

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1524
Committee Substitute Favorable 5/23/05
Committee Substitute Favorable 6/1/05
Senate Rules and Operations of the Senate Committee Substitute Adopted 8/23/05

Short Title: Supplemental Insurance/Pers. Comm./SEIBP. (Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR COMPETITIVE SELECTION OF SUPPLEMENTAL INSURANCE PRODUCTS FOR RETIREES, TO AMEND THE POWERS AND DUTIES OF THE STATE PERSONNEL COMMISSION CONCERNING PILOT PROJECTS, AND TO MAKE VARIOUS OTHER AMENDMENTS TO STATE PERSONNEL LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 135 of the General Statutes is amended by adding a new Article to read:

"Article 7.

"Supplemental Insurance Products for Retirees.

"§ 135-120. Competitive selection of supplemental insurance products paid for by retirees.

(a) Duties of the Department of State Treasurer. – The Department of State Treasurer shall:

- (1) Review insurance products currently offered through retirement benefit payment deduction to retirees from the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the Consolidated Judicial Retirement System to determine if those products meet the needs and desires of retirees.
- (2) Select the types of insurance products that reflect the needs and desires of retirees, giving appropriate consideration to the ability of products to transition with individuals from active employment into retirement.
- (3) Competitively select insurance products of the types determined by the Department of State Treasurer to reflect the needs and desires of retirees.

1 (b) Retirement Benefit Payment Deductions. – The company or companies
2 selected by the Department of State Treasurer shall be permitted to sell through
3 retirement benefit payment deduction only the products specifically approved by the
4 Department of State Treasurer. The assignment by the Department of State Treasurer of
5 a retirement benefit payment deduction shall be for a period of not less than two years
6 unless the insurance company violates the terms of the written agreement specified in
7 this subsection. Subject to the provisions of subsection (d) of this section, the insurance
8 company awarded a retirement benefit payment deduction shall, pursuant to a written
9 agreement setting out the rights and duties of the insurance company, be afforded an
10 adequate opportunity to solicit retirees. The selected insurance company shall provide
11 information about retirement benefit payment deduction. The Department of State
12 Treasurer shall determine the format and medium the insurance company may use to
13 provide the information to retirees.

14 (c) Procedure for Selection of Supplemental Insurance Product Proposals. – The
15 following procedures shall apply to the selection of all supplemental insurance products
16 under this section:

17 (1) All supplemental insurance product proposals shall be sealed. The
18 Department of State Treasurer shall open all proposals in public, at
19 which time the proposals become public records open to public
20 inspection.

21 (2) After the public opening, a committee designated by the Department of
22 State Treasurer shall review the proposals and examine the cost,
23 coverage, and quality of the products, the reputation and capabilities of
24 the insurance companies submitting the proposals, and other
25 appropriate criteria. The committee shall determine which proposal, if
26 any, would meet the needs and desires of the retirees, and may reject
27 any or all proposals. Upon completion of its review, the committee
28 shall present its findings to the Board of Trustees and make
29 recommendations as to the awarding of a service contract. Upon
30 acceptance of the committee's findings and recommendations, the
31 Board of Trustees shall award a contract to make retirement benefit
32 deductions for supplemental insurance products to the company
33 submitting the proposal that best meets the needs and desires of the
34 retirees.

35 (3) A company may seek to modify or withdraw a proposal only after the
36 public opening and only on the basis that the proposal contains an
37 unintentional clerical error as opposed to an error in judgment. A
38 company seeking to modify or withdraw a proposal shall submit to the
39 Department of State Treasurer a written request, with facts and
40 evidence in support of its position, prior to the award of the retirement
41 benefit payment deduction slot, but not later than two days after the
42 public opening of the proposals. The Department of State Treasurer
43 shall promptly review the request, examine the nature of the error, and
44 determine whether to permit or deny the request.

