to those amounts, may be offset against any  
27 retirement allowance, return of contributions, or any other right accruing under this Article to  
28 the same person, the person's estate, or designated beneficiary."

29 **SECTION 9.(d)** G.S. 127A-40 is amended by adding a new subsection to read:

30 "(j) Except for the applications of the provisions of G.S. 110-136, and in connection with a  
31 court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to  
32 attachment, garnishments, or judgments against the member or former member of the National  
33 Guard entitled to them, nor are any rights in the fund or the pensions or benefits assignable.  
34 Notwithstanding any provisions to the contrary, any overpayment of benefits or erroneous  
35 payment to a member in a State-administered retirement system, the Disability Salary  
36 Continuation Plan, or the Disability Income Plan of North Carolina, including any benefits paid  
37 to, or State Health Plan premiums or claims paid on behalf of, any member who is later  
38 determined to have been ineligible for those benefits or unentitled to those amounts, may be  
39 offset against any retirement allowance, return of contributions, or any other right accruing  
40 under this Article to the same person, the person's estate, or designated beneficiary."

41 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes law.