



House of Representatives

General Assembly

File No. 483

January Session, 2011

Substitute House Bill No. 6308

House of Representatives, April 7, 2011

The Committee on Planning and Development reported through REP. GENTILE of the 104th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ESTABLISHING THE CONNECTICUT HEALTHCARE PARTNERSHIP.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2011*) As used in this section and
2 sections 2 to 6, inclusive, of this act:

3 (1) "Health Care Cost Containment Committee" means the
4 committee established in accordance with the ratified agreement
5 between the state and State Employees' Bargaining Agent Coalition
6 pursuant to subsection (f) of section 5-278 of the general statutes.

7 (2) "Municipal-related employee" means any employee of a
8 municipal-related employer.

9 (3) "Municipal-related employer" means any property management
10 business, food service business or school transportation business that
11 is a party to a contract with a nonstate public employer.

12 (4) "Nonprofit employee" means any employee of a nonprofit
13 employer.

14 (5) "Nonprofit employer" means a nonprofit corporation, as defined
15 in subparagraph (B) of subdivision (7) of subsection (i) of section 5-259
16 of the general statutes.

17 (6) "Nonstate public employee" means any employee or elected
18 officer of a nonstate public employer.

19 (7) "Nonstate public employer" means a municipality or other
20 political subdivision of the state, including a board of education, quasi-
21 public agency or public library.

22 (8) "Small employer employee" means any employee of a small
23 employer.

24 (9) "Small employer" means any person, firm, corporation, limited
25 liability company, partnership or association actively engaged in
26 business or self-employed for at least three consecutive months that,
27 on at least fifty per cent of its working days during the preceding
28 twelve months, employed no more than fifty employees, the majority
29 of whom were employed within this state. "Small employer" does not
30 include a nonstate public employer. In determining the number of
31 eligible employees, companies that are affiliates, as defined in section
32 33-840 of the general statutes, or that are eligible to file a combined tax
33 return under chapter 208 of the general statutes shall be considered
34 one employer.

35 (10) "State employee plan" or "state plan" means a self-insured
36 group health care benefits plan established under subsection (m) of
37 section 5-259 of the general statutes.

38 Sec. 2. (NEW) (*Effective July 1, 2011*) (a) (1) Notwithstanding the
39 provisions of title 38a of the general statutes, the Comptroller shall
40 offer coverage under the state employee plan to nonstate public
41 employers, municipal-related employers, small employers and
42 nonprofit employers and their respective retirees, if applicable, in

43 accordance with subdivision (2) of this subsection, provided the
44 Comptroller receives an application from any such employer and the
45 application is approved in accordance with sections 3 and 4 of this act.

46 (2) The Comptroller shall offer coverage under the state employee
47 plan to: (A) Nonstate public employers beginning July 1, 2011; (B)
48 municipal-related employers and nonprofit employers beginning
49 January 1, 2012; and (C) small employers beginning July 1, 2012.

50 (b) (1) The Comptroller shall offer participation in such plan to
51 nonstate public employers, municipal-related employers, small
52 employers and nonprofit employers for not less than two-year
53 intervals. An employer may apply for renewal prior to the expiration
54 of each interval.

55 (2) The Comptroller shall develop procedures by which:

56 (A) Such employers may apply to participate in the state plan,
57 including procedures for nonstate public employers that are currently
58 self-insured and procedures for nonstate public employers that are
59 currently fully-insured; and

60 (B) Employers receiving coverage for their employees pursuant to
61 the state plan may (i) apply for renewal, or (ii) withdraw from such
62 coverage, including, but not limited to, the terms and conditions under
63 which such employers may withdraw prior to the expiration of the
64 interval and the procedure by which any premium payments such
65 employers may be entitled to shall be refunded. Any such procedures
66 shall provide that nonstate public employees covered by collective
67 bargaining shall withdraw from such coverage in accordance with
68 chapters 113 and 166 of the general statutes.

69 (c) (1) The initial open enrollment for nonstate public employers
70 shall be for coverage beginning July 1, 2011. Thereafter, open
71 enrollment for nonstate public employers shall be for coverage periods
72 beginning July first.

73 (2) Open enrollment for municipal-related employers, small

74 employers and nonprofit employers shall be for coverage periods
75 beginning January first and July first.

76 (d) Nothing in this section and sections 3 to 5, inclusive, of this act
77 shall require the Comptroller to offer coverage to every employer
78 seeking coverage under sections 3 and 4 of this act from every plan
79 offered under the state employee plan.

80 (e) The Comptroller shall create applications for coverage for the
81 purposes of this section and sections 3 and 4 of this act. Such
82 applications shall require an employer to disclose whether the
83 employer will offer any other health plan to the employees who are
84 offered the state plan.

85 (f) No employee shall be enrolled in the state plan if such employee
86 is covered through such employee's employer by health insurance
87 plans or insurance arrangements issued to or in accordance with a
88 trust established pursuant to collective bargaining subject to the
89 federal Labor Management Relations Act.

90 (g) If the Comptroller determines that granting coverage to an
91 employer under the state employee plan will affect such plan's status
92 as a governmental plan under the Employee Retirement Income
93 Security Act of 1974, as amended from time to time, the Comptroller
94 shall not grant coverage to such employer and shall stop accepting
95 applications for coverage from municipal-related employers, nonprofit
96 employers and small employers. The Comptroller shall resume
97 accepting applications for coverage under the state employee plan
98 from such employers if the Comptroller determines that granting
99 coverage to such employers will not affect such plan's status as a
100 governmental plan under the Employee Retirement Income Security
101 Act of 1974, as amended from time to time. The Comptroller shall
102 make a public announcement of the Comptroller's decision to stop or
103 resume accepting applications for coverage under the state employee
104 plan.

