NJ Chapter 78, P.L. 2011Impact and Analysis

What We Know Thus Far and What Employers Need to Consider

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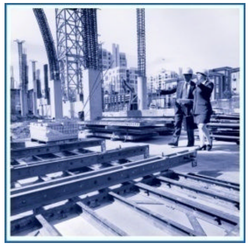
PERMA Risk Management Services

CONNER STRONG & BUCKELEW



Agenda

- Introduction and Overview of Chapter 78
- Effective Date of the Law
- Contribution Requirements
- Impact on Bargaining & Benefit Design
- Changes to the State Health Benefit Plan
- Section 125 Plan Requirements
- Key Actions
- Resources
- Frequently Asked Questions
- Q&A

Today’s Participants

- Joe DiBella, Executive Vice President
  Employee Benefits Consulting Practice

- Tammy Brown, Senior Vice President
  Practice Leader

- Paul Laracy, Senior Vice President - PERMA
  Practice Leader

Introduction and Overview

Today's Purpose

- Overview key highlights the employee benefit aspects of Chapter 78, signed into law on June 28, 2011.
- Relying upon publicly available information, provide explanations and clarity on certain aspects of the law.
- It is anticipated that additional clarity and explanations shall have to be issued by the regulators in order to assist in the execution of the law's many features. Today's material may be updated or altered as new information becomes available.

The purpose of the webinar is to provide an overview and guidance regarding key aspects of the law. This information does not constitute legal advise. Public employers should seek and reply upon legal guidance from their counsel regarding Chapter 78 and its impact upon their benefit plan.

General Overview

- Chapter 78 took effect on June 28, 2011. For contribution collection purposes, the law takes effect as soon as "administratively" possible, unless there is an existing collectively bargained agreement or employment agreement in effect. "As soon as administratively possible" prevents employers from going back and collecting contributions retroactively.

- Chapter 78 impacts State entities, Boards of Education and other Educational Groups, County Governments and all Units of Local Government. Applies to the four principal ways insurance is procured:
  - SEHBP and SHBP
  - Private Carrier plans
  - Health Insurance Joint Insurance Funds

- The law applies differently for entities in one of the two state plans versus a private market outlet. The differences will be addressed later in the presentation.

General Overview

- Chapter 78 primarily establishes a new contribution arrangement that will require public workers and certain retirees to contribute more towards the cost of the employee benefit coverage.

- Contributions will be based upon the actual cost of coverage, tiered by base salary.

- The increased employee contributions will generate a new revenue stream for public employers to use to help pay for the cost of benefits.

- Greater participant cost sharing will likely cause employees and retirees to gravitate to lower cost plan options which may also help normalize the cost of coverage.

General Overview

- Employers (non-state entities) can negotiate for greater contributions above the schedule. The new schedule or 1.5% of one’s salary, whichever is greater, is the new floor.

- The State Educator’s Employee Benefit Plan (SEHBP) and the State Health Benefit Plan (SHBP) must implement three (3) plan options, and a Health Savings Account.

- Employer’s outside one of the two plans will have the latitude to implement multiple plan options as well, presumably including lower cost plans.

- All public employers must offer a Section 125 Plan to collect contributions on a pre-tax basis. They must also offer a Health Flexible Spending Account (FSA) to allow employees to cover eligible out-of-pocket medical expenditures.

General Overview

- The new contribution schedule shall take effect immediately for all new employees.

- The provisions of the law establishing employee health benefit contributions will expire four years after this law's effective date. Thereafter, local employers will have to negotiate for new schedules.

New Contribution Approach

Contribution Requirements

- The contributions gradually increase based on an employee's compensation at intervals of $5,000.

- The contributions will be phased in over several years for employees employed on the contribution's effective date who will pay ¼, ½, and ¾ of the amount of the contributions during the first, second and third years, respectively, meaning during the three 12-month periods after the contribution rates become effective.

