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SENATE BILL NO. 1089

Offered January 9, 2013

Prefiled January 9, 2013

A BILL to amend and reenact §§ 2.2-1204, 15.2-1512.1, and 23-284 of the Code of Virginia, relating to health insurance program for local government entities.

Patron—Watkins

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1204, 15.2-1512.1, and 23-284 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1204. Health insurance program for employees of local governments, local officers, teachers, etc.; definitions.

A. The Department shall establish a plan or plans, hereinafter "plan" or "plans," subject to the approval of the Governor, for providing health insurance coverage for employees of local governments, local officers, teachers, ~~employees of area agencies on aging~~, and retirees, and the dependents of such employees, officers, teachers, ~~employees of area agencies on aging~~, and retirees. The plan or plans shall be rated separately from the plan established pursuant to § 2.2-2818 to provide health and related insurance coverage for state employees. Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, *or* by the local school board in the case of teachers, ~~or by the governing body of an area agency on aging in the case of its employees~~, and (iii) subject to regulations adopted by the Department. In addition, at the option of a governing body, *or* school board, ~~or area agency on aging~~ that has elected to participate in the health insurance plan or plans offered by the Department, the governing body, *or* school board, ~~or area agency on aging~~ may elect to participate in the *voluntary employee-pay-all* long-term care ~~or other benefit~~ program that the Department may make available to the governing body, school board, ~~or area agency on aging~~ offered by the Commonwealth.

B. The plan established by the Department shall satisfy the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), shall consist of a flexible benefits structure that permits the creation of multiple plans of benefits and may provide for separate rating groups based upon criteria established by the Department. The Department shall adopt regulations regarding the establishment of such a plan or plans, including, but not limited to, requirements for eligibility, participation, access and egress, mandatory employer contributions and financial reserves, and the administration of the plan or plans. The Department may engage the services of other professional advisors and vendors as necessary for the prudent administration of the plan or plans. The assets of the plan or plans, together with all appropriations, premiums, and other payments, shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs, and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for the sole benefit of the employee health insurance fund. The fund shall be held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer shall charge reasonable fees to recover the actual costs of investing the assets of the plan or plans.

In establishing the participation requirements, the Department may provide that those employees, officers, and teachers without access to employer-sponsored health care coverage may participate in the plan. It shall collect all premiums directly from the employers of such employees, officers, and teachers.

C. In the event that the financial reserves of the plan fall to an unacceptably low level as determined by the Department, it shall have the authority to secure from the State Treasurer a loan sufficient to raise the reserve level to one that is considered adequate. The State Treasurer may make such a loan, to be repaid on such terms and conditions as established by him.

D. For the purposes of this section:

"Area agency on aging" means any agency designated pursuant to § 51.5-135.

"Employees of local governments" shall include all officers and employees of the governing body of any county, city, or town, and the directing or governing body of any political entity, subdivision, branch, or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges, or authority capable of exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300, 15.2-1303, or similar statutes, provided that the officers and employees of a social services department, welfare board, community services board or behavioral health authority; ~~center for~~

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independent living funded in whole or in part by the Department for Aging and Rehabilitative Services pursuant to the provisions of Article 10 (§ 51.5-161 et seq.) of Chapter 14 of Title 51.5, or library board of a county, city, or town shall be deemed to be employees of local government. *For purposes of this section, private nonprofit organizations are not governmental agencies or instrumentalities.*

"Governing body," with regard to a center for independent living, means the governing board of an applicant established to operate the center for independent living as required by subsection B of § 51.5-161.

"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

"Teacher" means any employee of a county, city, or other local public school board.

E. Any stock and cash distributed to the Commonwealth pursuant to the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a stock corporation known as Trigon Healthcare, Inc., that is directly attributable to the health insurance plan or plans established for employees of local governments, local officers, teachers, employees of area agencies on aging, and retirees, and the dependents of such employees, officers, teachers, and retirees, pursuant to subsection A (hereinafter referred to as the local choice plan distribution) shall be deposited in the state treasury to the credit of the employee health insurance fund to be used as provided in this subsection. Such distribution shall not include any cash paid by Blue Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with such conversion that was assumed as general fund revenue in Chapter 912 of the 1996 Acts of Assembly. All other stock and cash received by the Commonwealth pursuant to such conversion of Blue Cross and Blue Shield of Virginia to a stock corporation shall be allocated as provided in subsection B of § 23-284.

The State Treasurer shall sell any stock received pursuant to the local choice plan distribution as soon as practicable following its receipt, subject to any lockup period or other restriction on its sale, and the proceeds therefrom shall be deposited in the state treasury to the credit of the employee health insurance fund. Notwithstanding any other provision of law to the contrary, the State Treasurer shall not be liable for any losses incurred from the sale or distribution of such stock.

The Department of Human Resource Management shall use any stock, or the proceeds therefrom, and cash received pursuant to the local choice plan distribution to reduce premiums payable by employers participating in a plan or plans established pursuant to subsection A. In setting health insurance premiums for such plan or plans, the Director of the Department of Human Resource Management shall allocate the value of such stock, or proceeds therefrom, and cash among each participating employer. Such allocation shall be based on the proportionate amounts of premiums previously paid by each participating employer. If a participating employer withdraws from such plan or plans before all of the value allocated to it has been used for the benefit of the participating employer, the remaining value shall be transferred to such participating employer upon his withdrawal.