105 Sec. 3. (NEW) (*Effective July 1, 2011*) (a) Nonstate public employers

106 may join the state employee plan in accordance with this subsection.

107 (1) Notwithstanding any provision of the general statutes, initial
108 participation in the state employee plan by a nonstate public employer
109 shall be a permissive subject of collective bargaining and shall be
110 subject to binding interest arbitration only if the collective bargaining
111 agent and the employer mutually agree to bargain over such initial
112 participation. Such mutual agreement shall be in writing and signed by
113 authorized representatives of the collective bargaining agent and the
114 employer. Continuation in the state employee plan, after initial
115 participation, shall be a mandatory subject of bargaining and shall be
116 subject to binding interest arbitration in accordance with the same
117 procedures and standards that apply to any other mandatory subject
118 of bargaining pursuant to chapters 68, 113 and 166 of the general
119 statutes. For purposes of this section, a board of education and a
120 municipality shall be considered separate employers and shall submit
121 separate applications.

122 (2) (A) If a nonstate public employer submits an application in
123 accordance with this subsection for all of its employees, the
124 Comptroller shall accept such application for the next open enrollment.
125 The Comptroller shall provide written notification to such employer of
126 such acceptance and the date on which such coverage shall begin.

127 (B) If a nonstate public employer submits an application for less
128 than all of its employees, or indicates in the application the employer
129 will offer other health plans to employees who are offered the state
130 health plan, the Comptroller shall forward such application to a health
131 care actuary not later than five business days after receiving such
132 application. Such actuary may, not later than sixty days after receiving
133 such application, certify to the Comptroller that the application will
134 shift a significantly disproportional part of such employer's employees'
135 medical risks to the state employee plan, and shall provide in writing
136 the specific reasons for its finding, including a summary of all
137 information relied upon in making such a finding. If the Comptroller
138 receives such certification, the Comptroller shall not provide coverage

139 to such employer and shall provide written notification and the
140 specific reasons for such denial to such employer and the Health Care
141 Cost Containment Committee. If the Comptroller does not receive such
142 certification, the Comptroller shall accept such application for the next
143 open enrollment. The Comptroller shall provide written notification to
144 such employer of such acceptance and the date on which such
145 coverage shall begin.

146 (C) The Comptroller shall consult with a health care actuary who
147 shall develop actuarial standards to be used to assess the shift in
148 medical risks of an employer's employees to the state employee plan.
149 The Comptroller shall present such standards to the Health Care Cost
150 Containment Committee for its review and evaluation prior to the use
151 of such standards.

152 (b) Municipal-related employers, small employers and nonprofit
153 employers may join the state employee plan in accordance with this
154 subsection.

155 (1) If a municipal-related employer, small employer or nonprofit
156 employer submits an application for all of its employees, the
157 Comptroller shall accept such application for the next open enrollment.
158 The Comptroller shall provide written notification to such employer of
159 such acceptance and the date on which such coverage shall begin.

160 (2) If a municipal-related employer, small employer or nonprofit
161 employer submits an application for less than all of its employees, or
162 indicates in the application the employer will offer other health plans
163 to employees who are offered the state health plan, the Comptroller
164 shall forward such application to a health care actuary not later than
165 five business days after receiving such application. Such actuary may,
166 not later than sixty days after receiving such application, certify to the
167 Comptroller that the application will shift a significantly
168 disproportional part of such employer's employees' medical risks to
169 the state employee plan, and shall provide in writing the specific
170 reasons for its finding, including a summary of all information relied
171 upon in making such a finding. If the Comptroller receives such

172 certification, the Comptroller shall not provide coverage to such
173 employer and shall provide written notification and the specific
174 reasons for such denial to such employer and the Health Care Cost
175 Containment Committee. If the Comptroller does not receive such
176 certification, the Comptroller shall accept such application for the next
177 open enrollment. The Comptroller shall provide written notification to
178 such employer of such acceptance and the date on which such
179 coverage shall begin.

180 (3) The Comptroller shall consult with a health care actuary who
181 shall develop actuarial standards to be used to assess the shift in
182 medical risks of an employer's employees to the state employee plan.
183 The Comptroller shall present such standards to the Health Care Cost
184 Containment Committee for its review and evaluation prior to the use
185 of such standards.

186 (c) If an employer included less than all of its employees in its
187 application for coverage because of (1) the decision by individual
188 employees to decline coverage from their employer for themselves or
189 their dependents, or (2) the employer's decision not to offer coverage
190 to temporary, part-time or durational employees, the Comptroller shall
191 not forward such employer's application to a health care actuary.

192 (d) The Comptroller may adopt regulations, in accordance with
193 chapter 54 of the general statutes, to establish the procedures and
194 criteria for any reviews or evaluations performed by the Health Care
195 Cost Containment Committee pursuant to subparagraph (C) of
196 subdivision (2) of subsection (a) of this section, subdivision (3) of
197 subsection (b) of this section and subdivision (3) of subsection (b) of
198 section 4 of this act.

199 (e) Notwithstanding any provision of the general statutes, the state
200 employee plan shall not be deemed (1) an unauthorized insurer, or (2)
201 a multiple employer welfare arrangement.

202 Sec. 4. (NEW) (*Effective July 1, 2011*) (a) Employers eligible to seek
203 coverage for their employees under the state employee plan, pursuant

204 to sections 2 and 3 of this act, may seek such coverage for their retirees
205 in accordance with this section. Premium payments for such coverage
206 shall be remitted by the employer to the Comptroller in accordance
207 with section 5 of this act.

208 (b) (1) If an employer seeks coverage for all of such employer's
209 retirees in accordance with this section and all of such employer's
210 employees in accordance with section 2 of this act, the Comptroller
211 shall accept such application for the next open enrollment. The
212 Comptroller shall provide written notification to such employer of
213 such acceptance and the date on which such coverage shall begin.