- It also allows for alternate/different employee contribution rates to be negotiated if certain cost savings in the aggregate over the period of the agreement can be demonstrated. This is generally not applicable to groups in either of the state plans.

Contribution Requirements

- All new hires will immediately pay the “column 4” contribution amount regardless of the status of the collectively bargained agreement. New hire status applies to all new hires, even those moving between public employers.

- The law establishes a “floor” for employee contributions so that no employee will pay an amount that is less than 1.5% of the employee’s compensation.

- Employees who pay for health care benefits coverage based upon a percentage of the cost of coverage will not also be required to pay the minimum contribution of 1.5% of compensation, as provided by other laws. Any negotiated contribution that is the greater of 1.5% of salary or a percentage of premium will prevail.

Contribution Requirements

- The contribution is based on the group's premium. If self funded, the premium shall be the budgeted rate.

- The new contribution schedule shall take effect for bargaining units upon the expiration of their current, in-force agreement.

Percentage of Premium Employee Only

Salary Range	% of Premium Single Contributions (Employee pays below or 1.5% of salary whichever is greater) Year 1	Year 2	Year 3	Year 4
Under 20,000	1.1%	2.3%	3.4%	4.5%
20,000-24,999.99	1.4%	2.8%	4.1%	5.5%
25,000-29,999.99	1.9%	3.8%	5.6%	7.5%
30,000-34,999.99	2.5%	5.0%	7.5%	10.0%
35,000-39,999.99	2.8%	5.5%	8.3%	11.0%
40,000-44,999.99	3.0%	6.0%	9.0%	12.0%
45,000-49,999.99	3.5%	7.0%	10.5%	14.0%
50,000-54,999.99	5.0%	10.0%	15.0%	20.0%
55,000-59,999.99	5.8%	11.5%	17.3%	23.0%
60,000-64,999.99	6.8%	13.5%	20.3%	27.0%
65,000-69,999.99	7.3%	14.5%	21.8%	29.0%
70,000-74,999.99	8.0%	16.0%	24.0%	32.0%
75,000-79,999.99	8.3%	16.5%	24.8%	33.0%
80,000-84,999.99	8.5%	17.0%	25.5%	34.0%
85,000-89,999.99	8.5%	17.0%	25.5%	34.0%
90,000-94,999.99	8.5%	17.0%	25.5%	34.0%
95,000-99,999.99	8.8%	17.5%	26.3%	35.0%
100,000-104,999.99	8.8%	17.5%	26.3%	35.0%
105,000-109.999.99	8.8%	17.5%	26.3%	35.0%
110,000-114,999.99	8.8%	17.5%	26.3%	35.0%
115,000-119,999.99	8.8%	17.5%	26.3%	35.0%
120,000-124,999.99	8.8%	17.5%	26.3%	35.0%
125,000-129,999.99	8.8%	17.5%	26.3%	35.0%
130,000-134,999.99	8.8%	17.5%	26.3%	35.0%
135,000-139,999.99	8.8%	17.5%	26.3%	35.0%
140,000 and Over	8.8%	17.5%	26.3%	35.0%

Percentage of Premium
Husband and Wife, Parent & Child(ren)

