

1 H.28

2 Introduced by Representative Poirier of Barre City

3 Referred to Committee on

4 Date:

5 Subject: Health; labor relations; health coverage; public employees; public
6 option; public financing

7 Statement of purpose of bill as introduced: This bill proposes to create a
8 public option for health care coverage that would be available to all Vermont
9 residents and employers and would be publicly funded. It would remove
10 health insurance benefits from the bargainable subjects for public employees
11 who are subject to a collective bargaining agreement and instead specify that
12 employees who wish to have health insurance coverage would be covered
13 under the public option.

14 An act relating to creating a public option for health care coverage

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 * * * Vermont Public Option * * *

17 Sec. 1. 33 V.S.A. chapter 18, subchapter 3 is added to read:

18 Subchapter 3. Vermont Public Option

19 § 1851. DEFINITIONS

20 As used in this subchapter:

1 (1) “Public employee” means an employee of the State or of an
2 instrumentality of the State and includes an individual employed by the State
3 of Vermont, by a municipality, by a school board, or by the Vermont State
4 Colleges or the University of Vermont. The term shall also include an
5 individual employed by a supervisory union.

6 (2) “Vermont employer” means any individual, organization, or
7 governmental body, including any partnership, association, trustee, estate,
8 corporation, joint stock company, insurance company, or legal representative,
9 whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
10 successor thereof, and any common carrier by mail, motor, water, air, or
11 express company doing business in or operating within this State, and any
12 agent of the employer, that has one or more individuals performing services for
13 it within this State.

14 (3) “Vermont resident” means an individual domiciled in Vermont as
15 evidenced by an intent to maintain a principal dwelling place in Vermont
16 indefinitely and to return to Vermont if temporarily absent, coupled with an act
17 or acts consistent with that intent.

18 § 1852. VERMONT PUBLIC OPTION

19 (a)(1) There is established the Vermont Public Option, which shall provide
20 health care coverage to all enrolled Vermont residents and all participating
21 Vermont employers’ enrolled employees and dependents.

1 (2) All public employees who wish to have employer-sponsored health
2 care coverage shall purchase coverage through the Vermont Public Option. No
3 other employer-sponsored health care coverage shall be offered to public
4 employees.

5 (3) The Vermont Public Option shall be a coverage option separate and
6 distinct from Vermont's Medicaid program, and individuals eligible for
7 Medicaid shall not be eligible for the Vermont Public Option.

8 (4) All participants in the Vermont Public Option shall be maintained in
9 a single risk pool.

10 (b)(1) The Vermont Public Option shall provide health care coverage
11 beginning in the 2018 plan year, which shall commence on January 1, 2018.
12 The benefits provided under the Vermont Public Option for the 2018 plan year
13 shall be the benefits available on January 1, 2017 in the Vermont State
14 employees' health plan with the largest enrollment on that date, and shall also
15 include coverage for hearing aids and related services.

16 (2) For plan years after the 2018 plan year, any modifications to the
17 benefit package for the Vermont Public Option shall be determined through the
18 stakeholder process described in section 1853 of this subchapter.

19 (c)(1) The Department of Human Resources shall establish premiums for
20 the Vermont Public Option, which shall be withheld pursuant to section 1854
21 of this subchapter for employed individuals and self-employed individuals.

1 Individuals who are not employed or whose employer is not required under
2 32 V.S.A. § 5841 to withhold taxes shall remit the monthly premium amount,
3 less any applicable subsidies, to the Department of Human Resources or its
4 designee for deposit in the Vermont Public Option Fund established in section
5 1855 of this subchapter.

6 (2) The Vermont Public Option shall provide premium subsidies on a
7 sliding scale to all enrollees with incomes at or below 300 percent of the
8 federal poverty level in amounts to be proposed annually by the Agency of
9 Human Services as part of the legislative budget process.

10 (d) The Secretary of Administration may contract on behalf of the State
11 with a qualified entity to carry out the administrative services associated with
12 the operation of the Vermont Public Option, including billing, claims
13 processing, and collection of premiums.

14 § 1853. VERMONT PUBLIC OPTION BENEFITS COUNCIL

15 (a) There is created the Vermont Public Option Benefits Council for the
16 purpose of determining appropriate modifications to the Vermont Public
17 Option.