214 (2) If an employer seeks coverage for less than all of such employer's
215 retirees, regardless of whether the employer is seeking coverage for all
216 of such employer's active employees, the Comptroller shall forward
217 such application to a health care actuary not later than five business
218 days after receiving such application. Such actuary may, not later than
219 sixty days after receiving such application, certify to the Comptroller
220 that, with respect to such retirees, the application will shift a
221 significantly disproportional part of an employer's retirees' medical
222 risks to the state employee plan, and shall provide in writing the
223 specific reasons for its finding, including a summary of all information
224 relied upon in making such a finding. If the Comptroller receives such
225 certification, the Comptroller shall not provide coverage to such
226 employer for such employer's retirees and shall provide written
227 notification and the specific reasons for such denial to such employer
228 and the Health Care Cost Containment Committee. If the Comptroller
229 does not receive such certification, the Comptroller shall accept such
230 application for the next open enrollment. The Comptroller shall
231 provide written notification to such employer of such acceptance and
232 the date on which such coverage shall begin.

233 (3) The Comptroller shall consult with a health care actuary who
234 shall develop actuarial standards to be used to assess the shift in
235 medical risks of an employer's retirees to the state employee plan. The
236 Comptroller shall present such standards to the Health Care Cost

237 Containment Committee for its review and evaluation prior to the use
238 of such standards.

239 (4) If an employer included less than all of its retirees in its
240 application for coverage because of (A) the decision by individual
241 retirees to decline health benefits or health insurance coverage from
242 their employer for themselves or their dependents, or (B) the retiree's
243 enrollment in Medicare, the Comptroller shall not forward such
244 employer's application to a health care actuary.

245 (c) Nothing in sections 1 to 6, inclusive, of this act shall diminish any
246 right to retiree health insurance pursuant to a collective bargaining
247 agreement or any other provision of the general statutes.

248 Sec. 5. (NEW) (*Effective July 1, 2011*) (a) There is established an
249 account to be known as the "state plan premium account", which shall
250 be a separate, nonlapsing account within the grants and restricted
251 accounts fund. All premiums paid by nonstate public employers,
252 municipal-related employers, small employers and nonprofit
253 employers and their respective employees and retirees for coverage
254 under the state employee plan pursuant to sections 2 to 4, inclusive, of
255 this act shall be deposited into said account. The account shall be
256 administered by the Comptroller for payment of claims.

257 (b) Such premium payments shall be remitted by the employer to
258 the Comptroller and shall be the same as those paid by the state,
259 inclusive of any premiums paid by state employees and retired state
260 employees, if applicable, except as otherwise provided in this section.
261 The Comptroller may charge each employer participating in the state
262 plan an administrative fee calculated on a per member per month
263 basis. In addition, the Comptroller may charge a fluctuating reserves
264 fee the Comptroller deems necessary to ensure adequate claims
265 reserves.

266 (c) The Comptroller may adjust premium rates for small employers
267 to reflect one or more of the characteristics set forth in subparagraph
268 (A) of subdivision (5) of section 38a-567 of the general statutes.

269 (d) Each employer shall pay monthly the amount determined by the
270 Comptroller, pursuant to this section, for coverage of its employees or
271 its employees and retirees, as appropriate, under the state employee
272 plan. An employer may require each covered employee to contribute a
273 portion of the cost of such employee's coverage under the plan, subject
274 to any collective bargaining obligation applicable to such employer.

275 (e) If any payment due by an employer under this section is not
276 submitted to the Comptroller by the tenth day after the date such
277 payment is due, interest to be paid by such employer shall be added,
278 retroactive to the date such payment was due, at the prevailing rate of
279 interest as determined by the Comptroller.

280 (1) The Comptroller may terminate participation in the state
281 employee plan by a municipal-related employer, small employer or
282 nonprofit employer on the basis of nonpayment of premium, provided
283 at least ten days' advance notice is given to such employer, which may
284 continue the coverage and avoid the effect of the termination by
285 remitting payment in full at any time prior to the effective date of
286 termination.

287 (2) (A) If a nonstate public employer fails to make premium
288 payments as required by this section, the Comptroller may direct the
289 State Treasurer, or any other officer of the state who is the custodian of
290 any moneys made available by grant, allocation or appropriation
291 payable to such nonstate public employer, to withhold the payment of
292 such moneys until the amount of the premium or interest due has been
293 paid to the Comptroller, or until the State Treasurer or such custodial
294 officer determines that arrangements have been made, to the
295 satisfaction of the State Treasurer, for the payment of such premium
296 and interest. Such moneys shall not be withheld if such withholding
297 will adversely affect the receipt of any federal grant or aid in
298 connection with such moneys.

299 (B) If no grant, allocation or appropriation is payable to such
300 nonstate public employer or is not withheld, pursuant to
301 subparagraph (A) of this subdivision, the Comptroller may terminate

302 participation in the state employee plan by a nonstate public employer
303 on the basis of nonpayment of premium, provided at least ten days'
304 advance notice is given to such employer, which may continue the
305 coverage and avoid the effect of the termination by remitting payment
306 in full at any time prior to the effective date of termination.

307 (3) The Comptroller may request the Attorney General to bring an
308 action in the superior court for the judicial district of Hartford to
309 recover any premium and interest costs or equitable relief from a
310 terminated employer.