Salary Range	% of Premium Employee + 1 Contributions (Employee pays below or 1.5% of salary whichever is greater) Year 1	Year 2	Year 3	Year 4
Under 20,000	0.9%	1.8%	2.6%	3.5%
20,000-24,999.99	0.9%	1.8%	2.6%	3.5%
25,000-29,999.99	1.1%	2.3%	3.4%	4.5%
30,000-34,999.99	1.5%	3.0%	4.5%	6.0%
35,000-39,999.99	1.8%	3.5%	5.3%	7.0%
40,000-44,999.99	2.0%	4.0%	6.0%	8.0%
45,000-49,999.99	2.5%	5.0%	7.5%	10.0%
50,000-54,999.99	3.8%	7.5%	11.3%	15.0%
55,000-59,999.99	4.3%	8.5%	12.8%	17.0%
60,000-64,999.99	5.3%	10.5%	15.8%	21.0%
65,000-69,999.99	5.8%	11.5%	17.3%	23.0%
70,000-74,999.99	6.5%	13.0%	19.5%	26.0%
75,000-79,999.99	6.8%	13.5%	20.3%	27.0%
80,000-84,999.99	7.0%	14.0%	21.0%	28.0%
85,000-89,999.99	7.5%	15.0%	22.5%	30.0%
90,000-94,999.99	7.5%	15.0%	22.5%	30.0%
95,000-99,999.99	7.5%	15.0%	22.5%	30.0%
100,000-104,999.99	8.8%	17.5%	26.3%	35.0%
105,000-109.999.99	8.8%	17.5%	26.3%	35.0%
110,000-114,999.99	8.8%	17.5%	26.3%	35.0%
115,000-119,999.99	8.8%	17.5%	26.3%	35.0%
120,000-124,999.99	8.8%	17.5%	26.3%	35.0%
125,000-129,999.99	8.8%	17.5%	26.3%	35.0%
130,000-134,999.99	8.8%	17.5%	26.3%	35.0%
135,000-139,999.99	8.8%	17.5%	26.3%	35.0%
140,000 and Over	8.8%	17.5%	26.3%	35.0%

Percentage of Premium Family

Salary Range	% of Premium Family Contributions (Employee pays below or 1.5% of salary whichever is greater) Year 1	Year 2	Year 3	Year 4
Under 20,000	0.8%	1.5%	2.3%	3.0%
20,000-24,999.99	0.8%	1.5%	2.3%	3.0%
25,000-29,999.99	1.0%	2.0%	3.0%	4.0%
30,000-34,999.99	1.3%	2.5%	3.8%	5.0%
35,000-39,999.99	1.5%	3.0%	4.5%	6.0%
40,000-44,999.99	1.8%	3.5%	5.3%	7.0%
45,000-49,999.99	2.3%	4.5%	6.8%	9.0%
50,000-54,999.99	3.0%	6.0%	9.0%	12.0%
55,000-59,999.99	3.5%	7.0%	10.5%	14.0%
60,000-64,999.99	4.3%	8.5%	12.8%	17.0%
65,000-69,999.99	4.8%	9.5%	14.3%	19.0%
70,000-74,999.99	5.5%	11.0%	16.5%	22.0%
75,000-79,999.99	5.8%	11.5%	17.3%	23.0%
80,000-84,999.99	6.0%	12.0%	18.0%	24.0%
85,000-89,999.99	6.5%	13.0%	19.5%	26.0%
90,000-94,999.99	7.0%	14.0%	21.0%	28.0%
95,000-99,999.99	7.3%	14.5%	21.8%	29.0%
100,000-104,999.99	8.0%	16.0%	24.0%	32.0%
105,000-109.999.99	8.0%	16.0%	24.0%	32.0%
110,000-114,999.99	8.8%	17.5%	26.3%	35.0%
115,000-119,999.99	8.8%	17.5%	26.3%	35.0%
120,000-124,999.99	8.8%	17.5%	26.3%	35.0%
125,000-129,999.99	8.8%	17.5%	26.3%	35.0%
130,000-134,999.99	8.8%	17.5%	26.3%	35.0%
135,000-139,999.99	8.8%	17.5%	26.3%	35.0%
140,000 and Over	8.8%	17.5%	26.3%	35.0%

Special Considerations

Retirees and Employees with more than 20 years of Service

Years of Service	Subject to the New Contribution Requirements
Current retirees	No Contribution
Current employees with Service Credit of 20+ years as of June 28, 2011	No contribution upon retirement
Future retirees with less than 20+ years as of June 28, 2011	Contribution schedule or 1.5% of pension whichever is greater
Prior to retirement, active employees with either 20 or 25 years of service credit	Subject to the same contribution requirements as other employees

New Cost Calculator

- To assist our clients in evaluating the financial impact of the contribution schedule, Conner Strong & Buckelew has developed a proprietary Contribution Calculator.