1 (d) Confidentiality of Names and Addresses of Retired State and Local
2 Employees. – The Department of State Treasurer shall provide the selected insurance
3 company with the names and addresses of retirees in order for the company to provide
4 information to retirees about purchasing their selected insurance product. The selected
5 company shall keep the names and addresses of the retirees confidential and shall not
6 provide the information to any third party or use the information to solicit retirees for
7 insurance products other than those selected by the Department of State Treasurer. The
8 insurance company shall provide retirees with each solicitation the option to elect not to
9 receive any future solicitations by providing a preaddressed and postage prepaid card
10 the retiree may return to the insurance company.

11 (e) Option to Continue Supplemental Insurance. – At the termination of any
12 contract entered into under this section, or when retirement benefit payment deduction
13 is no longer available for a product, the insurance company shall provide covered
14 retirees the option to continue supplemental insurance on a direct billing basis. When
15 retirement benefit payment deduction is no longer available, the insurance company
16 may not terminate insurance products purchased under the retirement benefit payment
17 deduction plan without the retiree's specific written consent solely because the premium
18 is no longer deducted from retirement benefit payments."

19 **SECTION 2.(a)** G.S. 126-4 is amended by adding a new subdivision to read:
20 **"§ 126-4. Powers and duties of State Personnel Commission.**

21 Subject to the approval of the Governor, the State Personnel Commission shall
22 establish policies and rules governing each of the following:

23 (1) Position classification plans which shall provide for the classification
24 and reclassification of all positions subject to this Chapter according to
25 the duties and responsibilities of the positions.

26 ...

27 (19) Pilot projects for the purpose of determining whether the
28 implementation of a change to an existing program, or the addition of a
29 new program, will provide a measurable benefit to the State. This
30 subdivision may not be construed to authorize the establishment of an
31 incentive pay program.

32 a. Upon initial submission for approval by the Commission, each
33 pilot project shall have the following:

34 1. Specific beginning and ending dates;

35 2. Specific goals and objectives;

36 3. Measurable outcomes; and

37 4. Approval from the Office of State Budget and
38 Management for the flexibility to use any allowable and
39 available funds required for implementation of the pilot
40 project.

41 b. The Commission shall approve each pilot project prior to pilot
42 project implementation.

43 c. Prior to implementation of the pilot project, the Office of State
44 Personnel shall obtain from each pilot project participant a

signed document describing the pilot project and any temporary effect the project will have upon the employee's position classification, compensation, and benefits. No employee shall be adversely impacted by participation in a pilot project.

d. Upon completion of a pilot project, the Commission shall receive the following:

1. Information on the implementation of the pilot project;
2. The goals and objectives at the onset of the project;
3. Participant demographics;
4. Project outcomes;
5. Evaluation of the project based on the measured outcomes;
6. Pilot project costs;
7. Analysis on whether implementation of the pilot project on a statewide basis would provide a benefit to the State; and if the recommendation is that the project should be expanded statewide,
8. Cost analysis on implementation of the pilot project on a statewide basis.

e. Upon determination that a successful pilot project provides a measurable benefit to the State and merits expansion, the Commission may implement a new program, or modify an existing program within the limits of current statutory authority.

The policies and rules of the Commission shall not limit the power of any elected or appointed department head, in the department head's discretion and upon the department head's determination that it is in the best interest of the Department, to transfer, demote, or separate a State employee who is not a career State employee as defined by this Chapter."

SECTION 2.(b) Article 1 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-4.2. Funding for pilot projects.

State agencies, departments, and institutions, and The University of North Carolina shall have, with the concurrence of the Office of State Budget and Management, the flexibility to use any allowable and available funds to operate the pilot projects authorized in G.S. 126-4(19)."

SECTION 3.(a) G.S. 143-34.1(c) reads as rewritten:

"§ 143-34.1. Positions included in the State's payroll must be approved by the Director of Budget; payment of benefits and other salary-related items must be made from same source as salary; dependent care assistance program authorized; flexible compensation benefits authorized.

