

(b) The [CFO] **program manager** is responsible for the identification, analysis, and management of all risks associated with the use of procurement cards.

(c) (No change.)

(d) The [CFO , with the assistance of the purchasing agent,] **program manager** shall assure that the following information is gathered and reviewed prior to any disbursement of funds to the issuer:

1.-4. (No change.)

(e) [In addition to the annual assessment of internal controls conducted by the registered municipal accountant, the CFO] **The program manager** is responsible for monitoring and assessing the quality of internal control performance on a continuing basis to assure that all controls are actively pursued each cycle without exception.

## (a)

### DIVISION OF LOCAL GOVERNMENT SERVICES LOCAL FINANCE BOARD

#### Approval Process for Non-State Health Benefits Program Health Insurance Plans

#### Proposed New Rules: N.J.A.C. 5:30-18

Authorized By: Local Finance Board, Thomas H. Neff, Chair.

Authority: N.J.S.A. 40A:10-21.1.c.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2012-171.

Submit comments by January 18, 2013 to:

Patricia McNamara, Executive Secretary  
Local Finance Board  
Department of Community Affairs  
P.O. Box 803  
Trenton, New Jersey 08625-0803

The agency proposal follows:

#### Summary

The Local Finance Board proposes these new rules to implement the provisions of P.L. 2011, c. 78. The new rules are proposed simultaneously and in cooperation with the State Board of Education. The two agencies intend that their respective rules be interpreted and applied uniformly for all local government and district board of education employers and employees.

Pursuant to the authority vested in the Local Finance Board by N.J.S.A. 52:27BB-10 to implement the statutory provisions of N.J.S.A. 40A:10-21.1.c, the Board proposes new rules N.J.A.C. 5:30-18. This rulemaking is necessary to implement changes to the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) enacted effective June 28, 2011 under P.L. 2011, c. 78 ("Chapter 78"), and to implement the cost comparison requirements for local employers electing not to participate in these programs.

On June 28, 2011, P.L. 2011, c. 78, was enacted. Section 42c of Chapter 78 permits local units to incorporate a non-State Health Benefits Program (hereinafter, "non-SHBP" plan) into a collective negotiations agreement (CNA) so long as the Division of Local Government Services (hereinafter, "Division") approves the local unit's certification that, over the term of a CNA, the non-SHBP plan achieves aggregate employer savings. This certification applies to any healthcare coverage offered by the local employer through a non-SHBP plan regardless of whether the local employer offers other healthcare benefits through SHBP.

The purpose of the proposed new rules is to ensure that the taxpayers realize the cost savings intended under Chapter 78, by establishing the criteria under which the cost savings comparison shall be made against the cost of these benefits when provided through the SHBP or SEHBP, as applicable.

Proposed N.J.A.C. 5:30-18.1 sets forth the purpose and scope of the chapter.

Proposed N.J.A.C. 5:30-18.2 sets forth necessary definitions. A definition of base salary is included, which is the standard upon which the

employee's contribution is calculated under Section 39 of Chapter 78, and, correspondingly, the basis for calculation of the costs under this Subchapter. Base salary continues to be defined in accord with guidance previously issued by the Division of Pensions and Benefits and Division of Local Government Services, as the same salary upon which pension contributions are calculated, but including salary in excess of Social Security maximum that is applied to pension contributions and excluding extra compensation.

Proposed N.J.A.C. 5:30-18.3 sets forth the certification method by which the local unit must demonstrate the aggregate employer savings. The section prescribes the required documentation that must accompany the certification, and when and how the certification is to be submitted to the Division. The certification requirement is triggered when a local unit proposes to enter into a contract with a collective bargaining unit to provide medical, dental, prescription drug, or any other health care benefit through a non-SHBP plan, regardless of whether the local unit previously offered such coverage or coverages through the SHBP or a non-SHBP plan.

Proposed N.J.A.C. 5:30-18.4 sets forth the methodology by which the Division will review, and ultimately approve or reject, certifications of aggregate employer savings by local units.

This rule proposal provides for a comment period of 60 days and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

#### Social Impact

The proposed new rules protect the public interest by seeking to control local unit health care costs, providing a process whereby those costs are not only monitored but also measured against an objective benchmark.

#### Economic Impact

The Board anticipates that the proposed new rules will have a positive fiscal impact on local units and the constituents they serve by enhancing fiscal accountability and efficiency. Requiring the local units to demonstrate aggregate employer savings will help control health insurance costs.

