

# Legislative Analysis



## CAPPING/LIMITING EMPLOYER CONTRIBUTIONS TO EMPLOYEE MEDICAL BENEFIT PLANS

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**Senate Bill 7 (as reported from Conference Committee)**

**Sponsor: Sen. Mark Jansen**

**Senate Committee: Reforms, Restructuring, and Reinventing**

**House Committee: Oversight, Reform, and Ethics**

**Complete to 8-23-11**

*(Enacted as Public Act 152 of 2011)*

### A SUMMARY OF SENATE BILL 7 (H-6, CR-1) AS REPORTED FROM CONFERENCE COMMITTEE

Senate Bill 7 (Substitute H-6, CR-1) would create a new law to be known as the Publicly Funded Health Insurance Contribution Act. The bill would limit the amount that public employers could pay toward employee medical benefit plans, beginning January 1, 2012.

Under the bill, a public employer that offers or contributes to a medical benefit plan for its employees or elected public officials would be prohibited from paying more of the annual costs or illustrative rate (and any payments for reimbursement of co-pays, deductibles, or payments into health savings accounts or similar accounts used for health care costs) than a total of \$5,500 times the number of employees with single person coverage, \$11,000 times the number of employees with individual and spouse coverage, plus \$15,000 times the number of employees with family coverage.

A public employer could allocate its payment for medical benefit plan costs among its employees and elected officials as it saw fit. The bill would require the state treasurer, by October of each year, to adjust the maximum payment amounts annually based on the change in the medical care component of the United States consumer price index for the most recent 12-month period for which data were available.

#### 80/20 Option

Rather than comply with the hard cap requirements referenced above, a public employer could opt instead to comply with a requirement that it pay no more than 80 percent of the total annual costs of all the medical benefit plans it offers or contributes to for its employees. For state employees, the designated official could opt for this alternative; for other public employees, a majority vote of the employer's governing body would be required. Under this option, a public employer would be prohibited from paying more than 80 percent of the total annual costs of the medical benefit plan it offers, and employees and elected officials would be required to pay 20 percent or more of the annual costs. The bill authorizes a public employer to allocate the employee share of medical benefit plan costs among its employees as it sees fit. However, elected public officials would have to pay 20 percent or more of the total annual costs of the plan in which they participated.

For the purposes of this option, "total annual costs" includes the premium or illustrative rate of the medical benefit plan and all employer payments for reimbursement of co-pays, deductibles, and payments into health savings accounts, flexible spending accounts, or similar accounts used for health care. However, the term does not include beneficiary-paid copayments, coinsurance, deductibles, other out-of-pocket expenses, other service-related fees that are assessed to the coverage beneficiary, or beneficiary payments into health savings accounts, flexible spending accounts, or similar accounts used for health care.

#### Collective Bargaining

The requirements of the bill would not apply to employees covered under current collective bargaining agreements which are inconsistent with provisions of the bill until the collective bargaining agreements expire. Requirements of the bill would apply to any extension or renewal of collective bargaining agreements. A collective bargaining agreement or other contract executed on or after September 15, 2011, could not include terms inconsistent with the hard cap or 80/20 provisions in this bill.

#### Deduction from Compensation

Under the bill, a public employer would be authorized to deduct the covered employee's or elected official's portion of the costs of a medical benefit plan from the employee's or elected official's annual compensation. A public employer would be authorized to condition eligibility for the medical benefit plan on the employee's or elected official's authorization to the employer to make the deduction.

#### Application of New Law

The requirements of the bill would apply to medical benefit plans of all public employees and elected public officials to the greatest extent consistent with constitutionally allocated powers, whether or not a public employee was a member of a collective bargaining unit.

#### Local Unit Opt-Out

A local unit of government could exempt itself from the requirements of the bill for the next succeeding year by a two-thirds vote of its governing body. Another two-thirds vote would be required of the governing body to extend an exemption to a new year. An exemption would not be effective for a city with a mayor who is both the chief executive and chief administrator unless the mayor also approves the exemption. An exemption would not be effective for a county with a county executive who is both the chief executive and chief administrator unless the county administrator also approves the exemption.