...

(c) The Director of the Budget is authorized to provide eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 a program of dependent care assistance as available under Section 129

1 and related sections of the Internal Revenue Code of 1986, as amended. The Director of
2 the Budget may delegate to the Office of State Personnel the authority to administer a
3 plan under this subsection, that authorizes ~~authorize~~ State departments, institutions, and
4 agencies to enter into annual agreements with employees who elect to participate in the
5 program to provide for a reduction in salary. With the approval of the Director of the
6 Budget, savings in the employer's share of contributions under the Federal Insurance
7 Contributions Act on account of the reduction in salary may be used to pay some or all
8 of the administrative expenses of the program. Should the Director decide to contract
9 with a third party to administer the terms and conditions of a program of dependent care
10 assistance, he may select a contractor only upon a thorough and completely competitive
11 procurement process.

12 (d) Notwithstanding any other provisions of law relating to the salaries of
13 officers and employees of departments, institutions, and agencies of State government,
14 the Director of the Budget is authorized to provide a plan of flexible compensation to
15 eligible officers and employees of State departments, institutions, and agencies not
16 covered by the provisions of G.S. 116-17.2 for benefits available under Section 125 and
17 related sections of the Internal Revenue Code of 1986 as amended. This plan shall not
18 replace, substitute for, or duplicate any benefits provided to employees and officers
19 under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3, 4, and 6 of
20 Chapter 135 of the General Statutes. The plan may, however, include offerings for
21 products and benefits that are supplemental or additional to these statutory benefits. In
22 providing a plan of flexible compensation, the Director of the Budget may delegate to
23 the Office of State Personnel the authority to administer a plan under this subsection,
24 that authorizes ~~authorize~~ State departments, institutions, and agencies to enter into
25 agreements with their employees for reductions in the salaries of employees electing to
26 participate in the plan of flexible compensation provided by this section. With the
27 approval of the Director of the Budget, savings in the employer's share of contributions
28 under the Federal Insurance Contributions Act on account of the reduction in salary may
29 be used to pay some or all of the administrative expenses of the program. Should the
30 Director of the Budget or the Office of State Personnel decide to contract with a third
31 party to administer the terms and conditions of a plan of flexible compensation as
32 provided by this section, it may select such a contractor only upon a thorough and
33 completely advertised competitive procurement process."

34 **SECTION 3.(b)** G.S. 116-17.2 reads as rewritten:

35 **"§ 116-17.2. Flexible Compensation Plan.**

36 Notwithstanding any other provisions of law relating to the salaries of employees of
37 The University of North Carolina, the Board of Governors of The University of North
38 Carolina is authorized to provide a plan of flexible compensation to eligible employees
39 of constituent institutions for benefits available under Section 125 and related sections
40 of the Internal Revenue Code of 1986 as amended. This plan shall not include those
41 benefits provided to employees under Articles 1, 3, and 6 of Chapter 135 of the General
42 Statutes nor any vacation leave, sick leave, or any other leave that may be carried
43 forward from year to year by employees as a form of deferred compensation. In
44 providing a plan of flexible compensation, the Board of Governors may delegate to the

1 Office of State Personnel the authority to administer a plan under this subsection that
 2 authorizes ~~authorize~~ constituent institutions to enter into agreements with their
 3 employees for reductions in the salaries of employees electing to participate in the plan
 4 of flexible compensation provided by this section. With the approval of the Director of
 5 the Budget, savings in the employer's share of contributions under the Federal Insurance
 6 Contributions Act on account of the reduction in salary may be used to pay some or all
 7 of the administrative expenses of the program. Should the Board of Governors decide to
 8 contract with a third party to administer the terms and conditions of a plan of flexible
 9 compensation as provided by this section, it may select such a contractor only upon a
 10 thorough and completely advertised competitive procurement process."