§ 15.2-1512.1. Disposition of property received by subdivisions as result of conversion of mutual insurance company to stock corporation.

The governing body of each locality that receives cash, shares of stock, or both, as a result of the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield (hereafter referred to as Trigon), from a mutual insurance company to a stock corporation known as Trigon Healthcare, Inc., by reason of its school division's status as a present or former group policyholder of Trigon shall, by appropriate ordinance or resolution, authorize the treasurer of such locality to create two separate funds upon the books of the locality, as hereinafter described. Upon the enactment or adoption of such ordinance or resolution, the treasurer of the locality shall place all such stock, including any proceeds derived from the sale or other conveyance of any such stock, and cash, into these separate funds. The stock or proceeds and cash shall be divided equally between the two separate funds set forth in subsections A and B of this section; however, (i) the local governing body may place a greater proportion or all of the stock or proceeds and cash in the fund described in subsection A, with the consent of the school board and (ii) if on or before January 1, 1997, a school board has requested and the local governing body has approved the allocation of the proceeds from the sale of its stock for a school construction or renovation project, the remainder of such proceeds shall be used to create a fund to offset health insurance premium increases incurred by the present and future employees of the school board and governing body.

A. The first fund shall be known as the "County/City of _____ Schools Health Insurance Premium Fund." All principal placed into this fund, together with all income arising from or attributable to the fund, shall be used solely to offset health insurance premium expenses incurred by or on behalf of present and future employees of the school division of the locality; however, the governing body of the locality may use a portion of the principal placed into the fund, a portion of the income arising from or attributable to the fund, or both, to compensate present or future retired employees of

the school division of the locality for (i) health insurance premium expenses payable by the retired employees, (ii) health insurance premium expenses paid for by such retired employees for periods prior to July 1, 1997, during which the retired employees were insured under a health insurance policy through the school division of the locality as a group policyholder of Trigon, or (iii) both (i) and (ii), in such amounts, if any, as the governing body shall determine appropriate. No disbursement from the fund may be made except upon specific appropriation by the governing body in accordance with applicable law.

B. The second fund, if any, shall be known as the "County/City of _____ School Construction, Renovation, Maintenance, Capital Outlay, and Debt Service Fund." All principal placed into this fund, together with all income arising from or attributable to the fund, shall be used solely for the purposes of school construction, school renovation, major school maintenance, capital outlay, and debt service in the public schools of the locality. No disbursement from this fund may be made except upon specific appropriation by the governing body in accordance with applicable law.

C. All stock or proceeds and cash placed into separate funds pursuant to the provisions of this act, including all income arising from or attributable to such funds, shall be deemed public funds of the locality and shall be subject to all limitations upon deposit and investment provided by general law, including without limitation the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). Income, dividends, distributions and sale proceeds accruing to the separate funds shall be retained in the funds and may be expended only in accordance with the terms of this act.

D. Any funds transferred by the Department of Human Resource Management to a participating employer upon its withdrawal from a plan or plans as provided in subsection E of § 2.2-1204 of the Code of Virginia shall be (i) placed in the separate funds described in subsections A and B of this section if the withdrawing employer is a school board or school division or (ii) deposited in the general fund of the locality if the withdrawing employer is not a school board or school division.

§ 23-284. Commonwealth Health Research Fund established; administration.

A. There is hereby created in the State Treasury a special, nonreverting revolving fund to be known as the Commonwealth Health Research Fund. The Fund shall be established on the books of the State Comptroller.

B. The Fund shall consist of all stock and cash distributed to the Commonwealth as a policyholder pursuant to the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a Virginia stock corporation known as Trigon Healthcare, Inc., exclusive of (i) any such stock and cash distributed to the Commonwealth that is directly attributable to the health insurance plan or plans established for employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, officers, teachers and retirees, as provided in subsection E of § 2.2-1204, and (ii) cash paid by Blue Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with such conversion, which was assumed as general fund revenue in Chapter 912 of the 1996 Acts of Assembly. The Fund shall also consist of any moneys appropriated from the general fund, grants and donations received by the Board, and other moneys received by the State Treasurer and designated for deposit in the Fund. Interest and other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

C. Notwithstanding any other provision of law, the moneys and other property comprising the Fund shall be invested, reinvested and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.36. The State Treasurer shall not be held liable for losses suffered by the Virginia Retirement System on investments made under the authority of this section.

D. The Fund shall be expended solely for the purpose of supporting research efforts approved by the Board and any other purpose permitted by this chapter.

E. An amount not to exceed six percent of the moving average of the market value of the Fund calculated over the previous five years or since inception, whichever is shorter, on a one-year delayed basis, net of any administrative fee assessed pursuant to subsection E of § 51.1-124.36, may be expended in a calendar year for any purpose permitted by this chapter. The Board shall not be required to expend such amount in a calendar year, and any amount up to such six percent that is not expended in a calendar year may be expended in any other calendar year.

F. The disbursement of moneys from the Fund shall be made by the State Comptroller at the written request of the Board.