#### Penalty for Non-Compliance

If a public employer failed to comply with the requirements of the bill, the public employer would have to permit the state treasurer to reduce each Economic Vitality Incentive Program payment (for cities, villages, and townships) by 10 percent, and the Department of Education would assess the public employer a penalty equal to 10 percent of each payment of any funds for which the public employer qualified under the State School Aid Act, during the period of non-compliance.

#### Definitions

The bill includes the following definitions:

- "Designated state official" means for an election affecting employees and officers in the judicial branch of state government, the State Court Administrator; for an election affecting Senate employees and officers, the Secretary of the Senate; for an election affecting House of Representative employees and officers, the Clerk of the House; for an election affecting Legislative Council employees, the Legislative Council; for an election affecting employees in the state classified service, the Civil Service Commission; for an election affecting executive branch employees who are not in the state classified service, the State Employer.
- "Local unit of government" means a city, village, township, or county, a municipal electric utility system, an authority created under Public Act 327 of 1945 (which pertains to public airport authorities), or an authority created under Public Act 147 of 1939 (which pertains to the Huron-Clinton Metropolitan Authority).
- "Medical benefit plan" means a plan established and maintained by a carrier, by a voluntary employees' beneficiary association (VEBA), or by one or more public employers that provides for the payment of medical benefits, including, but not limited to, hospital and physician services, prescription drugs, and related benefits, for public employees or elected public officials. (It does not include benefits provided to individuals retired from a public employer.)
- "Public employer" means this state; a local unit of government or other political subdivision of this state; any intergovernmental, metropolitan, or local department, agency, or authority, or other local political subdivision; a school district, a public school academy, or an intermediate school district; a community college or junior college; or an institution of higher education.

## **FISCAL IMPACT:**

**State Government Civil Service Fiscal Impact:** If the requirements of Senate Bill 7 (Substitute H-6, CR-1) were made applicable to state civil service employees through a constitutional amendment exempting health benefit cost allocation requirements from the Civil Service Commission's compensation-setting authority (as under Senate Joint Resolution C), or if a similar arrangement were negotiated between the state and civil service employees, the state would realize an indeterminate amount of savings. The amount of savings would depend on which option the Civil Service Commission chose under the bill—hard caps or percentage limits. The information below includes estimates of savings to the state under each of the options.

### Capped Employer Contributions:

Currently, for medical benefit coverage for state employees hired prior to April 1, 2010, the state pays, per employee participant, \$6,427 annually for single person coverage, \$12,854 annually for individual and spouse coverage, \$11,311 annually for individual and dependent coverage, and \$17,739 annually for family coverage. For medical benefit coverage for state employees hired after April 1, 2010, the state pays, per employee participant, \$5,060 annually for single person coverage, \$10,120 annually for individual and spouse coverage, \$8,906 annually for individual and dependent coverage, and \$13,966 annually for family coverage.

Based on FY 2010-11 data for the current medical benefit plans offered by the state, capping the state's contribution to \$5,500 for single person coverage, \$11,000 for

individual and spouse coverage, and \$15,000 for family coverage (assumed to include individual and dependent coverage) would result in an estimated initial annual savings to the state of \$42.5 million Gross. Of that amount, roughly 50 percent of the savings, or \$21.2 million, would be realized in the state's General Fund. Remaining savings would be associated with employee compensation costs funded by federal or state restricted funding sources.

As shown in the attached tables (on Page 6) the entirety of the savings would result from increases in required contributions toward benefit costs by employees hired prior to April 1, 2010. Over time, savings to the state attributable to the bill's provisions would decrease due to the fact that an increased percentage of total state employees will have been hired under the new state health plan.

80 Percent/20 Percent Limit:

Currently, state employees hired before April 1, 2010, contribute 10 percent of medical benefit costs, with the state contributing the remaining 90 percent. Employees hired after April 1, 2010, contribute 20 percent of those costs, with the state contributing the remaining 80 percent.

Based on data from the current medical benefit plan offered by the state to employees, limiting the state's contribution for each employee hired before April 1, 2010, at 80 percent of the average total medical benefit cost per employee would result in an estimated initial annual state savings of \$59.1 million. Of that amount, roughly 50 percent of the savings, or \$29.6 million, would be realized in the state's General Fund. The remaining savings would be associated with employee compensation costs funded by federal or restricted funding sources.