311 Sec. 6. (NEW) (*Effective July 1, 2011*) (a) There is established a
312 Nonstate Public Health Care Advisory Committee. The committee
313 shall make advisory recommendations to the Health Care Cost
314 Containment Committee concerning health care coverage for nonstate
315 public employees. The advisory committee shall consist of nonstate
316 public employers and employees participating in the state plan and
317 shall include the following members appointed by the Comptroller: (1)
318 Three municipal employer representatives, one of whom represents
319 towns with populations of one hundred thousand or more, one of
320 whom represents towns with populations of at least twenty thousand
321 but under one hundred thousand, and one of whom represents towns
322 with populations under twenty thousand; (2) three municipal
323 employee representatives, one of whom represents employees in
324 towns with populations of one hundred thousand or more, one of
325 whom represents employees in towns with populations of at least
326 twenty thousand but under one hundred thousand, and one of whom
327 represents employees in towns with populations under twenty
328 thousand; (3) three board of education employers, one of whom
329 represents towns with populations of one hundred thousand or more,
330 one of whom represents towns with populations of at least twenty
331 thousand but under one hundred thousand, and one of whom
332 represents towns with populations under twenty thousand; and (4)
333 three board of education employee representatives, one of whom
334 represents towns with populations of one hundred thousand or more,
335 one of whom represents towns with populations of at least twenty

336 thousand but under one hundred thousand, and one of whom
337 represents towns with populations under twenty thousand.

338 (b) There is established a Private Sector Health Care Advisory
339 Committee. The committee shall make advisory recommendations to
340 the Health Care Cost Containment Committee concerning health care
341 coverage for private sector employees. The advisory committee shall
342 consist of municipal-related employers, small employers and nonprofit
343 employers and their respective employees participating in the state
344 plan and shall include the following members appointed by the
345 Comptroller: (1) Two municipal-related employer representatives; (2)
346 two municipal-related employee representatives; (3) two small
347 employer representatives; (4) two small employer employee
348 representatives; (5) two nonprofit employer representatives; and (6)
349 two nonprofit employee representatives.

350 Sec. 7. (NEW) (*Effective July 1, 2011*) The Comptroller may adopt
351 regulations, in accordance with chapter 54 of the general statutes, to
352 implement and administer the state employee plan and the provisions
353 of sections 1 to 6, inclusive, of this act. The Comptroller may
354 implement policies and procedures necessary to administer the
355 provisions of sections 1 to 6, inclusive, of this act while in the process
356 of adopting such policies and procedures as regulation, provided the
357 Comptroller prints notice of intent to adopt regulations in the
358 Connecticut Law Journal not later than twenty days after the date of
359 implementation. Policies and procedures implemented pursuant to
360 this section shall be valid until the time final regulations are adopted.

361 Sec. 8. (NEW) (*Effective from passage*) The Comptroller shall not offer
362 coverage under the state employee plan pursuant to sections 2 to 5,
363 inclusive, of this act until the State Employees' Bargaining Agent
364 Coalition has provided its written consent to the clerks of both houses
365 of the General Assembly to incorporate the terms of sections 1 to 6,
366 inclusive, of this act into its collective bargaining agreement.

367 Sec. 9. Subparagraph (B) of subdivision (4) of section 38a-564 of the
368 general statutes is repealed and the following is substituted in lieu

PD *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Comptroller	GF - Cost	\$115,698	\$115,698
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	\$69,419	\$69,419
Comptroller Misc. Accounts (Fringe Benefits: State Employee and Retiree Health)	GF & TF - See Below	See Below	See Below
Department of Revenue Services	GF - Revenue Loss	Potential	Potential

Note: GF=General Fund and TF = Transportation Fund

Municipal Impact: See Below

Explanation

The bill requires the Comptroller on or after July 1, 2011, to offer coverage under the state employee and retiree health plan (hereafter referred to as "the Plan") to employees and retirees of non-state public employers, municipal-related employers, small employers and nonprofit employers, contingent on the approval of the State Employee Bargaining Agent Coalition (SEBAC). Participation would be voluntary, with a two year minimum term. The plan would open enrollment to nonstate public employers beginning July 1, 2011, municipal related and nonprofit employers on January 1, 2012 and for small employers beginning July 1, 2012.

The following table provides information on the potential populations eligible to enroll in the plan:

¹ The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state pension funds.

	Estimated Population ²
Non-State Public Employers ⁽¹⁾	577,949
Municipal-Related Employers ⁽²⁾	Unavailable
Small Employers ⁽³⁾	690,000
Nonprofit Employers ⁽³⁾	174,342

Source: The Dept. of Labor

Permitting additional participants to join the Plan could result in costs to the state and the Plan as a result of the following factors: 1) the impact to the existing pool, 2) actuarial costs, 3) additional staff, and 4) loss of revenue.

Impact to the Existing Pool

The cost of the Plan is based on the demographics and claims experience of the existing pool. To the extent that additional lives affect the claims loss ratio, the cost of the state employee and retiree health plan would be directly impacted. The bill proposes immediate acceptance of any employer group that applies in its entirety for coverage. Partial groups applying for coverage are to be reviewed by a health care actuary. If it is determined that the partial group would adversely affect the state pool, the group shall be denied coverage. In so doing, the bill seeks to address a potentially negative impact to the state employee pool by preventing an employer from shifting a significantly disproportionate share of its medical risk to the state employee plan.

As of July 1, 2010, the Plan converted from fully insured to self-insured and now pays the total cost of claims on an incurred basis. Therefore, a monthly premium equivalent is estimated based on the anticipated annual claims. The Plan would incur a cost or savings to the extent that actual claims costs are more or less than the premium

² (1) Figures include dependents and retirees. (2) Information on this population is unavailable at this time. The bill defines these as employees of food service, property management, and school transportation businesses that contract with non-state public employers. (3) Figures do not include dependents or retirees, for which information is unavailable..

equivalent being charged to employers.

The state spent approximately \$1.1 billion in FY 10 on state employee and retiree health costs. Based on the FY 12 estimated requirements a 1% change in claims cost would equal approximately \$12.4 million dollars; a 5% change in claims costs would equal approximately \$62.1 million dollars. The Plan currently covers 202,157 lives.