18 (b) The Council shall comprise the following ten stakeholder members:

19 (1) the Commissioner of Human Resources, ex officio, on behalf of the
20 State of Vermont;

1 (2) a representative of State employees, appointed by the Vermont State

2 Employees Association;

3 (3) a representative of school boards, appointed by the Vermont School

4 Boards Association;

5 (4) a representative of Vermont teachers, appointed by the VT-NEA;

6 (5) a representative of Vermont municipalities, appointed by the

7 Vermont League of Cities and Towns;

8 (6) a representative of municipal employees, appointed by the union

9 representing the largest number of municipal employees in Vermont;

10 (7) a representative of participating private-sector Vermont employers,

11 appointed by the Governor;

12 (8) a representative of the employees of participating private-sector

13 Vermont employers, appointed by the Governor;

14 (9) a representative from the Office of the Health Care Advocate; and

15 (10) a health care consumer enrolled in the Vermont Public Option,

16 appointed by the Governor.

17 (c)(1) The Council shall determine annually whether any modifications to

18 the Vermont Public Option benefits package are appropriate, taking into

19 consideration changes in State and federal law, evidence-based best practices,

20 emerging technologies, and issues of cost and quality.

1 (2) On or before September 1 of each year, the Council shall provide its
2 recommendations for any modifications to the benefit package to the Secretary
3 of Administration. Any proposed modifications to the benefit package shall be
4 applicable to the plan year beginning during the fiscal year following the fiscal
5 year in which the recommendations are made.

6 (d) The Council shall have the administrative, technical, and legal
7 assistance of the Department of Human Resources.

8 (e)(1) The Commissioner of Human Resources shall call the first meeting.
9 The Council shall elect a chair from among its members and shall meet
10 periodically at the call of the Chair or at the request of any three of its
11 members. The Council shall meet at least twice each year.

12 (2) A majority of the Council membership shall constitute a quorum,
13 and a vote of the majority of the Council membership shall be required for a
14 motion to carry.

15 (f) Members of the Council shall serve on a voluntary basis and shall not be
16 entitled to per diem compensation or reimbursement of expenses.

17 § 1854. EMPLOYEE PREMIUM PAYMENT

18 (a) Each Vermont employer shall deduct from a public employee's gross
19 wages, and upon a private sector employee's request shall deduct from that
20 employee's gross wages, a sum equal to the premium payment for the
21 employee's individual, two-person, or family coverage under the Vermont

1 Public Option, less any applicable subsidies, at such time and in such
2 installments as the Commissioner of Human Resources prescribes. The
3 employer shall remit the sums to the Commissioner or designee for deposit in
4 the Vermont Public Option Fund established in section 1855 of this
5 subchapter.

6 (b) Every employer required to deduct the Vermont Public Option premium
7 pursuant to subsection (a) of this section shall be liable for the payment of the
8 premium and shall be indemnified against the claims and demands of any
9 person for the amount of the payment made by the employer.

10 § 1855. VERMONT PUBLIC OPTION FUND

11 (a) The Vermont Public Option Fund is established in the State Treasury as
12 a special fund to be the single source of financing for the Vermont Public
13 Option.

14 (b) Into the Fund shall be deposited:

15 (1) transfers and appropriations from the General Fund, authorized by
16 the General Assembly;

17 (2) all premium amounts paid by Vermont employers on behalf of
18 enrolled employees and by enrolled individuals who are not employed or
19 whose employer is not required under 32 V.S.A. § 5841 to withhold taxes;

20 (3) all revenue generated by the public funding mechanism enacted by
21 the General Assembly to finance the Vermont Public Option; and

1 (4) the proceeds from grants, donations, contributions, taxes, and any
2 other sources of revenue as may be provided by statute or by rule.

3 (c) The Fund shall be administered pursuant to 32 V.S.A. chapter 7,
4 subchapter 5, except that interest earned on the Fund and any remaining
5 balance shall be retained in the Fund. The Department shall maintain records
6 indicating the amount of money in the Fund at any time.

7 (d) All monies received by or generated to the Fund shall be used only for
8 the payment of premiums and premium subsidies pursuant to section 1852 of
9 this subchapter.

10 * * * Public Financing * * *

11 Sec. 2. PUBLIC FINANCING

12 The Vermont Public Option shall be publicly funded using a fair, equitable,
13 and sustainable funding model developed by the legislative committees of
14 jurisdiction and enacted by the General Assembly.