#### Federal Standards Statement

No Federal standards analysis is required because the new rules are not being proposed to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

#### Jobs Impact

The Board does not anticipate the creation or loss of any jobs as a result of the proposed new rules.

#### Agriculture Industry Impact

The Board does not anticipate that the proposed new rules will have an impact on the agriculture industry.

#### Regulatory Flexibility Statement

The proposed new rules would affect all local units that propose to offer a non-SHBP plan through a CNA to provide health care benefits to its employees; and would not impose any reporting, recordkeeping, or compliance requirements on "small businesses" as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

#### Housing Affordability Impact Analysis

The proposed new rules will have no anticipated impact on housing affordability because they pertain to the certification of aggregate employer savings for non-State Health Benefits Program health plans.

#### Smart Growth Development Impact Analysis

The proposed new rules will have no anticipated impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan because they pertain to the certification of aggregate employer savings for non-State Health Benefits Program health plans.

**Full text** of the proposed new rules follows:

SUBCHAPTER 18. APPROVAL PROCESS FOR NON-STATE HEALTH BENEFITS PROGRAM HEALTH INSURANCE PLANS PURSUANT TO P.L. 2011, c. 78

5:30-18.1 Purpose and scope

This subchapter sets forth standards for the Division of Local Government Services' review and approval of applications by local units to utilize non-State Health Benefit Program (non-SHBP) health coverage in accordance with Section 42 of P.L. 2011, c. 78. This subchapter is limited in application to local units that are seeking to utilize a non-SHBP plan to provide medical, prescription drug, dental, or any other health care benefit, or any combination thereof. This subchapter effectuates the provisions of N.J.S.A. 40A:10-21.1.c. The Local Finance Board and the State Board of Education, in conjunction and coordination with the Division of Pensions and Benefits, Department of Treasury, promulgate these rules simultaneously to implement the relevant provisions of P.L. 2011, c. 78. The agencies intend that the rules be interpreted and applied uniformly across all local government employers.

5:30-18.2 Definitions

The words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

"Aggregate employer savings" means the net employer cost of a proposed non-State Health Benefits Program plan is less than or equal to the net SHBP cost.

"Base salary" means the annual salary of an employee for services rendered in accordance with established salary policies of the individual's employer for all employees in the same position, but shall not include extra compensation, bonuses, overtime, or longevity. The base salary shall be the same salary as used to calculate contributions to any State public employee retirement system that the employee is enrolled in, or if not enrolled, the salary upon which pension contributions would be based, if the employee were eligible for enrollment; except that the limitation on the salary subject to pension contribution tied to the Social Security maximums as set forth in N.J.S.A. 18A:66-2, 43:15A-6, and 43:16A-1 shall not limit or reduce base salary for purposes of an employee's health benefit contribution or calculation of the costs of health benefits under P.L. 2011, c. 78. Any determination of the Board of Trustees of any State-administered retirement system as to whether any part of an employee's compensation is base salary or extra compensation for purposes of pension contributions shall be applied to establish base salary as defined herein.

"Certification of aggregate employer savings" means a verified statement from the local unit or the primary professional consultant demonstrating that the net employer cost of a proposed non-State Health Benefits Program plan is equal to or less than the net SHBP cost.

"Chapter 78 Health Care Contribution" means 1.5 percent of base salary or the contribution calculated for each employee based on the Weighted Average SHBP Premium, the employee's base salary and the tables in Section 39 of P.L. 2011, c. 78, whichever is greater.

"Collective negotiations agreement" or "CNA" means a contract between a local unit and a collective bargaining unit negotiated pursuant to the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

"Coverage tier" means the plan benefits categorized by persons covered as follows: single; member plus spouse/partner; parent-child(ren); or family.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Division" means the Division of Local Government Services in the Department of Community Affairs.

"Local unit" means a municipality, a county, or a local authority subject to the provisions of the Local Authorities Fiscal Control Law, P.L. 1983, c. 313 (N.J.S.A. 40A:5A-1 et seq.).

"Net employer cost" means the aggregate proposed health care premium for a non-State Health Benefits Program plan minus the aggregate proposed employee contribution over the term of a collective negotiations agreement.

"Net SHBP cost" means the aggregate weighted average SHBP premium applicable to each employee based on the employee's selected coverage tier minus the aggregate Chapter 78 Health Care Contribution over the term of a collective negotiations agreement.

