

Governor Signs Publicly Funded Health Insurance Contribution Act

On September 24, 2011 Governor Snyder signed the Publicly Funded Health Insurance Contribution Act (“Act”). The Act was filed with the Secretary of State on September 27 and takes immediate effect.

The Act is intended to impose certain limitations on the portions of public employees’ medical benefit plan coverage paid for by public employers. The term “public employer” includes townships. The central requirement of the Act is contained in §3 which provides, in relevant part:

Except as otherwise provided in this act, a public employer that offers or contributes to a medical benefit plan for its employees or elected public officials shall pay no more of the annual costs or illustrative rate and any payments for reimbursement of co-pays, deductibles, or payments into health savings accounts, flexible spending accounts, or similar accounts used for health care costs, than a total amount equal to \$5,500.00 times the number of employees with single person coverage, \$11,000.00 times the number of employees with individual and spouse coverage, plus \$15,000.00 times the number of employees with family coverage, for a medical benefit plan coverage year beginning on or after January 1, 2012.

§3 provides “hard caps” which must be complied with by all public employers.

§4 of the Act provides public employers with an alternative to the “hard caps” included in §3. A public employer may, by a majority vote of its governing body, elect to comply with the provisions of §4(2) rather than the “hard caps” contained in §3. §4(2) and provides, in relevant part:

By a majority vote of its governing body, a public employer, excluding this state, may elect to comply with this section for a medical benefit plan coverage year instead of the requirements in section 3.

§5(1) addresses the applicability of §§3 and 4 in situations in which a collective bargaining agreement is already in effect and contains terms that are inconsistent with the requirements of the Act. Although §5(1) provides that “the requirements of section 3 or 4 do not apply to that group of employees until the contract expires,” the requirements of §§3 and 4 will apply “to any extension or renewal of the contract.” Finally, any collective bargaining agreement that is executed on or after September 15, 2011 “shall not include terms that are inconsistent with the requirements of sections 3 and 4.” §5(2).

The Act provides for financial penalties in the event a public employer fails to comply with the Act. §9 imposes a financial penalty and provides in relevant part:

If a public employer fails to comply with this act, the public employer shall permit the state treasurer to reduce by 10% each economic vitality incentive program payment received under 2011 PA 63 and the department of education shall assess the public employer a penalty equal to 10% of each payment of any funds for which the public employer qualifies under the state school aid act of 1979, 1979 PA, MCL 388.1601 to 388.1772, during the period that the public employer fails to comply with this act.

§8(1) specifically allows local units of government to exempt themselves from the requirements of the Act. An exemption from the Act for the next succeeding year will become effective “by a 2/3 vote of [the] governing body each year.” It is our professional opinion that the issue of exemption should be submitted to the Township Board for a vote consistent with the provisions of §8(1). Despite the fact that no financial penalties may attach to a township’s failure to satisfy the requirements of the Act, a township is nevertheless obligated to follow the mandates of the Michigan Legislature.