



Retired Public Employees Association, Inc.

435 NEW KARNER ROAD • ALBANY, NY 12205 • (518) 869-2542 • FAX (518) 869-0631 e-mail: mail@rpea.org
Stanley Winter, President Michael B. Fitzgerald, Executive Director

September 14, 2011

The Honorable Patricia Hite
Acting NYS Department of Civil
Service Commission President
NYS Department of Civil Service
Alfred E. Smith State Office Building
Albany, NY 12239

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dear President Hite:

I am writing on behalf of all members of the New York State Employees' Retirement System, the New York State Teachers' Retirement System and, or, an Optional Retirement Plan established pursuant to the Education Law currently receiving a retirement allowance or benefit now participating in the Statewide Health Insurance Plan, or an optional benefits plan thereof [hereinafter collectively "NYSHIP"].

The New York State Department of Civil Service has indicated that certain terms of recently negotiated collective bargaining agreements resulting in an increase in the percentage or ratios of employee contributions for NYSHIP premiums will be imposed on retirees effective October 1, 2011. This unilateral action presumably will affect individuals who retired on or after January 1, 1983 enrolled in NYSHIP.

Significantly, retired employees are not in a collective bargaining unit within the meaning of Article 14 of the Civil Service Law. Accordingly, employee organizations may only negotiate with respect to health insurance benefits upon retirement on behalf of individuals in the collective bargaining unit then active employees.

Thus there is no authority in law or contract justifying the Department of Civil Service applying, or extending, a term or condition of employment negotiated on behalf of active employees by an employee organization to an individual then retired.

The Retired Public Employees Association (RPEA) maintains that there is significant legal and historical precedent barring any change in the percentages or ratios of the State's "employer contributions" for NYSHIP premiums for individuals already receiving a retirement allowance or benefit.

These legal and historical precedents indicate that whenever there is a change in the percentages or ratios of "employer contributions" for NYSHIP premiums that

would adversely affect a retiree, the then existing "employer contribution" percentages or ratios are continued without change for individuals who retired before the effective date of any such change in the percentages or ratios of "employer contributions." In other words, such retirees are "grandfathered in" with respect to continuation of the ratios or percentages of "employer contributions" for NYSHIP at the level set by law, rule or regulation in effect prior to the effective date of any change in the ratios or percentages of "employer contributions" on behalf of individuals retiring prior to the effective date of the change to avoid such an adverse impact.

RPEA has therefore taken the liberty of attaching a proposed amendment to the President's Regulations set out in 4 NYCRR 73.3, such amendment to be adopted by the President pursuant to the authority set out in Civil Service Law §167.8, as amended. In summary, it provides for the reduction of the ratios or percentages of "employer contributions" with respect to those retiring on or after October 1, 2011 while fixing the existing 90% "employer contribution" for a retiree's individual coverage and the existing 75% "employer contribution" for dependent coverage for individuals who retired on or before September 30, 2011.

This proposed amendment to the President's Regulations tracks the legislative intent in its various amendments of Civil Service Law §167.1, formerly §127 of the Civil Service Law added by Chapter 641 of the Laws of 1956. See, for example, Chapter 14, §1 of the Laws of 1983 with respect to changes in the ratios or percentages of employer contributions to be made on behalf of employees with respect to employees and individuals retiring on or after January 1, 1983 while insulating individuals who retired prior to January 1, 1983 from such changes.

Of course, as earlier noted, RPEA believes that the ratios or percentages of "employer contributions" to be made on behalf of public employees retiring on or after October 1, 2011, the effective date of such changes set out in the relevant recent collective bargaining agreements, may be increased by administrative action.

We respectfully request that this proposed amendment to the President's Regulations be promulgated immediately.

Thank you for your prompt attention to this matter. We are available to meet with you at your convenience to discuss this matter further.

Sincerely,

Alan Dorn
Executive Director



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Proposed Rule amendment in 4 NYCRR 73.3 with respect to state officers and employees retiring on or after October 1, 2011 and state officers and employees retiring on or before September 30, 2011, as follows:

1. Except as otherwise provided by a collective bargaining agreement between the state and an employee organization negotiated pursuant to Article 14 of the Civil Service Law, eighty-eight percent of the cost of premium or subscription charges for the coverage of state employees retiring on or after October first, two thousand eleven who are enrolled in the statewide and supplementary health insurance plans shall be paid by the state. Seventy-three percent of the cost of premium or subscription charges for the coverage of dependents of such state employees retiring on or after October first, two thousand eleven shall be paid by the state. The state shall contribute toward the premium or subscription charges for the coverage of each state employee retiring on or after October first, two thousand eleven who is enrolled in an optional benefit plan and for the dependents of such state employee or retired state employee the same dollar amount which would be paid by the state for the premium or subscription charges for the coverage of such state employee or retired state employee and his or her dependents if he or she were enrolled in the statewide and the supplementary health insurance plans, but not in excess of the premium or subscription charges for the coverage of such retired state employee and his or her dependents under such optional benefit plan. For the purposes of this subdivision, employees of the state colleges of agriculture, home economics, industrial labor relations, and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and employees of the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, shall be deemed to be state employees whose salaries or compensation are paid directly by the state.

2. Except as otherwise provided by a collective bargaining agreement between the state and an employee organization negotiated pursuant to Article 14 of the Civil Service Law, nine-tenths of the cost of premium or subscription charges for the coverage of state employees retiring on or before September thirtieth, two thousand eleven who are enrolled in the statewide and supplementary health insurance plans shall be paid by the state. Three-quarters of the cost of premium or subscription charges for the coverage of dependents of such state employees retiring on or before September thirtieth, two thousand eleven shall be paid by the state. The state shall contribute toward the premium or subscription charges for the coverage of each state employee retiring on or after October first, two thousand eleven who is enrolled in an optional benefit plan and for the dependents of such state employee or retired state employee the same dollar amount which would be paid by the state for the premium or subscription charges for the coverage of such state employee or retired state employee and his or her dependents if he or she were enrolled in the statewide and the supplementary health insurance plans, but not in excess of the premium or subscription charges for the coverage of

such retired state employee and his or her dependents under such optional benefit plan. For the purposes of this subdivision, employees of the state colleges of agriculture, home economics, industrial labor relations, and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and employees of the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, shall be deemed to be state employees whose salaries or compensation are paid directly by the state.