

1 S.21

2 Introduced by Senator White

3 Referred to Committee on

4 Date:

5 Subject: Health; health insurance; State employees; municipal employees;

6 legislators; teachers; collective bargaining; Public Employee Health

7 Benefit Plan

8 Statement of purpose of bill as introduced: This bill proposes to establish the
9 Public Employee Health Benefit Plan, which would provide health insurance
10 coverage for all State employees, municipal employees, legislators, teachers,
11 and other eligible public employees. The bill would remove medical benefits
12 and health insurance from the subjects on which State employees, municipal
13 employees, teachers, and other public employees may collectively bargain.

14 The bill also expresses legislative intent to evaluate whether and how to
15 expand eligibility to Vermont residents who are not public employees and to
16 consider funding mechanisms to ensure the coverage is affordable for
17 enrollees.

18 An act relating to establishing the Public Employee Health Benefit Plan

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 3 V.S.A. chapter 35 is added to read:

3 CHAPTER 35. PUBLIC EMPLOYEE HEALTH BENEFIT PLAN

4 § 1251. DEFINITIONS

5 As used in this chapter:

6 (1) “Board” means the Public Employee Health Benefit Plan Board.

7 (2) “Dependent” means an employee’s or retiree’s spouse or unmarried
8 child up to 26 years of age, who may be the employee’s or retiree’s own or
9 lawfully adopted child, stepchild, foster child, child under adoptive supervisory
10 placement, or other child who depends on the employee or retiree for support
11 and maintenance.

12 (3) “Employee” means:

13 (A) an individual employed by the State of Vermont;

14 (B) an individual employed by a political subdivision of the State,
15 including a municipality or other instrumentality;

16 (C) a member of the General Assembly;

17 (D) an individual employed by a supervisory union or a school
18 district who is permitted to collectively bargain under 16 V.S.A. chapter 57 or
19 21 V.S.A. chapter 22;

20 (E) an individual employed by the University of Vermont or the
21 Vermont State Colleges; or

1 (F) an individual employed by the Vermont Student Assistance
2 Corporation established pursuant to 16 V.S.A. § 2821.

3 (4) “Executive Director” means the Executive Director of the Public
4 Employee Health Benefit Plan.

5 (5) “Plan” means the Public Employee Health Benefit Plan established
6 by this chapter.

7 (6) “Retired employee” or “retiree” means an individual who was
8 employed by one or more of the entities described in subdivision (3) of this
9 section and who is a member of:

10 (A) the Vermont Employees’ Retirement System established in
11 chapter 16 of this title;

12 (B) the State Teachers’ Retirement System established in 16 V.S.A.
13 chapter 55; or

14 (C) the Municipal Employees’ Retirement System established in
15 24 V.S.A. chapter 125.

16 (7) “Supervisory union” and “school district” have the same meanings
17 as in 16 V.S.A. § 11.

18 § 1252. PLAN ESTABLISHED

19 (a) There is established a nonprofit public corporation to be known as the
20 Public Employee Health Benefit Plan for the purpose of providing health
21 benefits to eligible employees and retirees and their dependents. The Plan

1 shall be administered by the State Treasurer, the Executive Director of the
2 Public Employee Health Benefit Plan, and the Public Employee Health Benefit
3 Plan Board, who shall each act as a fiduciary for the Plan.

4 (b)(1) The Plan shall administer at least one but not more than two major
5 medical group health benefit plans providing comprehensive coverage. The
6 health benefit plans shall be designed and approved by the Board pursuant to
7 section 1253 of this title.

8 (2) All Plan enrollees and their dependents shall constitute a single
9 risk pool.

10 (3) The Executive Director, in consultation with the Board, may contract
11 on behalf of the State with any insurance company or nonprofit association
12 doing business in this State to administer certain aspects of the plan, such as
13 claims administration and provider relations.

14 (c) Payroll deduction shall be available for coverage under the Plan for
15 qualified enrollees who so request.

16 § 1253. PUBLIC EMPLOYEE HEALTH BENEFIT PLAN BOARD

17 (a) There is created the Public Employee Health Benefit Plan Board.

