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Masser, Michelle

From: Lashway, Lisa
Sent: Tuesday, January 15, 2013 1:23 PM
To: Canning, Sean; Masser, Michelle
Subject: FW: Resolution Opposing Proposed Rules Governing Health Benefits
Attachments: CCF01152013_00002.pdf

Lisa Lashway
Mt. Olive Twp. Clerk
973-691-0900 Ext. 7291
FAX 973-691-2080
PO Box 450
Budd Lake, NJ 07828

From: Joe Giorgio [mailto:JGiorgio@hanovertownship.com]
Sent: Tuesday, January 15, 2013 1:08 PM
To: 'Gregory LaConte'; townclerk@boonton.org; bshepard@boontontownship.com; clerk@butlerborough.com; scaljean@chathamborough.org; vegan@chesterborough.org; cisemann@chestertownship.org; clerk@denvillenj.org; mverga@dover.nj.us; easthanovertownshipclerk@easthanover.com; swilliams@florhamparkboro.net; jeffersonclerk@jeffersontownship.net; kinnelonclerk@yahoo.com; penny@bolp.org; municipalclerk@longhillnj.us; clerk@rosenet.org; mmassey@mendhamnj.org; acarlson@mendhamtownship.org; clerk@minehilltp-nj.us; tatkinson@montvillenj.org; Uhrin, June; townshipclerk@morrístwp.com; townclerk@townofmorrístown.org; maboroughclerk@optonline.net; Lashway, Lisa; cwhitaker@mtnlakes.org; boroughclerk@netcong.org; dsweeney@peqtwp.org; twpclerk@randolphnj.org; ctalerico@riverdaleborough.com; lforbes@riverdaleborough.com; boroughclerk@rockawayborough.org; clerk@rockawaytownship.org; rheada@roxburynj.us; gardensvg@optonline.net; dgallets@wtmorrís.net; gevangalista@whartonnj.com; dkramer@co.morris.nj.us; bdonegan@co.morris.nj.us; chersh@co.morris.nj.us; lroberts@co.morris.nj.us; dketchum@co.morris.nj.us; JDelaney@peqtwp.org; cindis@bolp.org; MReilly@mtnlakes.org; mlang@florhamparkboro.net; YWazirmas@Parsippany.net; CFox@Parsippany.net; dhicks@hardingnj.org; gmckane@hardingnj.org; cgatti@millburntwp.org
Subject: Resolution Opposing Proposed Rules Governing Health Benefits

Dear Colleague: Would you kindly circulate the attached resolution from the Hanover Township Committee opposing the proposed adoption of rules by the Local Finance Board and the State Department of Education requiring that all labor contracts providing for health insurance outside the State Health Benefits Program must be approved by the State, and that municipalities provide a comparison of such health benefit insurance costs versus the State Health Benefits Program costs. Thank you, Joe.

RESOLUTION NO.

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER OPPOSING THE PROPOSED ADOPTION OF RULES BY THE NEW JERSEY LOCAL FINANCE BOARD AND THE NEW JERSEY DEPARTMENT OF EDUCATION CONCERNING THE APPROVAL PROCESS FOR NON-STATE HEALTH BENEFITS PLAN HEALTH INSURANCE PLANS AS PROPOSED BY N.J.A.C. 5:30-18.1 THROUGH 18.4 AND N.J.A.C. 6A:23A

WHEREAS, the New Jersey Local Finance Board and the New Jersey Department of Education have proposed rules requiring that all labor contracts providing for health insurance outside the State Health Benefits Program need to be approved by the State and requiring that local entities and school boards perform a static comparison of health insurance costs to State Health Benefit Program costs; and

WHEREAS, these rules are in conflict with Section 42.c of Chapter. 78, which is ostensibly used as authority for the regulation, but is actually meant only to apply to public entities wishing to enter into contract that included a contribution schedule from employees that substitutes for that as laid out in the statute; and

WHEREAS, the regulations, as proposed, extends this authority to require all public entities electing not to provide health benefits through the State Health Benefits Plan (SHBP) and the School Employees' Health Benefits Program (SEHBP) to submit to the process established under the proposed regulation; and

WHEREAS, this interpretation that is contrary to the regulations is supported by:

- The plain reading of the statute;
- The explanation contained in Local Finance Notice (LFN) 2011-20R, Section VI. Alternate Employee Health Care Contribution; and
- The following language from the "Statement" found at page 121, line 35 of the Bill (underlining added)::

The bill allows boards of education and units of local government, that do not participate in the SHBP or SEHBP, to enter into contracts for health care benefits coverage, as may be required to implement a collective negotiations agreement, and agree to different employee contribution rates if certain cost savings in the aggregate over the period of the agreement can be demonstrated.

The savings must be certified to the Department of Education or the Department of Community Affairs, as appropriate; and

WHEREAS, the proposed regulation is cumbersome and places a significant burden on any public body intending to utilize the employee contribution schedule contained within the law, but wishing obtain health benefits outside the SHBP or SEHBP; and

WHEREAS, the de facto effect of this regulation, if adopted, will be to drive public bodies into the SHBP or SEHBP and stifle competition; and

WHEREAS, New Jersey already has one of the nation's most uncompetitive health insurance markets according to the Henry J. Kaiser Family Foundation (October 2011):

- In the individual market, one carrier, Horizon BCBS, controls 73% of the market with only two carriers having 5% or more of the market.
- The same carrier controls over 75% of the governmental market, largely by virtue of its relationship with the SHBP and SEHBP.
- Finally, Horizon controls 43% of the small group market; and

WHEREAS, if the regulation causes a significant number of local entities to move to the SHBP and SEHBP, a negative result will be to increase market concentration and further reduce carrier competition in the State; and