"Non-State Health Benefits Program" or "non-SHBP" means a plan that provides health benefits coverage, including coverage for medical, prescription drug, dental, vision, or any other health care benefit, through self-insurance, commercial insurance or reinsurance, an insurance fund or joint insurance fund, or in any other manner or any combination thereof outside the State Health Benefits Program.

"Primary professional consultant" means the accountant, actuary, insurance broker, or other professional who assists the local unit in preparing the certification of aggregate employer savings.

"Proposed employee contribution" means the proposed amount employees would be required by a local unit to contribute towards health benefits provided through a non-SHBP plan.

"Proposed employer plan premium" means the premiums, including premiums for medical, dental, and prescription drug coverage, that the local unit is proposing to offer through a CNA.

"State Health Benefits Program" or "SHBP" is the plan administered by the Division of Pensions and Benefits in the New Jersey Department of the Treasury to offer medical, dental, and prescription drug coverage to qualified public employees, retirees, and eligible dependents.

"Weighted average SHBP premium" means the premium provided by the Division of Pensions and Benefits representing the average cost by coverage tier of all plans offered by the SHBP weighted by enrollment.

5:30-18.3 Local unit certification of aggregate employer savings for proposed non-State Health Benefits Program (non-SHBP) plan

(a) A local unit that proposes to enter into a contract with a collective bargaining unit to provide medical, prescription drug, dental, or any other health care benefit, or any combination thereof, through a non-SHBP plan, regardless of whether the local unit previously offered such coverage or coverages through the SHBP or a non-SHBP plan, shall first certify to the Division as well as to the Division of Pensions and Benefits in the New Jersey Department of the Treasury that, during the term of the CNA, the proposed non-SHBP plan has a net employer cost that generates aggregate employer savings when compared to the net SHBP cost.

1. The certification by the local unit shall attest to the accuracy of the supporting documentation used in the calculation of aggregate employer savings.

2. An individual certification shall be made for each proposed CNA that incorporates a non-SHBP plan.

(b) The certification of aggregate employer savings shall be approved by the Division before a local unit incorporates a proposed non-SHBP plan into a CNA(s), even if the proposed non-SHBP plan is identical or substantially similar to the plan of a prior CNA.

(c) The local unit's certification of aggregate employer savings shall be in prepared a format and filed in a manner prescribed by the Director and shall include the following:

1. The duration of the CNA;

2. A comparison of the net employer cost with the net SHBP cost demonstrating aggregate employer savings;

3. An employee-by-employee schedule that supports the local unit's demonstration of aggregate employer savings. The schedule shall be prepared for each year of the proposed CNA and must include the following for each employee covered by the CNA and for each employee to whom the CNA will be deemed applicable:

i. The coverage tier selected;

ii. The base salary, which shall reflect any anticipated or actual increase over the course of the CNA;

iii. The proposed employer plan premium for the selected coverage tier. The proposed employer plan premium shall include premiums applicable to employees and retirees covered by the CNA and employees and retirees not covered by the CNA but to whom the agreement has been applied by the local unit. The proposed employer plan premium shall be assumed to remain constant over the term of a CNA and the proposed employer plan premium that is applicable to the first year of a CNA shall

be applicable to all years covered by the CNA. The proposed employer plan premium for medical coverage shall include the premiums for any health care coverage, other than prescription drug and dental coverage, that the local unit is planning to offer;

iv. The proposed employee contribution;

v. The weighted average SHBP premium for the coverage tier selected. The weighted average SHBP premium shall be the weighted average premium for either medical, dental, or prescription drug coverage, or a combination of one or more of the aforementioned coverages, depending on the coverage type that is the subject of the local unit's certification. The weighted average SHBP premium shall be assumed to remain constant over the term of a CNA and the weighted average SHBP premium that is applicable to the first year of a CNA shall be applicable to all years covered by the CNA; and

vi. The Chapter 78 Health Care Contribution.

(d) A governing body of a local unit may delegate the responsibility to execute the certification of aggregate employer savings to the business administrator or the chief financial officer.

(e) If the local unit utilized the services of a primary professional consultant to prepare the net employer cost calculations submitted pursuant to (c) above, the certification of aggregate employer savings shall include an additional signed statement from the professional certifying to the truthfulness and accuracy of the information provided.

