



# LINDABURY

McCORMICK, ESTABROOK & COOPER, P.C.

Attorneys at Law

# EdLawAlert

By the EdLaw Group at Lindabury

July 11, 2011

**SPECIAL**

*The EDUCATION LAW GROUP at Lindabury has extensive experience in the area of school law. We serve as general counsel, special education counsel, and labor counsel for boards of education throughout the State.*

ANTHONY P. SCIARRILLO  
ATHINA LEKAS CORNELL  
JEFFREY R. MERLINO  
DENNIS MCKEEVER  
JENNIFER A. OSBORNE  
PAUL E. GRIGGS  
JOSHUA S. SKLARIN  
SCOTT D. ZUCKER

[edlawgroup@lindabury.com](mailto:edlawgroup@lindabury.com)

**Westfield Office**  
P. O. Box 2369  
53 Cardinal Drive  
Westfield, NJ 07091  
(TEL) 908-233-6800  
(FAX) 908-518-2967

**Summit Office**  
480 Morris Avenue  
Summit, NJ 07901  
(TEL) 908-273-1212  
(FAX) 908-273-8922

**Red Bank Office**  
331 Newman Springs Road  
Suite 133  
Red Bank, NJ 07701-6766  
(TEL) 732-741-7777  
(FAX) 732-758-1879

[www.lindabury.com](http://www.lindabury.com)

## New Law Requires Public Employee Contributions to Health Benefits

By Anthony P. Sciarrillo and Joshua S. Sklarin

On June 28, 2011, Governor Christie signed into law legislation that significantly impacts the pensions and health benefits of public employees, including board of education employees. The following is an outline of the health benefits portion of the law as of July 5, 2011. In preparing this *EdLaw Alert*, we reviewed the law itself and the documents prepared by the New Jersey School Board Association and the New Jersey Department of Treasury, Division of Pensions and Benefits, both dated June 30, 2011. We will advise if there are changes in interpretation that occur in the future.

The law went into effect upon the signature of the Governor.

The biggest portion of the law involves the benefit contributions that must be made by public employees. All contributions shall have as their minimum, or "floor," 1.5% of that employee's base salary. The contributions based on the actual premium vary from 3% to 35%. The following is a sampling of these contributions:

- (1) Individual coverage:
  - a. An employee who earns less than \$20,000, shall contribute 4.5% of the cost of coverage.
  - b. An employee who earns between \$50,000 and \$54,999, shall contribute 20% of the cost of coverage.
  - c. An employee who earns \$95,000 or more, shall contribute 35% of the cost of coverage.
- (2) Member/Child and Member/Spouse coverage:
  - a. An employee who earns less than \$25,000, shall contribute 3.5% of the cost of coverage.
  - b. An employee who earns between \$50,000 and \$54,999, shall contribute 15% of the cost of coverage.
  - c. An employee who earns more than \$100,000, shall contribute 35% of the cost of coverage.
- (3) Family coverage:
  - a. An employee who earns less than \$25,000, shall contribute 3% of the cost of coverage.
  - b. An employee who earns between \$50,000 and \$54,999, shall contribute 12% of the cost of coverage.
  - c. An employee who earns \$110,000 or more, shall contribute 35% of the cost of coverage.

These contributions are to be phased in over a four-year period, in ¼ increments. For example, assuming an employee's salary remains in the same range of contribution percent throughout the phase-in period, employees required to pay 20% towards the cost of the employee's coverage in Year 1 will contribute only 5% beginning on the effective date of the law, or 1.5% of the employee's salary – whichever is greater. In Year 2, that employee will contribute 10%, or 1.5% of the employee's salary – whichever is greater. In Year 3, that employee (cont'd ▶)

will contribute 15%, or 1.5% of the employee's salary – whichever is greater. And in Year 4, that employee will contribute the full 20%, or 1.5% of the employee's salary – whichever is greater.

In no event shall an employee contribute less than 1.5% of his/her base salary. Boards of education are bound to apply these contributions until they reach their maximum amounts. After the full implementation of the contributions, boards of education would then be able to negotiate further contributions and health benefit changes, using the law's contribution as the base from which to begin.

Benefit contributions are required, as of the signing of the law, for individuals covered under the following:

1. Any Collective Bargaining Agreement ("CBA") that has expired, and has not settled;
2. Any and all non-union employees; unlike the 1.5% law, there is no ability for a District to shield its non-union employees from the contribution;
3. Any CBA which begins, regardless of settlement date, on July 1, 2011;
4. Any employee hired after the effective date of the law; these employees are required to contribute the full phase-in amount (regardless of whether that employee is covered under a CBA that shields the other employees in that union);
5. Upon the conclusion of any CBA that is in force on the effective date of the law. The contribution would begin at the initial phase-in amount.

The New Jersey Division of Pensions and Benefits says the contributions should begin immediately or as follows:

Local government and local education employees are subject to the same contributions indicated above effective immediately for employees whose contracts are expired and employees not covered by a union contract and commencing upon contract expiration for employees covered by a collective negotiations agreement. ***The effective date of implementation will be as soon as administratively feasible as determined by each employer.*** Employees currently under a collective negotiations agreement will not be impacted by the changes described above until the agreement expires. Upon expiration, employees covered by that agreement, will begin at

year 1 of the phase-in until they reach year 4 of the phase-in.

The law expects local boards of education to begin taking contributions on July 1, 2011, unless it is not "administratively feasible." We advise against delaying the taking of contributions unless administratively necessary.

A local board of education is now required to set up a section 125 savings plan for the processing of the contributions.

For boards of education who are part of the School Employee Health Benefit Plan ("SEHBP"), the aforementioned contributions apply to medical and prescription only. However, for those boards of education who participate in private health insurance, the aforementioned contributions apply to all health coverage, including medical, prescription, dental and vision.

The law also makes clear that any extension, alteration, re-opening or other adjustment to a CBA in force on the effective date of the law, or to an agreement that is expired on the effective date of the law, are to be considered new CBAs, and thus subject to the new contributions.

Local boards of education and associations may negotiate over different levels of health benefits and contributions, but such benefits and contributions may only be agreed upon if the parties can demonstrate that the savings is equal to or greater than what would have been received through the contributions set forth in the law. The savings must be certified by the Department of Education or the Department of Community affairs within 30 days of submission.

As to the law's effect on retirement, members with 20 or more years of service upon the effective date of the law will receive contribution-free health benefits upon retirement after 25 years of service. Members with less than 20 years of service upon the effective date of the law will pay a percentage of the premium based on their pension amount after 25 years of service.

The language prohibiting board employees from using out-of-state doctors has been removed from the law.

☺☺

*The information provided here is necessarily general and is not intended as legal advice or a substitute for legal advice. If you have any questions regarding this Alert, please contact Anthony P. Sciarrillo of the EdLaw Group at [edlawgroup@lindabury.com](mailto:edlawgroup@lindabury.com).*