WHEREAS, this will result in an increase in fully insured costs for other persons, governmental entities, not for profits, and business in the State; and

WHEREAS, the regulations' definition of "net employer cost" is not inclusive of all relevant items and should be modified:

- For instance, members of JIFs own a proportionate share of fund surplus that should be included in a valid comparison.
- Likewise, JIF members receive dividends that reduce net employer cost.
- Finally, JIF rates could include supplemental assessments that represent a liability to the member regardless of whether it stays in the joint insurance fund or moves to the SHBP.; and

WHEREAS, most local entity labor contracts cover multiple year periods:

- A comparison using the most current year is misleading and invalid because the comparison can change in subsequent years.
- In addition, school districts that belong to health JIFs renew on July 1 of each year.
- The differences in renewal cycles between the health JIF, the SEHBP, and the commercial market will further complicate comparisons; and

WHEREAS, the regulations do not address differences in plan design between an employer plan and the plan or plans offered by the SHBP and the SEHBP and such differences are critical to any valid comparison of plan economics; and

WHEREAS, the regulations do not address legal restraints on local entities considering their obligations to retirees, and obligations to employee groups that are not a part of the contract in question; and

WHEREAS, in situations where a local health plan has negotiated benefits that are richer than, or even different than, those provided by the SHBP and SEHBP, the local unit will be subject to sanctions for failing to honor its labor agreements; and

WHEREAS, the comparison is burdensome to local units and of limited use given that the requested details do not allow for a valid comparison of net cost and benefits; and

WHEREAS, SEHBP rates are reduced by the amount of the A4 retiree surcharge paid by entities not in the state plan and the rates for local school districts not in the SEHBP are increased by the surcharge further limiting the fairness and utility of the comparison; and

WHEREAS, SEHBP and SHBP rates in the past have been impacted by one time sources of revenue such as the Tobacco settlement and the use of one time sources of revenue that are not available to local units does not permit for a fair and valid comparison; and

WHEREAS, The regulations favor the SEHBP and SHBP to the exclusion of health joint insurance funds (JIFs) that have faithfully served New Jersey local government, under enabling statutes, for over 20 years:

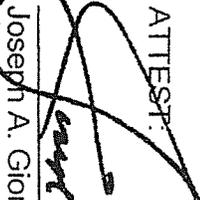
- Health JIFs are a valid alternative for entities with unique plan designs, good loss experience, and a willingness to participate in JIF governance.
- Health JIFs are the largest "shared services" effort in the State for local government from a revenue standpoint.
- To the extent that the regulations operate to the disadvantage of health JIFs, the regulations are in opposition to, and indeed are hostile to, statutes that authorize JIF creation and operation.
- By extension, the regulations foster a "big government" mentality and are hostile to both "shared services" and "home rule" concepts.
- If the regulation seeks to encourage "due diligence", then members of the SEHBP and SHBP should also be required to compare their claims and cost to the health JIF and commercially insured alternatives.

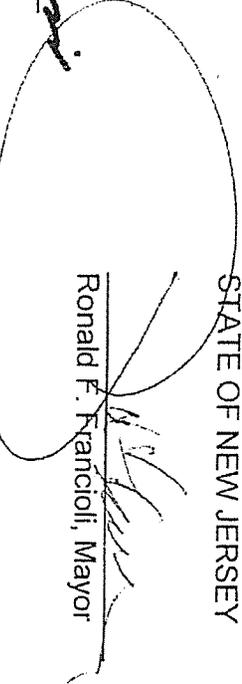
NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Hanover in the County of Morris and State of New Jersey as follows:

1. That, for the foregoing reasons, the governing body respectfully requests that the Local Finance Board and Department of Education modify and reissue the proposed regulations to:
 - Apply only when a local unit proposes an employee contribution schedule different from that contained in the statute;
 - Require any comparison to take into consideration differences in plan design and eligibility;
 - Require the evaluation criteria to consider dividends received from a health JIF and shares of surplus retained by the health JIF;
 - Promote, rather than undermine, healthy competition among the various options available to local units shopping for health insurance;
2. That certified copies of this resolution shall be transmitted to Governor Chris Christie, General Assembly Speaker Sheila Oliver, Senate President Stephen M. Sweeney and members of the Morris County Legislative Delegations in Districts 25, 26, and 27, the Local Finance Board, the Department of Education, the Executive Director of the New Jersey League of Municipalities, the Morris County League of Municipalities and all Morris County municipalities.

DATED: January 10, 2013

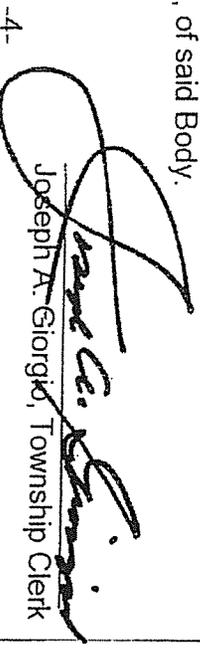
ATTEST:


Joseph A. Giorgio, Township Clerk


Ronald F. Rancioli, Mayor

C E R T I F I C A T I O N

I, Joseph A. Giorgio, Township Clerk of the Township of Hanover, County of Morris and State of New Jersey, do hereby certify the foregoing to be a true copy of a resolution adopted by the Township Committee of said Township on the 10th day of January, 2013 at a meeting, duly convened, of said Body.


Joseph A. Giorgio, Township Clerk

OWNERSHIP COMMITTEE	AYE	
OTE	NAY	
CHLEIFER	ABSTAINED	
ERRAMOSCA	ABSENT	
RUENO		
OPPOLA		
RANCIOLI		
OTAL		