

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

House Bill 1131
Appropriations

(Delegate Morhaim)

State Employee and Retiree Health and Welfare Benefits Program - Expansion of
Participating Units

This bill requires county governments, municipal corporations, and local boards of education to participate in the State Employee and Retiree Health and Welfare Benefits Program (the State health plan) when any of their existing contracts for employee health benefit options terminates, and it makes other conforming changes. The bill also authorizes specified nonprofit organizations to participate as satellite organizations in the State health plan. It also establishes a Task Force to Study Cooperative Purchasing for Health Insurance, which terminates September 30, 2021.

Fiscal Summary

State Effect: If the expansion of the employee risk pool results in the per-employee cost of health coverage decreasing, State expenditures (all funds) may decrease. Staffing for the task force can be provided with existing budgeted resources. No effect on revenues.

Local Effect: Expenditures for *employee* health coverage by local governmental entities likely decrease as a result of joining a larger risk pool; however, expenditures likely increase significantly for local governmental entities that elect to provide/maintain health coverage for their *retired* employees. Local governments also likely must pay any increase in administrative expenses resulting from their participation in the State health plan, but a reliable estimate is not feasible. No effect on revenues. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful for nonprofit organizations.

Analysis

Bill Summary: The Secretary of Budget and Management must specify by regulation the types and categories of county government, municipal corporation, and local board of education employees who:

- are eligible to enroll and participate in the State health plan with subsidies;
- are eligible to enroll and participate without subsidies; and
- are not eligible to enroll or participate.

The bill authorizes all nonprofit organizations in the State to participate in the State health plan, instead of only those that receive State funds from the Maryland Department of Health (MDH) that cover more than one-third of the organization's operating expenses.

The task force is chaired by the Procurement Advisor to the Board of Public Works (BPW) and staffed by the Department of Budget and Management (DBM) and the Maryland Insurance Administration (MIA). A member of the task force may not receive compensation but is entitled to reimbursement for expenses. For the purpose of pooling public employee health care purchasing by transitioning counties, municipal corporations, and local boards of education to the State health plan, the task force must:

- study models of cooperative purchasing of health insurance;
- recommend the health insurance benefit options that should be offered to specified entities and individuals;
- recommend ways to minimize and combine administrative costs and transition the entities without adversely affecting current employee benefits; and
- make any other recommendations to control health costs and offer a variety of health benefit plan choices.

The task force must report its findings and recommendations to the Governor and General Assembly by January 1, 2020.

The bill expresses the intent of the General Assembly that if it results in:

- a county paying less for employee health benefits than it previously paid, any savings be spent on substance abuse and other public health services; and
- a local board of education paying less for employee health benefits than it previously paid, any savings be spent on career and technical education programs.

Current Law/Background: The State health plan is a self-insured plan covering all units in the Executive, Judicial, and Legislative branches of State government. It must include

the health insurance benefit options established by the Secretary of Budget and Management; it does not include any pension benefits.

Retirees of the State may continue to participate in the State health plan if they receive a State pension and meet other specified criteria, generally related to the length of their service tenure with the State. Even though they receive a pension from the State, faculty members of a community college as well as teachers and staff employed by a local board of education may not participate in the State health plan as retirees.

Statute specifies certain organizations or entities whose employees are eligible to participate in the State health plan as a separate account, or “satellite organizations.” Employees of county and municipal governments *may* enroll and participate in the State health plan with the approval of the respective governing body; local boards of education are not explicitly authorized to participate. The governing body must pay the State the total cost resulting from the participation of its employees and determine the extent to which the governing body will subsidize its employees’ participation.

Certain qualifying nonprofit organizations may also participate as satellite organizations. They include (1) an organization that receives State funds from MDH that cover more than one-third of the organization’s operating expenses; (2) the Legal Aid Bureau, Inc., or specified entities wholly owned by the Legal Aid Bureau, Inc.; or (3) the Maryland Crime Victims’ Resource Center. The organizations must pay to the State plan a premium and any administrative costs as determined by the Secretary of Budget and Management. A qualifying not-for-profit organization must determine the extent to which the organization will subsidize participation by its employees in the State plan. Employees of non-State organizations and entities that participate in the State plan may not receive State subsidies.

In general, unlike State employees, former employees and retirees of the organizations described above may not continue to participate in the State health plan upon retirement.

There are currently approximately 53 satellite organizations covered by the State health plan.

State Expenditures: Based on various provisions in current law that are not altered by bill, the State is not responsible for any subsidies that may be paid on behalf of employees of county and municipal governments, local boards of education, or nonprofit satellite organizations. Also, *retirees* of these entities do not appear to be eligible for coverage under the plan, so they have no effect on the State’s retiree health liabilities.

Instead, if the expansion of the employee risk pool results in the per-employee cost of health coverage decreasing, State expenditures (all funds) for such coverage may decrease.

DBM advises that enactment of the bill would require it to renegotiate the terms of all of its employee health insurance contracts to reflect the added members and administrative burdens associated with their addition to the State health plan. The renegotiated contracts likely result in higher administrative costs for the State health plan. Current law requires a local government to “pay to the State the total costs resulting from the participation of its employees in the Program,” so it is assumed that any increase in administrative costs to administer the plan resulting from the addition of local governmental employees is paid by their employers, not by the State. DBM can likely conduct the renegotiations with existing resources, but it will place a tremendous burden on its Employee Benefits Division.

DBM, MIA, and BPW can participate in and staff the task force with existing budgeted resources.

Local Expenditures: Local governmental entities, including local boards of education, likely pay less on a per-employee basis for health insurance coverage by joining a larger risk-pooled plan. However, the bill expresses legislative intent that any savings generated as a result should be spent on other specified priorities.

In addition, some local governments currently provide health coverage to their retirees, which is not available to them through the State health plan under the bill. Therefore, if those counties continue to provide retiree health coverage, they will have to maintain separate plans for that coverage. Since they will no longer be able to pool the higher risk associated with retirees with the lower risk associated with active employees, the per-retiree cost of those plans will likely increase significantly, potentially offsetting any financial benefits associated with joining the State health plan.

Finally, current law requires local governments to pay the total cost of their employees’ participation in the State health plan. To the extent that renegotiation of the insurance contracts underlying the plan result in an increase in administrative costs, local governments likely are responsible for those costs.

DBM advises that local governmental employees are not eligible for the flexible spending accounts that are available to State employees, so local governments will have to offer/maintain those plans if they wish.

Small Business Effect: Small nonprofit organizations likely benefit from having the opportunity to enroll their employees in the State health plan, as the cost of participation in a large shared-risk plan is likely much lower than the cost of purchasing coverage in the small employer market. Any small nonprofit that elects to enroll its employees in the plan, however, must pay the full cost of their participation.

Additional Comments: DBM advises that recent guidance from the Internal Revenue Service notes that coverage of non-State employees in the State plan may jeopardize the State's exemption from the Employee Retirement Income Security Act of 1974 (better known as ERISA) as a governmental plan. DBM notes that continued participation of satellite entities in the State plan may present a threat to its governmental plan status.

Additional Information

Prior Introductions: None.

Cross File: SB 1016 (Senator Rosapepe) - Finance.

Information Source(s): Department of Budget and Management; Maryland Association of Counties; Board of Public Works; Maryland Insurance Administration; Charles and Montgomery counties; cities of Frederick and Havre de Grace; Department of Legislative Services

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md/rhh

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