18 (b)(1) The Board shall be composed of the following 13 members:

19 (A) the State Treasurer, who shall be an ex officio member of the
20 Board and shall serve as its chair, but shall only vote in order to break a tie;

1 (B) two representatives of State employees appointed by the Speaker
2 of the House of Representatives as follows:

3 (i) one who represents a labor union certified as the exclusive
4 representative of at least one bargaining unit of classified State employees; and

5 (ii) one who is a retired State employee, is covered under the
6 Public Employee Health Benefit Plan, and represents an organized group of
7 retired State employees;

8 (C) two representatives of school district employees appointed by the
9 President Pro Tempore of the Senate as follows:

10 (i) one representative of a labor union that represents school
11 employees for purposes of collective bargaining pursuant to 16 V.S.A.
12 chapter 57 or 21 V.S.A. chapter 22, or both; and

13 (ii) one who is a retired employee of a supervisory union or school
14 district, is covered under the Public Employee Health Benefit Plan, and
15 represents an organized group of retired school employees;

16 (D) two representatives of municipal employees appointed by the
17 Governor as follows:

18 (i) one representative of a labor union that represents municipal
19 employees for purposes of collective bargaining pursuant to 21 V.S.A.
20 chapter 22 in a nonschool-related context; and

1 (ii) one who has retired as a municipal employee in a nonschool-
2 related context, is covered under the Public Employee Health Benefit Plan, and
3 represents an organized group of retired municipal employees;

4 (E) the Commissioner of Human Resources or designee, who shall be
5 an ex officio member of the Board;

6 (F) one representative of school boards, appointed by the Speaker of
7 the House of Representatives;

8 (G) one representative of municipal employers, appointed by the
9 President Pro Tempore of the Senate; and

10 (H) three members with experience and expertise in health benefit
11 management and cost containment, with one each to be appointed by the
12 Governor, the Speaker of the House of Representatives, and the President Pro
13 Tempore of the Senate.

14 (2)(A) Each member of the Board who is not serving ex officio shall
15 serve a term of three years and shall continue to serve until a successor is
16 appointed.

17 (B) A vacancy created before the expiration of a term shall be filled
18 in the same manner as the original appointment for the unexpired portion of the
19 term.

1 (C) A member shall not serve more than two consecutive terms. A
2 member appointed to fill a vacancy created before the expiration of a term shall
3 not be considered to have served a term for the purpose of this subdivision (C).

4 (c) The Board shall:

5 (1) Design and approve health benefit plans for employees and retirees.

6 (2) Determine the amount of the health benefit plan premiums to be paid
7 by the employer and by the employee or retiree, as well as the amount of any
8 employer contributions to health savings accounts or health reimbursement
9 arrangements, or both. If health reimbursement arrangements will be used, the
10 Board shall also determine the extent to which employees and retirees shall
11 bear first dollar responsibility for their out-of-pocket expenses and whether the
12 balance in an employee's or retiree's health reimbursement arrangement shall
13 roll over from year to year.

14 (3) Establish eligibility criteria for the participation of employees,
15 retirees, and dependents in the plans. Eligibility shall be determined solely by
16 the Board and shall not be at the discretion of any individual employer.

17 (d) The Board shall be staffed by the Executive Director of the Public
18 Employee Health Benefit Plan, who shall be appointed by and serve at the
19 pleasure of the Board and who shall be a full-time, exempt State employee.
20 The Executive Director shall provide administrative support to the Board and
21 shall oversee the administration and operation of the Public Employee Health

1 Benefit Plan. The Executive Director may employ such clerical and
2 professional staff as necessary to support the Board and the State Treasurer in
3 carrying out their duties and responsibilities under this chapter.

4 (e)(1) A majority of the membership of the Board shall constitute a
5 quorum.

6 (2) Decisions of the Board shall be made by a majority vote of the Board
7 members present.

8 (3) The Board shall meet at least quarterly. Meetings may also be called
9 by the Chair or at the written request of three or more members.

10 (f) Members of the Board shall be entitled to per diem compensation and
11 reimbursement of expenses as permitted under 32 V.S.A. § 1010. These
12 payments shall be made from monies appropriated to the State Treasurer.

13 § 1254. PUBLIC EMPLOYEE HEALTH BENEFIT PLAN TRUST FUND

14 (a) There is created the Public Employee Health Benefit Plan Trust Fund
15 for the purpose of accumulating and providing reserves to support health
16 benefit programs for eligible employees and retirees and to make distributions
17 from the Fund to pay for hospital and medical benefits and claims on behalf of
18 Plan enrollees.

19 (b) The following shall be deposited into the Public Employee Health
20 Benefit Plan Trust Fund:

1 (1) all premiums, fees, charges, rebates, refunds, and other amounts
2 contributed or otherwise made available by Plan enrollees and others for the
3 purpose of paying for current or future hospital and medical benefits and
4 claims on behalf of Plan enrollees; and

5 (2) any appropriations by the General Assembly for the purpose of
6 paying for current or future hospital and medical benefits and claims on behalf
7 of Plan enrollees.