The estimated savings under the 80 percent/20 percent limit do not assume the lower overall costs of the medical benefit plan offered to state employees hired after April 1, 2010, as the relevant provisions of Senate Bill 7 (H-6) only address the relative employer and employee percentage contributions toward overall medical benefit costs. Over time, savings to the state attributable to the bill's provisions would decrease due to the fact that an increased percentage of total state employees will have been hired under the new state health plan.

**State Government Non-Civil Service Fiscal Impact:** The provisions of the bill would apply to non-civil service employees regardless of any change to the constitution: legislative and judicial employees, elected and appointed officials, and other exempt state positions. The data needed to determine the amount of savings to the state under the bill attributable to those employees is not readily available, although the savings would be small relative to the potential savings attributable to civil service employees.

**State Government Retirees Fiscal Impact:** The bill would exempt benefits to retired public employees from the employer contribution caps; however, the bill may indirectly affect retirees in the State Employees' Retirement System (SERS) if the bill becomes applicable to civil service employees. A provision in the State Employees' Retirement Act, MCL 38.20d, requires that the retirement system pay a proportion of the medical benefit premium for a retiree equal to the proportion of premium payable by the State of Michigan for the classified employees occupying positions in the state civil service. The

state may see further savings if the bill's employer contribution caps are applied to state retirees, but the savings again would depend on which option the Civil Service Commission chose. Currently state retirees typically pay 10 percent of their medical benefit premium prior to becoming Medicare-eligible and a decreased proportion of the remaining premium after becoming Medicare-eligible.

**Local Government, School District, and Higher Education Fiscal Impact:** Comprehensive data on medical benefit plan costs and contributions made by employees and employers toward those costs for local governments, school districts, community colleges, and public universities are not available. (The bill's provisions would only apply to public universities if the constitution were amended to exclude health benefit cost allocation requirements from the operational autonomy granted to the universities, as under Senate Joint Resolution C.) Therefore, no estimate can be provided as to the amount of savings those entities would realize under the provisions of the bill.

Anecdotal information, however, indicates that, proportional to total medical benefit costs, savings could be significantly lower for some public entities. For example, information submitted to the Legislature as part of FY 2011-12 budget deliberations by public universities indicate that a number of universities already require an employee contribution above 10 percent of total medical benefit costs. A major example of this is the University of Michigan, which currently requires a 30 percent contribution.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

**Civil Service Employees: Medical Benefit Premium Costs**

**Employees Hired Prior to April 1, 2010**

Coverage Type	Number of Participants	Current				SB 7 (H-6) CR-1		
		Employee Share	State Share	Total	% Employee Share	Total State Share	Per-Employee Cap	Total Cap
Single Person	10,426	\$714	\$6,427	\$7,141	10.0	\$67,007,902	\$5,500	\$57,343,000
Individual & Spouse	7,281	\$1,428	\$12,854	\$14,282	10.0	\$93,589,974	\$11,000	\$80,091,000
Individual & Dependents	6,095	\$1,257	\$11,311	\$12,568	10.0	\$68,940,545	\$15,000	\$91,425,000
Family	17,063	\$1,971	\$17,739	\$19,710	10.0	\$302,680,557	\$15,000	\$255,945,000
<b>Total</b>	<b>40,865</b>					<b>\$532,218,978</b>		<b>\$484,804,000</b>

**Required Reduction in State Share: (\$47,414,978)**

**Employees Hired After April 1, 2010**

Coverage Type	Number of Participants	Current				SB 7 (H-6) CR-1		
		Employee Share	State Share	Total	% Employee Share	Total State Share	Per-Employee Cap	Total Cap
Single Person	785	\$1,265	\$5,060	\$6,325	20.0	\$3,972,100	\$5,500	\$4,317,500
Individual & Spouse	548	\$2,530	\$10,120	\$12,650	20.0	\$5,545,760	\$11,000	\$6,028,000
Individual & Dependents	459	\$2,226	\$8,906	\$11,132	20.0	\$4,087,854	\$15,000	\$6,885,000
Family	1,284	\$3,491	\$13,966	\$17,457	20.0	\$17,932,344	\$15,000	\$19,260,000
<b>Total</b>	<b>3,076</b>					<b>\$31,538,058</b>		<b>\$36,490,500</b>

**Required Reduction in State Share: \$4,952,442**

<b>TOTAL Required Reduction in State Share:</b>	<b>(\$42,462,536)</b>
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