11 **SECTION 3.(c)** G.S. 126-3 reads as rewritten:

12 "**§ 126-3. Office of State Personnel established and responsibilities outlined;**
 13 **administration and supervision; appointment, compensation and tenure**
 14 **of Director.**

15 ...

16 (b) The Office shall be responsible for the following activities, and such other
 17 activities as specified in this Chapter:

18 ...

- 19 (8) Developing criteria and standards to measure the level of compliance
 20 or noncompliance with established Commission policies, rules,
 21 procedures, criteria, and standards in agencies, departments, and
 22 institutions to which authority has been delegated for classification,
 23 salary administration and other decentralized programs, and
 24 determining through routine monitoring and periodic review process,
 25 that agencies, departments, and institutions are in compliance or
 26 noncompliance with established Commission policies, rules,
 27 procedures, criteria, and standards; ~~and~~
- 28 (9) Implementing corrective actions in cases of ~~noncompliance.~~
 29 noncompliance;
- 30 (10) Administering a plan of dependent care assistance and flexible
 31 compensation at the request of the Director of the Budget and the
 32 Board of Governors of The University of North Carolina and pursuant
 33 to the requirements of G.S. 143.34.1 and G.S. 116-17.2; and
- 34 (11) Offering additional or supplemental products using the same process
 35 and committee members as those used to evaluate the products offered
 36 in subdivision (10) of this subsection. Appropriate consideration
 37 should be given to the ability of products to transition with individuals
 38 from active employment into retirement. The contracts for post-tax
 39 products shall include a conversion option for employees when they
 40 retire and companies shall provide retirees the option to continue
 41 coverage on a direct billing basis. Employee Insurance Committees
 42 authorized pursuant to G.S. 58-31-60 may elect not to offer the
 43 products authorized in this subdivision."

44 **SECTION 4.(a)** Article 36A Chapter 143 of the General Statutes is repealed.

1 (d) If a suggestion or innovation affects a program, activity, or service for which
2 no separate budgeted amount has been made, the State Coordinator, in conjunction with
3 the agency evaluator or agency fiscal officer, or both for that suggestion or innovation,
4 shall determine the budgetary impact of the suggestion or innovation.

5 (e) Federal and local government funds and corporate and foundation grant funds
6 are excluded from the SEIBP.

7 (f) The Department of Administration shall establish the SEIBP reserve fund in
8 which all savings for all suggestions shall be deposited as earned. Each participating
9 agency shall be responsible for transferring savings to the SEIBP reserve fund. The
10 funds may be encumbered as needed to ensure payment to the General Fund, to the
11 suggester, and for distribution as required by G.S. 126-97. The Department of
12 Administration shall provide the SEIBP reserve fund summary at the close of each
13 fiscal year to the Office of State Personnel, the Office of State Budget and Management
14 and to the participating agencies. The Office of State Budget and Management shall
15 have oversight responsibility for ensuring that the required reversions and transfers are
16 made to the General Fund, and that all encumbered funds are accounted for and paid as
17 required by law.

18 (g) No distribution of suggester awards shall occur until reversion requirements
19 to the General Fund are met and distributions as required by G.S. 126-97 are satisfied
20 and verified by the Office of State Budget and Management. When all of the
21 requirements of G.S. 126-97 are fulfilled, the Department of Administration shall notify
22 the Office of State Personnel of the transfer to the suggester's agency funds required to
23 award the suggester. The Office of State Personnel shall authorize the agency to make
24 the suggester's award. The suggester's agency shall make the suggestion award and
25 ensure that all taxes and withholding requirements are met.

26 (h) Implementation costs may be prorated over a maximum of three years for
27 suggestions or innovations that are capital intensive, involve leading-edge technology,
28 or involve unconventional processes that require longer than 12 months for
29 implementation. The amount of the average annual savings minus the average annual
30 implementation cost shall be used as the basis for the agency to recommend a suggester
31 award. The State Review Committee shall consult the Office of State Budget and
32 Management to make the final award determination in these cases.