- We will provide this service at no cost to our existing customers.

- The Contribution Calculator will produce an estimated summary of the projected net and gross costs for employers based on the new contribution schedules.

- In order to use the tool, we will need specific data elements from each employer including:
  - Census
  - Premiums
  - Salary Information
  - CBA expiration date

Contribution Scenarios

	Scenario 1			Scenario 2			Scenario 3		
		SHBP / SEHBP	Health JIF / Private Plan		SHBP / SEHBP	Health JIF / Private Plan		SHBP / SEHBP	Health JIF / Private Plan
	Medical	√		Medical	√		Medical		√
	Prescription		√	Prescription	√		Prescription		√
	Dental		√	Dental		√	Dental		√
	Vision		√	Vision		√	Vision		√
New contribution schedule applies to	**Medical and Prescription Only**			**Medical and Prescription Only**			**Medical, Prescription, Dental and Vision**		

Impact on Bargaining & Plan Design Impact

Impact on Collective Bargaining

- Schedule of Contributions shall serve as the “starting point” for any new agreement. Public employees must comply with the contribution provisions of the law until the full amount of the contribution has been implemented.

- After full implementation, the new contribution levels will become part of future collective bargaining negotiations.

- It is anticipated that workers and retirees will have an increased interest in more choices in coverage with the availability of lower cost plans.

- Contrary to some press accounts, the requirement to offer three (3) plans only applies to the two state plans. Local employers will have the flexibility to offer more than or fewer than three plans.

Benefit Design Changes

- While the requirement to offer multiple plans is not mandated for entities not in one of the state plans, it will be prudent for local employers to offer multiple plans as a means of reducing costs for both the employer and their employees and retirees.

- The availability of lower cost plans will encourage normal "consumer" behavior aimed at reducing payroll deductions.

- Features like health and wellness tactics will likely be received more favorably if they can have a positive impact on cost (and quality).

- Conner Strong & Buckelew can facilitate strategic discussions as it relates to plan design alternatives and overall collective bargaining strategies.

Benefit Design Changes

- The law allows for different employee contribution rates and alternative plan designs if certain cost savings in the aggregate over the period of the agreement can be demonstrated.

- The savings must be certified by the Department of Education or the Department of Community Affairs, as appropriate.

Changes to the State Plans

Changes to the State Plan

- The law creates two new committees, one for the SEHBP and one for the SHBP.
- The statute requires the SHBP and the SEHBP to establish three health plans plus a high deductible plan.   The law <u>does not</u> require local entities and BOEs that are not in the SHBP to establish three plans or the high deductible plan.
- In addition, there shall be the creation of plan design committees related the SHBP and the SEHBP. The new committees will be charged with developing the new plans that will be offered by the SEHBP and SHBP. Current plans will presumably stay in effect until such time the new committees are formed, meet and decide upon plan design changes.

Changes to the State Plan

- Members of the new state plan committees (5 member committees) and the plan design committees (12 member committees) shall be appointed. The law establishes a process using a super conciliator to resolve an impasse on a matter related to the design of new benefits.

- If consensus is not achieved by the plan design committees, even after a conciliator has been engaged, the conciliator shall issue a report to the committee and public. It is unclear what final discourse shall take place to adopt new plans.

- The law suggests that the new benefit designs for the State plans are to be in place by January 2012.

Changes to the State Plan

- The Division of Pensions and Benefits in the Department of the Treasury will be required to conduct a study of the risk impact of permitting local employers to commence and to terminate participation in the State Health Benefits Program and the School Employees' Health Benefits Program; the long term sustainability of the programs; employee wellness programs and options for out-of-network cost containment.

- The Division shall be required to conclude its study within 1 year following the effective date of the law and submit a written report of its conclusions and recommendations to the Governor and the Legislature.