15 * * * Subjects for Collective Bargaining * * *

16 Sec. 3. 3 V.S.A. § 631 is amended to read:

17 § 631. GROUP INSURANCE FOR STATE EMPLOYEES; SALARY
18 DEDUCTIONS FOR INSURANCE, SAVINGS PLANS, AND
19 CREDIT UNIONS

20 (a)(1) The Secretary of Administration may contract on behalf of the State
21 with any insurance company or nonprofit association doing business in this

1 State to secure the benefits of franchise or group insurance. ~~Beginning July 1,~~
2 ~~1978, the~~ The terms of coverage under the policy shall be determined under
3 section 904 of this title, but it may include:

4 (A) life, disability, ~~health,~~ and accident insurance and benefits for
5 any class or classes of State employees; and

6 (B) hospital, surgical, and medical benefits for retired employees
7 only and dental benefits for any class or classes of State employees or for those
8 employees and any class or classes of their dependents.

9 (2)(A) The term “employees” as used in this section shall include among
10 others any class or classes of elected or appointed officials, but it shall not
11 include members of the General Assembly as such, nor shall it include any
12 person rendering service on a retainer or fee basis, members of boards or
13 commissions, or persons other than employees of the Vermont Historical
14 Society, the Vermont Film Corporation, the Vermont State Employees’ Credit
15 Union, Vermont State Employees’ Association, and the Vermont Council on
16 the Arts, whose compensation for service is not paid from the State Treasury,
17 nor shall it include any elected or appointed official unless the official is
18 actively engaged in and devoting substantially full-time to the conduct of the
19 business of his or her public office. For purposes of group
20 hospital-surgical-medical expense insurance, the term “retired employees”
21 ~~shall include employees as defined in this subdivision and~~ means former

1 employees as defined in this subdivision who are retired and are receiving a
2 retirement allowance from the Vermont State Retirement System or the State
3 Teachers' Retirement System of Vermont and, for the purposes of group life
4 insurance only, are retired on or after July 1, 1961, and have completed 20
5 creditable years of service with the State before their retirement dates and are
6 insured for group life insurance on their retirement dates. For purposes of
7 group hospital-surgical-medical expense insurance only, the term "employees"
8 shall include ~~employees as defined in this subdivision and~~ retired employees
9 and employees who are receiving a retirement allowance based upon their
10 employment with the Vermont State Employees' Association, the Vermont
11 State Employees' Credit Union, the Vermont Council on the Arts, as long as
12 they are covered as active employees on their retirement date, and:

- 13 (i) they have at least 20 years of service with that employer; or
14 (ii) have attained 62 years of age, and have at least 15 ~~years~~ years
15 service with that employer.

16 * * *

17 Sec. 4. 3 V.S.A. § 904 is amended to read:

18 § 904. SUBJECTS FOR BARGAINING

19 (a) All matters relating to the relationship between the employer and
20 employees shall be the subject of collective bargaining except those matters
21 which are prescribed or controlled by statute. Such matters appropriate for

1 collective bargaining to the extent they are not prescribed or controlled by
2 statute include:

3 (1) wages, salaries, benefits, and reimbursement practices relating to
4 necessary expenses and the limits of reimbursable expenses, except as
5 provided in subsection (c) of this section;

6 (2) minimum hours per week;

7 (3) working conditions;

8 (4) overtime compensation and related matters;

9 (5) leave compensation and related matters;

10 (6) reduction-in-force procedures;

11 (7) grievance procedures, including whether an appeal to the Vermont
12 Labor Relations Board or binding arbitration, or both, will constitute the final
13 step in a grievance procedure;

14 (8) terms of coverage and amount of employee financial participation in
15 insurance programs, except as provided in subsection (c) of this section;

16 (9) rules and regulations for personnel administration, except the
17 following: rules and regulations relating to persons exempt from the classified
18 service under section 311 of this title and rules and regulations relating to
19 applicants for employment in State service and employees in an initial
20 probationary status, including any extension or extensions thereof provided

1 such rules and regulations are not discriminatory by reason of an applicant's
2 race, color, creed, sex, or national origin; and

3 (10) the manner in which to enforce an employee's obligation to pay the
4 collective bargaining service fee.

5 * * *

6 (c) Medical benefits and health insurance shall not be a subject of
7 collective bargaining under this chapter. Employees who wish to have health
8 insurance coverage may purchase coverage through the Vermont Public Option
9 established pursuant to 33 V.S.A. chapter 18, subchapter 3.