It should be noted that the state does not currently have stop loss insurance or a reserve. Any additional costs may be mitigated by the fluctuating reserve fee that the Comptroller has the option to charge employers as explained below.

Actuarial Costs

As previously discussed, the bill requires the Comptroller to permit enrollment for those employers who choose to enroll their entire workforce in the state employee plan. In the event the employer chooses to enroll only a portion of its workforce the Comptroller is required to forward the application to a health care actuary. It is assumed that the cost of actuarial services would be passed through to the employers; however to the extent they are not fully charged to municipalities there may be a cost to the state. The Comptroller spent approximately \$900,000 in FY 10 on actuarial services.

Additional Staff

The Comptroller may need two additional Retirement and Benefits Officers. The necessity of additional staff would depend on the degree to which non-state public employers chose to enroll their employees and retirees in the Plan. The annual salaries and fringe benefits associated with two additional positions is \$185,117.

Loss of Revenue

Pursuant to CGS Sec. 12-202 municipalities and other non-state public employers currently offering health coverage through private

health insurers are required to pay an Insurance Premium Tax to the state of 1.75% per contract or policy.³ To the degree that this bill results in non-state public employers shifting their participation in fully-insured health plans to the state employee health plan, the state would experience a revenue loss from the Insurance Premiums Tax (policies written on behalf of the state and MEHIP are not subject to this tax).⁴

Impact on Nonstate Public Employers

There may be a cost or a savings to municipalities from joining the plan. Potential costs or savings would be related to: 1) premiums, 2) administrative and fluctuating reserve fees and 4) the Insurance Premiums Tax. It is unlikely that any municipalities, whose current premiums and administrative costs are lower than the premiums of the Plan, would choose to join.

Premiums

Employers would be required to pay the same base premium rates as the state. However, the bill permits the Comptroller to adjust rates for small employers, as defined by the bill, based on various group characteristics as defined by CGS section 38a-567. The bill maintains, it would be up to the employer to determine cost sharing provisions with employees, pursuant to their current practice.

Currently under the Plan, total annual premiums range from \$5,320 to \$9,928 for individual coverage and \$14,364 to \$26,807 for family coverage. Municipal employers in the state, on average, cover approximately 90% of the premium for individual coverage and 87%

³ The state currently collects approximately \$8 million a year from the premium tax on health insurance policies procured by municipalities.

⁴ Current law exempts new or renewed contracts or policies written to provide coverage to municipal employees under a plan procured pursuant to CGS 5-259(i) from the premiums tax. Therefore, MEHIP participants are currently exempt from the premiums tax. As a result, there would not be a loss to the premiums tax should MEHIP participating non-state public employers shift coverage to the state employee health plan.

for family coverage.⁵ Under the state employee plan this would equate an employer’s cost of \$4,788 to \$8,935 for each employee enrolled in an individual plan, and \$12,497 to \$23,322 for each employee enrolled in a family plan. The bill does not require the Comptroller to offer all of the plan options to non-state public employers. The premium related costs to municipalities would depend on the plan selected, the percentage of premiums the employer pays on the employee’s behalf and the number of individuals enrolled. For employers who choose to enroll in the Plan, there would be a cost to municipalities if the cost of premiums is more than what they are currently paying and a savings if the cost were less.

For illustrative purposes, the table below provides a comparison of current average annual premium rates within various public and private sectors.

		Average Annual Premium Rates			
	Employer	Single Coverage	Employee Share	Family Coverage	Employee Share
National*	Small Firms	\$5,169	15%	\$13,735	32%
	Large Firms	\$5,104	19%	\$14,161	25%
Regional*					
	Northeast	\$5,252	19%	\$14,117	24%
State*	State of Connecticut	\$7,009	7%	\$18,925	14%
	CT Cities & Towns	\$8,000	10%	\$21,300	10%
Local**	CT Boards of Education	\$8,000	13%	\$21,300	13%

**National and Regional PPO plan data obtained from 2010 Employer Health Benefit Survey. * State POE health plan data obtained from Office of the State Comptroller. ** Local data obtained from CT Public Sector Healthcare Cost & Benefit Survey 2009.*

In addition, the Municipal Employer Health Insurance Plan (MEHIP) currently provides health insurance for groups that are similar to those served by the bill. Annual premiums range from \$3,300

⁵ *CT Public Sector Healthcare Cost & Benefit Survey, 2009.*

to \$10,956 for individual coverage and \$23,232 to \$45,564 for family coverage.

Fees and the Insurance Premium Tax

The bill allows the Comptroller to charge participating employers a per member per month administrative fee and a fluctuating reserve fee in addition to premiums. The amount of the administrative fee would be determined by the Comptroller. There may be a savings to municipalities if the administrative fees under the plan are less than what they are currently paying as municipalities may be able to achieve administrative economies of scale from joining the state employee plan.

In addition, the Comptroller may charge a fluctuating reserves fee in an amount necessary to ensure adequate claims reserves. It is common practice to establish a reserve consisting of approximately two months' worth of anticipated claims costs. These reserve costs could range from approximately \$85-\$313 per member per month.

Fully insured municipalities who currently offer health coverage through a private health insurer will save from not having to pay the Insurance Premiums Tax.

Lastly, municipalities are already permitted to join the state prescription drug plan, there are no additional bulk purchasing savings associated with the bill that cannot already be achieved.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. Pension-related costs for the identified potential additional personnel at the Office of the State Comptroller, will be recognized in the state's annual required pension contribution as of FY 14."