33 (i) There is established in the Department of Administration a nonreverting fund
34 to be administered by the Office of State Personnel for the training and education of
35 permanent State employees to address specific mission critical needs and objectives.
36 Funds shall be credited from the SEIBP to the fund as provided by this Article.

37 **"§ 126-97. Allocation of incentive bonus funds; nonmonetary recognition.**

38 (a) If a State employee's suggestion or innovation results in a monetary savings
39 or increased revenue to the State, the funds saved or increased shall be distributed
40 according to the following scale or subject to guidelines as set forth by the funding
41 source:

- 42 (1) Twenty percent (20%) of the annualized savings or increased
43 revenues, up to a maximum of twenty thousand dollars (\$20,000) for
44 any one State employee, to constitute gainsharing. If a team of State

1 employees is the suggester, the bonus provided in this subdivision
2 shall be divided equally among the team members, except that no team
3 member shall receive in excess of twenty thousand dollars (\$20,000),
4 nor shall the team receive an aggregate amount in excess of one
5 hundred thousand dollars (\$100,000). These funds shall not revert.

6 (2) Fifty percent (50%) allocated as follows:

7 a. Thirty percent (30%) to the implementing agency for
8 nonrecurring budget items to be used (i) by the implementing
9 agency to provide equipment, supplies, training, and limited but
10 appropriate recognition for the division, section, or group
11 responsible for the implementation of the cost-saving measure
12 and (ii) to meet other similar needs within the agency.

13 b. Ten percent (10%) to the Office of State Personnel for
14 augmenting funding for the management and administration of
15 the SEIBP. These funds shall not revert.

16 c. Ten percent (10%) to the State employee education and training
17 fund administered by the Office of State Personnel under
18 G.S. 143-342.21(i). These funds shall not revert.

19 (3) The thirty percent (30%) remainder to the General Fund for
20 nonrecurring budget items.

21 (b) Of the pool of funds identified in subsection (a) of this section, only the
22 General Fund distribution shall be subject to reversion, under nonemergency budget
23 conditions. SEIBP funds arising from savings at The University of North Carolina, the
24 North Carolina Community Colleges System, the Highway Trust Fund, enterprise
25 funds, and receipt-supported organizations shall be exempt from the General Fund
26 reversion requirements under nonemergency budget conditions.

27 (c) The budget of a State agency shall not be reduced in the following fiscal year
28 by an amount similar to the monetary savings or increased revenues realized by the
29 State Employee Incentive Bonus Program. The agency budget shall be reduced in
30 subsequent years only if structural or organizational changes are made that warrant the
31 reductions, including the transfer of responsibility for an activity or service to another
32 agency or the elimination of some function of State government.

33 (d) If a suggestion or innovation results in improved quality of services to the
34 public or to other State agencies, departments, and institutions, but not in monetary
35 savings to the State, the suggester shall receive a nonmonetary award in the form of a
36 certificate, leave with pay, or other similar recognition.

37 (e) For suggestions approved in programs that are not funded in part or whole
38 through the General Fund, the State Review Committee shall ensure that the funds that
39 would otherwise be distributed to the General Fund are allocated to the appropriate
40 funding source.

41 **"§ 126-98. Suggestion and review process; role of agency coordinator and agency**
42 **evaluator.**

43 (a) The process for a State employee or team of State employees to submit a
44 cost-saving or revenue-increasing proposal shall begin with the employee or team of

1 employees submitting the suggestion or innovation to an agency coordinator. The
2 agency coordinator, in conjunction with an agency evaluator, shall review the
3 suggestion or innovation and upon the approval of the agency head or their designee
4 shall submit the suggestion to the State Review Committee established in G.S. 126-7.8.