8 (c) The Public Employee Health Benefit Plan Trust Fund shall be
9 administered by the State Treasurer. The Treasurer may invest monies in the
10 Fund in accordance with the provisions of 32 V.S.A. § 434. All balances in the
11 Fund at the end of the fiscal year shall be carried forward. Interest earned on
12 Fund balances shall be credited to the Fund. The Treasurer's annual financial
13 report to the Governor and the General Assembly shall contain an accounting
14 of receipts, disbursements, and earnings of the Public Employee Health Benefit
15 Plan Trust Fund.

16 (d) All monies of the Public Employee Health Benefit Plan Trust Fund
17 shall be held in one or more trusts, custodial accounts treated as trusts, or a
18 combination thereof. Contributions to the Fund shall be irrevocable, and it
19 shall be impossible at any time prior to the satisfaction of all liabilities with
20 respect to Plan enrollees for any part of the corpus or income of the Fund to be
21 used for, or diverted to, purposes other than paying for current or future

1 hospital and medical benefits and claims on behalf of Plan enrollees and the
2 reasonable expenses of administering the Plan.

3 (e) Disbursement from the Public Employee Health Benefit Plan Trust
4 Fund may be made by the State Treasurer on warrants drawn by the
5 Commissioner of Finance and Management.

6 § 1255. RULES

7 The State Treasurer, after consultation with the Public Employee Health
8 Benefit Plan Board, shall adopt rules pursuant to chapter 25 of this title to carry
9 out the purposes of this chapter, which shall include eligibility criteria for
10 employees, retirees, and dependents; appeals processes; and open enrollment
11 periods.

12 Sec. 2. 3 V.S.A. § 904 is amended to read:

13 § 904. SUBJECTS FOR BARGAINING

14 (a) All matters relating to the relationship between the employer and
15 employees shall be the subject of collective bargaining except those matters
16 that are prescribed or controlled by statute. The matters appropriate for
17 collective bargaining to the extent they are not prescribed or controlled by
18 statute include:

19 (1) wages, salaries, benefits, and reimbursement practices relating to
20 necessary expenses and the limits of reimbursable expenses, except as
21 provided in subsection (c) of this section;

1 (2) minimum hours per week;

2 (3) working conditions;

3 (4) overtime compensation and related matters;

4 (5) leave compensation and related matters;

5 (6) reduction-in-force procedures;

6 (7) grievance procedures, including whether an appeal to the Vermont
7 Labor Relations Board or binding arbitration, or both, will constitute the final
8 step in a grievance procedure;

9 (8) terms of coverage and amount of employee financial participation in
10 insurance programs, except as provided in subsection (c) of this section and
11 except that the Department of State's Attorneys and Sheriffs and the deputy
12 State's Attorneys and other employees of the State's Attorneys' offices shall
13 not bargain in relation to terms of coverage;

14 (9) rules for personnel administration, except the following: rules
15 relating to persons exempt from the classified service under section 311 of this
16 title and rules relating to applicants for employment in State service and
17 employees in an initial probationary status, including any extension or
18 extensions thereof, provided the rules are not discriminatory by reason of an
19 applicant's race, color, creed, sex, national origin, sexual orientation, gender
20 identity, ancestry, place of birth, age, or physical or mental condition; and

1 (8) terms of coverage and amount of employee financial participation in
2 insurance programs, except as provided in subsection (b) of this section;

3 (9) rules for personnel administration of employees provided the rules
4 are not discriminatory in regard to an applicant's race, color, creed, sex, sexual
5 orientation, gender identity, age, national origin, religion, or disability;

6 (10) the manner in which to enforce an employee's obligation to pay the
7 collective bargaining service fee.

8 (b) Health care benefits and coverage shall not be subject to collective
9 bargaining under this chapter, but shall instead be offered to eligible
10 employees pursuant to chapter 35 of this title.

11 Sec. 4. 16 V.S.A. § 2004 is amended to read:

12 § 2004. AGENDA

13 (a) The school board, through its negotiations council, shall, upon request,
14 negotiate with representatives of the teachers' or administrators' organization
15 negotiations council on matters of salary, related economic conditions of
16 employment, the manner in which it will enforce an employee's obligation to
17 pay the agency fee, procedures for processing complaints and grievances
18 relating to employment, and any mutually agreed-upon matters not in conflict
19 with the statutes and laws of the State of Vermont.