OLR Bill Analysis**sHB 6308*****AN ACT ESTABLISHING THE CONNECTICUT HEALTHCARE PARTNERSHIP.*****SUMMARY:**

This bill requires the comptroller to offer employee and retiree coverage under the self-insured state employee health insurance plan, to (1) nonstate public employers beginning July 1, 2011; (2) municipal-related and nonprofit employers beginning January 1, 2012; and (3) small employers beginning July 1, 2012. He must do this (1) after the General Assembly receives written consent from the State Employees' Bargaining Agent Coalition (SEBAC) and (2) subject to specified requirements and conditions. Employers that are approved for coverage must agree to benefit periods of at least two years. The bill authorizes the comptroller to adopt regulations related to opening the state plan to these other groups and to implement policies and procedures while in the process of adopting regulations.

The bill requires a health care actuary to (1) review certain employer applications for coverage under the state plan and (2) certify to the comptroller in writing if the group will shift a significantly disproportionate share of its employees' medical risks to the state plan. If so, the bill requires the comptroller to decline the group coverage.

The bill:

1. requires the state to charge employers participating in the state plan the same premium rates the state pays, except it may adjust the rate for a small employer to reflect its group characteristics;
2. allows the comptroller to have state money withheld from a

municipality participating in the state plan that fails to pay premiums and, with 10-days notice, terminate any participating employer group that does not pay its premiums;

3. establishes a “state plan premium account” as a restricted grant fund, into which employer groups’ premiums must be deposited and from which claims must be paid;
4. establishes two advisory committees to make recommendations to the Health Care Cost Containment Committee (HCCCC), a state labor and management committee that exists under agreement with SEBAC, about coverage for nonstate public employees and private sector employees; and
5. excludes from the state insurance law definition of “small employer” a municipality obtaining health care benefits through the self-insured state plan.

EFFECTIVE DATE: July 1, 2011; except for the provision about needing SEBAC’s agreement before opening the state plan to other groups, which is effective upon passage.

§ 1 — DEFINITIONS

The bill defines “nonstate public employer” as a municipality or other state political subdivision, including a board of education, quasi-public agency, or public library. A “nonstate public employee” is an employee or elected officer of a nonstate public employer.

A “municipal-related employer” is a property management, food service, or school transportation business that contracts with a nonstate public employer.

A “nonprofit employer” is (1) a nonprofit corporation organized under federal law (26 USC 501) that contracts with the state or receives a portion of its funding from a local, state, or federal government or (2) a tax-exempt labor or agricultural organization under federal law (26 USC 501(c)(5)).

A “small employer” is a person, firm, corporation, limited liability company, partnership, or association actively engaged in business or self-employed for at least three consecutive months that, on at least 50% of its working days during the preceding 12 months, employed 50 or fewer employees most working in Connecticut. When counting the number of employees, companies that are affiliates under state law or eligible to file a combined tax return are considered one employer.

§ 2 — OPENING STATE EMPLOYEE PLAN TO OTHERS

The bill requires the comptroller to offer coverage under the self-insured state plan to certain employer groups that submit an application that is approved under the bill’s provisions. He must offer coverage to:

1. nonstate public employers beginning July 1, 2011,
2. municipal-related and nonprofit employers beginning January 1, 2012, and
3. small employers beginning July 1, 2012.

The bill specifies that the comptroller does not have to offer coverage from every plan offered under the state plan to every employer.

Open Enrollment

Under the bill, initial open enrollment for nonstate public employers must be for coverage that begins July 1, 2011 and subsequent enrollment periods must also begin July 1. Open enrollment for municipal-related, nonprofit, and small employers must be for periods beginning January 1 and July 1.

Coverage Term, Renewal, and Withdrawal

In order for an employer group to participate in the self-insured state employee plan, the group must agree to benefit periods lasting at least two years. An employer may apply for renewal before the end of each benefit period.

The bill requires the comptroller to develop procedures for an employer group to (1) apply to participate in the plan, including procedures for self-insured nonstate public employers and for those that are fully insured; (2) apply for renewal; and (3) withdraw from participation. The procedures must include the terms and conditions under which a group can withdraw before the benefit period ends and on how to obtain a refund for any unearned premiums paid. The procedures must provide that nonstate public employees covered under a collective bargaining agreement must withdraw in accordance with any applicable state collective bargaining laws for municipal employees and teachers.

Application Form

The bill requires the comptroller to create an application for employer groups seeking coverage under the state plan. In the application, the employer must disclose whether it will offer any other plan to the employees offered the state plan.

Status as a Governmental Health Plan Under Federal ERISA

It is unclear whether opening the state plan to private sector employers jeopardizes the plan's status as a "governmental plan" under the federal Employee Retirement Income Security Act (ERISA) (see BACKGROUND). ERISA sets certain fiduciary and disclosure standards for private-sector health plans and exempts governmental plans from these requirements.

The bill authorizes the comptroller to deny an employer admission into the state health plan if he determines that granting coverage to the employer will affect the state plan's status as a governmental plan. In addition to denying coverage to an employer for this reason, he must stop accepting applications from all municipal-related, nonprofit, and small employers. Presumably, applications from these employers that are approved, but for which coverage has not yet started, will be admitted to the plan.

The comptroller must resume accepting applications from these

employers if he determines that granting them coverage will not affect the plan's ERISA status. The bill does not set criteria for these decisions.

The comptroller must publicly announce any decision to stop accepting applications from certain employers or to resume accepting applications.

Taft-Hartley Exception

The bill prohibits an employee from enrolling in the state plan if he or she is covered through his or her employer under a health insurance plan or arrangement issued to, or in accordance with, a trust established through collective bargaining under the federal Labor Management Relations Act (i.e., the Taft-Hartley Act).