(f) If the local unit is entering into interest arbitration with a collective bargaining unit pursuant to the "Police and Fire Arbitration Act," P.L. 1977, c. 85 (N.J.S.A. 34:13A-14 et seq.), either the local unit or the collective bargaining unit shall seek approval of a certification of aggregate employer savings from the Division no later than the time of filing for interest arbitration in order for a proposed non-SHBP plan to be considered by the arbitrator for inclusion in a final settlement.

(g) The local unit shall retain for seven years after the end of the CNA the supporting documentation required in (c) above and shall make it available for an audit.

#### 5:30-18.4 Action by the Division of Local Government Services

(a) The Division shall review a local unit's certification of aggregate employer savings within 30 days of receipt.

1. Approval or rejection by the Division shall be in writing by letter, facsimile transmission, or electronic mail.

2. If the local unit does not demonstrate a net employer cost that generates aggregate employer savings when compared to the net SHBP cost, the Division shall reject the application.

3. If the Division does not act to approve or reject the certification of aggregate employer savings within 30 days of receipt, the certification is deemed approved.

4. The proposed non-SHBP plan may not be incorporated into the CNA until the Division approval is received or the 30-day period has lapsed, whichever occurs first.

5. In the event the local unit is a party to interest arbitration pursuant to the "Police and Fire Arbitration Act," P.L. 1977, c. 85 (N.J.S.A. 34:13A-14 et seq.), and either the local unit or collective bargaining unit submits a certification of employer savings for approval by the Division, the Division shall review the certification in an expedited fashion if the standard 30-day review period overlaps with the period of the interest arbitration proceeding.

## EDUCATION

(a)

### STATE BOARD OF EDUCATION

#### Fiscal Accountability, Efficiency and Budgeting Procedures

#### Approval Process for Non-School Employees' Health Benefits Program (Non-SEHBP) Plans Pursuant to P.L. 2011, c. 78

#### Proposed Amendments: N.J.A.C. 6A:23A-1.1 and 1.2

#### Proposed New Rules: N.J.A.C. 6A:23A-23

Authorized By: New Jersey State Board of Education, Christopher D. Cerf, Commissioner, Secretary, New Jersey Board of Education.

Authority: N.J.S.A. 18A:4-15.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2012-170.

Submit written comments by January 18, 2013 to:

David F. Corso, Assistant Commissioner  
New Jersey Department of Education  
River View Executive Plaza  
Building 100, P.O. Box 500  
Trenton, New Jersey 08625-0500

The agency proposal follows:

#### Summary

The Department of Education proposes to amend N.J.A.C. 6A:23A, specifically to add a new Subchapter 23 and to amend Subchapter 1.

The rulemaking is necessary to implement statutory changes to the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) enacted June 28, 2011, under P.L. 2011, c. 78 ("Chapter 78"), and to implement cost-comparison requirements for district boards of education that elect not to participate in the SEHBP.

The amendments are being proposed simultaneously in cooperation with the Local Finance Board. The two agencies intend for their respective regulations to be interpreted and applied uniformly by and for all district boards of education and local government employers and employees.

Section 41 of Chapter 78 permits district boards of education, which includes charter school boards of trustees, to incorporate a non-School Employees' Health Benefits Program (hereinafter "non-SEHBP" plan) into a collective negotiations agreement (CNA) as long as the Department approves the district board of education's certification that the non-SEHBP plan achieves aggregate employer savings over the term of a CNA. This certification applies to any health care coverage offered by the district board of education through a non-SEHBP plan regardless of whether the district board of education offers other health care benefits through the SEHBP.

The purpose of the rulemaking is to ensure that taxpayers realize the cost savings intended under Chapter 78, by establishing the criteria under which the cost-savings comparison shall be made against the cost of benefits provided through the SHBP or SEHBP, as applicable.

Amendments proposed to N.J.A.C. 6A:23A-1 would include, in the purpose and scope section, N.J.A.C. 6A:23A-1.1, the statute citation of P.L. 2011, c. 78. Other proposed amendments would add to the chapter's definitions section, N.J.A.C. 6A:23A-1.2, the descriptions of new terms used in proposed N.J.A.C. 6A:23A-23.

Proposed N.J.A.C. 6A:23A-23 sets forth the purpose and scope of the subchapter, establishes calculation methods to be used by district boards of education to demonstrate aggregate savings, and sets forth the rules for Departmental review of savings certifications from district boards of education.