20 (b)(1) ~~As used in this section~~ With respect to employees of supervisory
21 unions and school districts, the terms "salary" and "related economic

1 conditions of employment” as used in this section shall not include health care
2 benefits or coverage other than stand-alone vision and dental benefits. Health
3 care benefits and health coverage, excluding stand-alone vision and dental
4 benefits but including health reimbursement arrangements and health savings
5 accounts, shall not be subject to collective bargaining pursuant to this chapter,
6 but shall ~~be determined pursuant to chapter 61 of this title~~ be offered to eligible
7 employees pursuant to 3 V.S.A. chapter 35.

8 (2) With respect to employees of independent elementary and secondary
9 schools, the terms “salary” and “related economic conditions of employment”
10 as used in this section shall include health care benefits and coverage.

11 Sec. 5. 16 V.S.A. § 2005 is amended to read:

12 § 2005. WRITTEN AGREEMENT

13 The negotiations councils for the school board and the teachers’ or
14 administrators’ organization shall enter into a written agreement or agreements
15 incorporating therein matters agreed to in negotiation. ~~The written agreement~~
16 ~~shall incorporate by reference the terms of the agreement entered into pursuant~~
17 ~~to chapter 61 of this title.~~

18 Sec. 6. 21 V.S.A. § 1722 is amended to read:

19 § 1722. DEFINITIONS

20 As used in this chapter:

21 * * *

1 ~~and health savings accounts~~, shall not be subject to collective bargaining by
2 ~~municipal school employees~~ pursuant to this chapter, but shall ~~be determined~~
3 ~~pursuant to 16 V.S.A. chapter 61~~ instead be offered to eligible employees
4 pursuant to 3 V.S.A. chapter 35.

5 ~~(B) All written contracts executed in relation to municipal school~~
6 ~~employees shall incorporate by reference the terms of the agreement entered~~
7 ~~into pursuant to 16 V.S.A. chapter 61.~~

8 Sec. 8. PUBLIC EMPLOYEE HEALTH BENEFIT PLAN BOARD; INITIAL
9 TERMS

10 (a) The Speaker of the House of Representatives, the President Pro
11 Tempore of the Senate, and the Governor shall appoint the members of the
12 Public Employee Health Benefit Plan Board on or before September 1, 2020.

13 (b) Notwithstanding the terms of 3 V.S.A. § 1253(b), the initial terms of
14 the members of the Public Employee Health Benefit Plan Board who are not
15 servng ex officio shall be as follows:

16 (1) one-year term:

17 (A) retired State employee;

18 (B) municipal employee labor union representative; and

19 (C) health benefit management and cost-containment expert

20 appointed by the Governor;

21 (2) two-year term:

1 (A) school employee labor union representative;
2 (B) retired municipal employee;
3 (C) representative of municipal employers; and
4 (D) health benefit management and cost-containment expert
5 appointed by the Speaker of the House; and

6 (3) three-year term:

7 (A) State employee labor union representative;
8 (B) retired school employee;
9 (C) representative of school boards; and
10 (D) health benefit management and cost-containment expert
11 appointed by the President Pro Tempore.

12 Sec. 9. ELIGIBILITY EXPANSION; FUNDING; LEGISLATIVE INTENT

13 It is the intent of the General Assembly to evaluate whether and how to
14 expand eligibility for the Public Employee Health Benefit Plan to Vermont
15 residents who are not public employees or retirees. The General Assembly
16 also intends to consider mechanisms for funding the Plan in order to ensure
17 that the coverage is affordable for enrollees.

18 Sec. 10. REPEAL

19 16 V.S.A. chapter 61 (Commission on Public School Employee Health
20 Benefits) is repealed.

1 Sec. 11. EFFECTIVE DATES

2 (a) Secs. 1 (Public Employee Health Benefit Plan) and 8 (initial Board
3 terms) shall take effect on passage, with coverage under the Plan becoming
4 available on January 1, 2022.

5 (b) Secs. 2–7 (State, municipal, and school employee collective bargaining)
6 shall take effect on passage and shall apply to collective bargaining agreements
7 that take effect on or after the effective date of this act, which shall provide for
8 coverage under the Plan beginning on January 1, 2022.

9 (c) Sec. 9 (eligibility expansion; funding; legislative intent) and this section
10 shall take effect on passage.

11 (d) Sec. 10 (repeal of Commission on Public School Employee Health
12 Benefits) shall take effect on January 1, 2022.