§ 3 — EMPLOYER GROUP PARTICIPATION

Permissive and Mandatory Collective Bargaining for Nonstate Public Employers

The bill makes a nonstate public employer group's initial participation in the state employee plan a permissive subject of collective bargaining. If the union and the employer sign a written agreement to bargain over the initial participation, then the decision to join the plan is subject to binding arbitration.

The bill makes a nonstate public employer group's continuation in the state plan a mandatory subject of collective bargaining, subject to binding interest arbitration in accordance with applicable state collective bargaining laws for state and municipal employees and teachers.

The bill specifies that a board of education and a municipality are considered separate employers and must separately apply for coverage under the state plan.

Application and Decision Process for All Eligible Employers

The bill establishes two different processes for determining whether a nonstate public, municipal-related, nonprofit, or small employer

group's application for coverage will be accepted, depending on whether the application covers all or some of the employees.

If the application covers all employees, the bill requires the comptroller to accept the application for the next open enrollment period and give the employer written notice of when coverage begins. But if the application covers only some employees or it indicates the employer will offer other health plans to employees offered the state health plan, the comptroller must forward the application to a health care actuary within five days of receiving it.

Within 60 days of receiving an application from the comptroller, the actuary must determine whether it will shift a significantly disproportionate part of the employer group's medical risks to the state plan. If so, the actuary must certify this in writing to the comptroller and include the specific reasons for the decision and the information relied upon in making it.

The bill requires the comptroller to consult with a health care actuary to develop actuarial standards for assessing the shift in medical risks of an employer's employees to the state plan. The comptroller must present the standards to the HCCCC for its review and evaluation before the standards are used. (Presumably the comptroller will contract with an actuary for these services although the bill does not specify this.)

Under the bill, if the comptroller receives a disproportionate risk shift certification from the actuary, he must deny the application and give the employer and HCCCC written notice that includes specific reasons for denial. If the comptroller does not receive such a certification from the actuary, he must accept the application and give the employer written notice of when coverage begins.

Exceptions to Actuarial Review

The bill prohibits the comptroller from forwarding to the actuary an application that proposes to cover fewer than all employees because (1) the employer will not cover temporary, part-time, or durational

employees or (2) individual employees decline coverage.

Regulations Regarding Actuarial Review

The bill authorizes the comptroller to adopt regulations establishing procedures for the reviews and the standards used in them.

Self-Insured Plan is Not Unauthorized Insurer or “MEWA”

The bill specifies that the self-insured state employee plan is not an unauthorized insurer or a “multiple employer welfare arrangement” (MEWA) (see BACKGROUND).

§ 4 — RETIREES

Employer groups eligible to cover employees under the state plan also may seek coverage for their retirees. The bill states that it does not diminish any right to retiree health insurance under a collective bargaining agreement or state law.

The bill requires the employer to remit premiums for retirees’ coverage to the comptroller in accordance with its provisions. It specifies that a retiree’s premiums for coverage under the state plan must be the same as those the state pays, including premiums retired state employees pay.

Application and Decision Process

The application process and decision notice requirements with respect to covering an employer’s retirees, including actuarial review if the employer proposes to cover fewer than all retirees (even if it covers all employees), is the same as for employees (described in § 3 above).

Exceptions to Actuarial Review

The bill prohibits the comptroller from forwarding an application to the actuary when the only retirees an employer excludes from the proposed coverage are those who (1) decline coverage or (2) are Medicare enrollees.

§ 5 — PREMIUMS, FEES, COST SHARING, AND STATE ACCOUNT

Premiums

The bill requires, with an exception for small employers, that the premiums an employer group pays to participate in the state plan must be the same as those the state pays, including any premiums state employees and retirees pay. The bill requires an employer to pay premiums to the comptroller monthly in an amount he determines for providing coverage for the group's employees and retirees, if any.

Small Employer Premiums. It permits the comptroller to adjust the premiums charged a small employer to reflect one or more group characteristics specified in state insurance law. These include:

1. age, but age brackets must be five years or more;
2. gender;
3. geographic area, but one smaller than a county is not permitted;
4. industry, within certain variation limits;
5. group size, within certain variation limits;
6. administrative costs saved by participating in the state plan, as long as they are measurable and realized on items such as marketing, billing, or claims paying functions, but not commissions;
7. savings realized by not paying a profit margin to an insurance carrier by participating in the state plan; and
8. family composition, including employee, employee plus family, employee and spouse, employee and child, employee plus one dependent, and employee plus two or more dependents.

Administrative Fee, Fluctuating Reserves Fee, and Employee Contribution

The bill authorizes the comptroller to charge employers an administrative fee calculated on a per member, per month basis. In addition, the comptroller is authorized to charge a fluctuating reserves fee that he deems necessary to ensure an adequate claims reserve. The

bill provides no guidance on how he must determine this.

It permits an employer to require a covered employee or retiree to pay part of the coverage cost, subject to any applicable collective bargaining agreement.

Penalties for Late Payment of Premiums

Interest. If an employer does not pay its premiums by the 10th day after the due date, the bill requires the employer to pay interest, retroactive to the due date, at the prevailing rate the comptroller determines.

State Money Withheld. If a nonstate public employer fails to make premium payments, the bill authorizes the comptroller to direct the state treasurer, or any state officer who holds state money (i. e., grant, allocation, or appropriation) owed the employer, to withhold payment. The money must be withheld until (1) the employer pays the comptroller the past due premiums and interest or (2) the treasurer or state officer determines that arrangements, satisfactory to the treasurer, have been made for paying the premiums and interest.

The bill prohibits the treasurer or state officer from withholding state money from the group if doing so impedes receiving any federal grant or aid in connection with it.

Terminate Plan Participation. With respect to a (1) nonstate public employer that is not owed state money or from which money is not withheld and (2) municipal-related, nonprofit, or small employer, the bill allows the comptroller to terminate the group's participation in the state plan for failure to pay premiums if he gives it at least 10-days notice. The group can avoid termination by paying premiums and interest due in full before the termination effective date.