Section 125 Plan Requirements

Section 125 Plan

- Chapter 78 requires local employers to establish:
  - A Section 125 Premium Only Plan that will allow the employer to deduct contributions on a pre- tax basis, and,
  - A Health Flexible Spending Account (FSA) 125 cafeteria plan to allow employees to set aside pre-tax money to fund eligible out of pocket medical, pharmacy, dental, and vision expenses not covered under the benefit plan.

- The establishment of the Section 125 plan will allow for dollars spent for health contributions to be pre-taxed resulting in a reduced taxable income for the employee.

- An Employer may chose to include Dependent Care expenses but it is not mandatory.

Section 125 Plan

- Conner Strong & Buckelew will provide clients with a sample Premium Only Plan document that will need to be adopted and implemented.
- Like other plan services, employers need to contract with a third party administrator to administer the Health FSA. Administrative costs are marginal and are usually charted on a monthly per enrolled participant basis.
- Conner Strong & Buckelew offers clients access to preferred terms and pricing for FSA services with an FSA administrator.
- Health FSA plan amounts are set aside by the employee on a pre-tax basis. Elections are made annually and run on a calendar or plan year basis.

Section 125 Plan

- Employees can opt to enroll in a Health FSA and annually set aside an amount to be placed into their FSA account.

- Conner Strong & Buckelew will host a separate “Health FSA101 Overview” webinar for clients to assist in educating their members with the features of these plans.

Q&A

Most Frequently Asked Questions

Q . *How will all public employees with 20 years or more of service as of 6/28/11 be affected regarding paying for health benefits while active and then later as a retiree if the employer provides health coverage with 25 years or more of service at retirement?*

A. For current employees with service credit of 20+ years as of June 28, 2011, no contributions will be required upon retirement.

Q. *Is premium payment for retirees based on pension amount or final salary? does it increase every year?*

A. The premium payment would be based on the individual's pension amount subject to a cost of living increase comparable to an active employees salary.

Most Frequently Asked Questions

Q . *Can mandatory premium sharing payments by employees be pre-tax under Sec. 125?*

A. ***Yes. All employers are required to set up a Section 125 plan. Employees can elect to participate in the plan.***

Q. *At what point are new employees who are covered by a negotiated agreement expected to contribute for benefits? For example, if they are hired on 7/15/2011, do they start contributing immediately or when the contract is expired? If contributions start immediately, is it at ¼ of the percentage or is it at the full percentage?*

A. ***Our interpretation is, the law stipulates collection of full contribution be required of new employees. We would recommend requiring all employees hired after the effective date of the legislation be required to pay full premium contribution as soon as their employment begins.***

Q . *What does this law mean for those NOT participating in the state plan(s)?*

A. ***All public Entity clients, regardless of participation in the state plan are subject to the new legislation.***

Key Actions

Key Actions

1. Evaluate all information available on Chapter 78. Consult with your counsel.
2. Notify elected officials and policy makers of the pending changes and administrative requirements to implement.
3. Consult with internal payroll staff or payroll vendor regarding the set up of payroll deduction process. Determine how soon you can implement contributions.
4. Evaluate all CBAs and determine when contributions can take effect. Be ready to install contribution schedule for all new employees.
5. Develop a communication process to notify employees and applicable retirees as to when contributions will take effect.
6. Evaluate alternate low cost plan options for optional offering or bargaining purposes.

Key Actions

7. Develop estimated new revenue stream based on new contributions.
8. Set up and adopt Premium Only Conversion Plan for pre-tax payroll deductions.
9. Select vendor and implement Health FSA.
10. Look for updates and communications from the Department of the Treasury and other state agencies.

Resources

Resources

- There are valuable tools and resources that have been published by the Department of the Treasury:

  State Q&A

  - http://www.nj.gov/treasury/pensions/reform-hb-qa.shtml

  Chapter 78 Complete Law

  - http://www.nj.gov/treasury/pensions/pdf/laws/chapt78-2011.pdf