5 (b) An agency coordinator shall be appointed by the head of each participating
6 agency to serve as liaison between the agency, the suggester, the agency evaluator, and
7 the SEIBP office. The duties of the agency coordinator shall include:

8 (1) Serving as an information source and maintaining sufficient forms
9 necessary to submit suggestions.

10 (2) Presenting, in conjunction with the agency evaluator, the
11 recommendation for an award to the State Review Committee.

12 (3) Working in conjunction with the agency evaluator to process a
13 particular suggestion or innovation within 180 days, except when there
14 are extenuating circumstances.

15 An agency may have more than one coordinator if required to provide sufficient
16 services to State employees.

17 (c) An agency evaluator shall be designated by the management of the
18 implementing agency to evaluate one or more suggestions. The duties of an agency
19 evaluator shall include:

20 (1) Receiving from the agency coordinator and reviewing within 90 days,
21 when possible, the feasibility and effectiveness of cost-saving or
22 revenue-increasing measures suggested by State employees.

23 (2) Being knowledgeable of the subject program, activity, or service.

24 (3) Determining, in conjunction with the agency fiscal officer, the
25 budgetary impact of a suggestion or innovation.

26 (4) Judging impartially both the positive and negative effects of a
27 suggestion or innovation on the current functions of the subject
28 program, activity, or service.

29 (d) The State SEIBP Coordinator shall be appointed by the State Personnel
30 Director and shall be responsible for general oversight and coordination of the State
31 Employee Incentive Bonus Program. The State coordinator shall be a State employee
32 reporting to the Office of State Personnel. The State coordinator shall be responsible for
33 day-to-day SEIBP program management and administration of the technical aspects of
34 the program. The State coordinator shall be an ex officio voting member of the State
35 Review Committee.

36 **"§ 126-99. Incentive Bonus Review Committee.**

37 (a) The Incentive Bonus Review Committee, hereinafter "State Review
38 Committee", shall consist of 11 members, as follows:

39 (1) The State SEIBP Coordinator.

40 (2) A representative of the Office of State Budget and Management.

41 (3) Three representatives from cabinet agencies as appointed by the State
42 Personnel Director.

43 (4) A representative of The University of North Carolina.

44 (5) A representative of the Department of Justice.

- 1 (6) A representative of the Department of State Auditor.
2 (7) One State employee appointed by the Speaker of the House of
3 Representatives.
4 (8) One State employee appointed by the President Pro Tempore of the
5 Senate.
6 (9) One State employee appointed by the Governor.
7 (b) The duties of the State Review Committee shall include:
8 (1) Receiving from and reviewing suggestions and innovations submitted
9 by the various agency coordinators.
10 (2) Determining the impact of a suggestion or innovation on State
11 government services by judging the monetary savings, increased
12 revenues, or improved quality of services generated by a suggestion or
13 innovation.
14 (3) Recommending approval or rejection of suggestions and innovations
15 submitted by the agencies ensuring that the State employee incentive
16 bonus process does not result in a negative impact on services
17 provided to taxpayers by State government.
18 (c) All administrative, management, clerical, and other functions and services
19 required by the State Review Committee shall be supplied by the Office of State
20 Personnel. The Office of State Personnel shall report annually to the Joint Legislative
21 Commission on Governmental Operations on the administration of the State Employee
22 Incentive Bonus Program.
23 **§ 126-100. Innovations deemed property of the State; effect of decisions**
24 **regarding bonuses.**
25 (a) Subject to G.S. 126-96(e), all suggestions or innovations submitted by State
26 employees pursuant to this Article are the property of the State, and all related
27 intellectual property rights shall be assigned to the State.
28 (b) Decisions regarding the proposed award of bonuses by the agency
29 coordinator and the State Review Committee that are approved by the State Personnel
30 Director or designee are final and are not subject to review under the contested case
31 procedures of Chapter 150B of the General Statutes."

32 **SECTION 5.** This act is effective when it becomes law.