The bill allows the comptroller to ask the attorney general to bring an action in Hartford Superior Court to recover any premiums and interest owed or seek equitable relief from a terminated group.

State Plan Premium Account

The bill establishes a separate, nonlapsing State Plan Premium Account within the Grants and Restricted Accounts Fund. The comptroller must (1) deposit the premiums collected from employers, employees, and retirees into this account and (2) administer the account to pay claims.

§ 6 — ADVISORY COMMITTEES

Nonstate Public Health Care Advisory Committee

The bill establishes a 12-member Nonstate Public Health Care Advisory Committee, which must make recommendations to the HCCCC regarding health care coverage for nonstate public employees.

The committee consists of three representatives each of (1) municipal employers, (2) municipal employees, (3) board of education employers, and (4) board of education employees. Of the three representatives in each category, one must represent each of the following towns (1) one with 100,000 or more people, (2) one with at least 20,000 but under 100,000 people, and (3) one under 20,000 people. The comptroller appoints the committee members. The bill does not indicate who serves as chair or how the chair is selected.

Private-Sector Health Care Advisory Committee

The bill establishes a 12-member Private Sector Health Care Advisory Committee, which must make recommendations to the HCCCC regarding health care coverage for private sector employees.

The committee consists of two representatives each of (1) municipal-related employers, (2) employees of municipal-related employers, (3) nonprofit employers, (4) employees of nonprofit employers, (5) small employers, and (6) employees of small employers. The comptroller appoints the committee members. The bill does not indicate who serves as chair or how the chair is selected.

§ 7 — REGULATIONS

The bill authorizes the comptroller to adopt regulations to implement and administer the state employee plan and the provisions

regarding opening the plan to other groups. It allows the comptroller to implement policies and procedures to open the plan to other groups while in the process of adopting them in regulation. He must publish notice of intent to adopt the regulations in the *Connecticut Law Journal* within 20 days of implementation. These policies and procedures are valid until the final regulations are adopted.

§ 8 — SEBAC CONSENT

The bill prohibits the comptroller from opening the state employee plan to the specified employer groups until SEBAC provides the House and Senate clerks written consent to incorporate the bill's terms into its collective bargaining agreement. (Presumably, SEBAC's written consent goes to the clerks for legislative action. By law, if the legislature does not take action within 30 days, the agreement is deemed approved (CGS § 5-278(b)).)

§ 9 — NONPROFIT IS NOT A SMALL EMPLOYER

The bill excludes a nonprofit obtaining health care benefits through the self-insured state plan from the state insurance law definition of "small employer."

BACKGROUND

ERISA

The federal Employee Retirement Income Security Act (ERISA, U.S. Code Title 29) governs certain activities of most private employers who maintain employee welfare benefit plans and preempts many state laws in this area.

ERISA-covered welfare benefit plans must meet a wide range of (1) fiduciary, reporting, and disclosure requirements and (2) benefit requirements (including benefits required under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), Health Insurance Portability and Accountability Act (HIPAA), Mental Health Parity Act, Newborns' and Mothers' Health Protection Act, and Women's Health and Cancer Rights Act.)

ERISA does not apply to a “governmental plan,” which it defines as “a plan established or maintained for its employees by the government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.” If the state plan permits private-sector employers to join, it may lose its status as a governmental plan, thereby subjecting it to the full requirements of ERISA, including federal oversight.

U.S. DOL Opinion Concerning ERISA Applicability

In 1999, the California School and Legal College Services of the Sonoma County Office of Education (the office) requested an advisory opinion from the U.S. Department of Labor (DOL) concerning the applicability of ERISA. Specifically, it asked if allowing 28 private-sector employees to participate in the California Public Employees’ Retirement System (CalPERS) would adversely affect CalPERS’ status as a “governmental plan” within the meaning of ERISA.

In its opinion, DOL stated that “governmental plan status is not affected by participation of a de minimis number of private sector employees. However, if a benefit arrangement is extended to cover more than a de minimis number of private sector employees, the Department may not consider it a governmental plan” under ERISA (U. S. DOL Advisory Opinion 1999-10A, July 26, 1999). DOL further noted that its opinion related solely to the application of ERISA’s provisions and “is not determinative of any particular tax treatment under the Internal Revenue Code.” It advised the office to contact the IRS to clarify tax treatment of the proposed arrangement.

Multiple Employer Welfare Arrangement (MEWA)

An employer that self-insures a health benefit plan for its employees is generally not subject to state insurance laws because of federal pre-emption under ERISA. But a multiple employer plan may not have the same result.

ERISA defines “multiple employer welfare arrangement” as an employee welfare benefit plan, or any other arrangement that is

established or maintained for the purpose of offering or providing benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that it does not include a plan or arrangement established or maintained by a collective bargaining agreement, rural electrical cooperative, or rural telephone cooperative association (29 U. S. C. § 1002(40)).

Congress amended ERISA in 1983 to provide an exception to ERISA's preemption provisions for the regulation of MEWAs under state insurance laws (P.L. 97-473). As a result, if an ERISA-covered employee welfare benefit plan is a MEWA, states may apply and enforce state insurance laws with respect to it.

Related Bill

The Public Health Committee reported out HB 6305, which requires the comptroller, starting July 1, 2011, to offer coverage under the state employee plan to nonstate public employees and their retirees if a nonstate public employer applies for such coverage.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute Change of Reference
Yea 11 Nay 9 (03/03/2011)

Labor and Public Employees Committee

Joint Favorable Change of Reference
Yea 6 Nay 4 (03/11/2011)

Planning and Development Committee

Joint Favorable
Yea 12 Nay 8 (03/23/2011)