10 Sec. 5. 3 V.S.A. § 1013 is amended to read:

11 § 1013. SUBJECTS FOR BARGAINING

12 (a) All matters relating to the relationship between the employer and
13 employees are subject to collective bargaining, to the extent those matters are
14 not prescribed or controlled by law, including:

15 (1) wages, salaries, benefits, and reimbursement practices relating to
16 necessary expenses and the limits of reimbursable expenses., except as
17 provided in subsection (b) of this section;

18 (2) minimum hours per week;

19 (3) working conditions;

20 (4) overtime compensation and related matters;

21 (5) leave compensation and related matters;

1 (6) reduction-in-force procedures;

2 (7) grievance procedures;

3 (8) terms of coverage and amount of employee financial participation in
4 insurance programs, except as provided in subsection (b) of this section;

5 (9) rules for personnel administration of employees provided the rules
6 are not discriminatory in regard to an applicant's race, color, creed, sex, sexual
7 orientation, gender identity, age, national origin, religion, or disability; and

8 (10) the manner in which to enforce an employee's obligation to pay the
9 collective bargaining service fee.

10 (b) Medical benefits and health insurance shall not be a subject of
11 collective bargaining under this chapter. Employees who wish to have health
12 insurance coverage may purchase coverage through the Vermont Public Option
13 established pursuant to 33 V.S.A. chapter 18, subchapter 3.

14 Sec. 6. 16 V.S.A. § 2004 is amended to read:

15 § 2004. AGENDA

16 (a) The school board, through its negotiations council, shall, upon request,
17 negotiate with representatives of the teachers' or administrators' organization
18 negotiations council on matters of salary, related economic conditions of
19 employment, the manner in which it will enforce an employee's obligation to
20 pay the agency service fee, procedures for processing complaints and

1 grievances relating to employment, and any mutually agreed upon matters not
2 in conflict with the statutes and laws of the State of Vermont.

3 (b) As used in this section, the terms “salary” and “related economic
4 conditions of employment” shall not include medical benefits or health
5 insurance. Medical benefits and health insurance shall not be a subject of
6 collective bargaining under this chapter. Employees who wish to have health
7 insurance coverage may purchase coverage through the Vermont Public Option
8 established pursuant to 33 V.S.A. chapter 18, subchapter 3.

9 Sec. 7. 21 V.S.A. § 1725 is amended to read:

10 § 1725. COLLECTIVE BARGAINING PROCEDURE

11 (a)(1) For the purpose of collective bargaining, the representatives of the
12 municipal employer and the bargaining unit shall meet at any reasonable time
13 and shall bargain in good faith with respect to wages, hours, and conditions of
14 employment, and shall execute a written contract incorporating any agreement
15 reached; provided, however, neither party shall be compelled to agree to a
16 proposal nor to make a concession, nor to bargain over any issue of managerial
17 prerogative.

18 (2) As used in this section, “wages, hours, and conditions of
19 employment” shall not include medical benefits or health insurance. Medical
20 benefits and health insurance shall not be a subject of collective bargaining
21 under this chapter. Employees who wish to have health insurance coverage

1 may purchase coverage through the Vermont Public Option established
2 pursuant to 33 V.S.A. chapter 18, subchapter 3.

3 * * *

4 * * * Waiver * * *

5 Sec. 8. FEDERAL WAIVER

6 If waiver of applicable portions of the Patient Protection and Affordable
7 Care Act (Public Law 111-148), as amended by the federal Health Care and
8 Education Reconciliation Act of 2010 (Public Law 111-152), is necessary in
9 order to ensure that the Vermont Public Option complies with federal law, the
10 Secretary of Administration shall apply for a waiver pursuant to Sec. 1332 of
11 the Act.

12 * * * Repeal * * *

13 Sec. 9. REPEAL

14 33 V.S.A. § 1812 (Exchange financial assistance) is repealed.

15 * * * Effective Dates * * *

16 Sec. 10. EFFECTIVE DATES

17 (a) Sec. 1 (33 V.S.A. chapter 18, subchapter 3) shall take effect upon the
18 General Assembly's enactment of a public funding model and shall provide
19 coverage beginning on January 1 of the year following the year in which the
20 public funding model was enacted.

1 (b) Secs. 3 through 7 (health coverage for public employees) shall take
2 effect on passage and shall apply to all contract negotiations that begin on or
3 after the effective date of this act.

4 (c) Sec. 9 (repeal of Exchange financial assistance) shall take effect on
5 January 1, 2018.

6 (d) Secs. 2 (public financing) and 8 (federal waiver) and this section shall
7 take effect on passage.