

Chapter 27. Post-Employment Benefit Plan

[HISTORY: Adopted by the County Council of Sussex County 6-28-2005 by Ord. No. 1783. Amendments noted where applicable.]

GENERAL REFERENCES

Pensions — See Ch. **26**.

Personnel — See Ch. **29**.

Salaries and compensation — See Ch. **35**.

§ 27-1. Title.

This chapter shall be known as the "Sussex County Other Post-Employment Benefit Plan," sometimes hereafter referred to as the "OPEB plan."

§ 27-2. Purpose.

The purpose of this chapter is to authorize the creation of a post-employment benefit plan for retired County employees consisting of benefits other than pension benefits that may be provided under Chapter **26**, known as the "Sussex County Employee Pension Plan Act."

§ 27-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COVERED FORMER EMPLOYEE

A former employee who is receiving or has been approved for the receipt of pension benefits under the County Pension Plan. The following persons shall be considered "covered former employees" notwithstanding other provisions of this chapter:

- A. Elected officials who serve for a minimum of eight years and County Attorneys who are or were considered to be employees of the County for the minimum time period required to qualify for a County pension.
- B. Justices of the Peace and Constables, for employment prior to March 31, 1965.

§ 27-4. Benefits.

Other post-employment benefits may include group hospital coverage and/or vision benefits and dental benefits approximately equivalent to the benefits provided to current County employees and pensioners. The guidelines that apply to cost-sharing for current and retired County employees also apply to cost-sharing for pensioners who are receiving County post-employment benefits under this chapter.

§ 27-5. Application review and recommendation.

The Personnel Director shall receive all applications for benefits received under this chapter and shall:

- A. Review each application for other post-employment benefits and render an opinion thereon to the County Finance Director as to whether the applicant is qualified for the benefits filed for in the application.
- B. From time to time make such recommendations to the County government regarding proposed changes in the other post-employment benefit plan and the administration of provisions of the plans.

§ 27-6. Arbitration Commission.

- A. The Arbitration Commission created by § 26-5 of Chapter 26, Pensions, shall act as the appropriate body for the purpose of settling any controversy that may arise out of the administration of this chapter.
- B. The Commission shall adjudicate any such controversy at a time and place to be fixed by the Commission after due notice, in writing, has been given to all interested parties at least 10 days prior to the day of hearing. The Commission may administer oaths and do such acts and make such rules in the premises as the Commission deems necessary and carry them into effect. The written concurring decision of any two members of the Commission shall be final.
- C. The members of the Commission shall serve without compensation, but the government of Sussex County shall provide for the payment of the administration of the Commission.

§ 27-7. Eligibility for benefits.

- A. As to any former employee who began employment with the County prior to July 1, 2001, and receives a pension immediately upon leaving County employment, the County is authorized to pay up to 100% of the other post-employment benefits authorized by this chapter.
- B. Any employee who begins employment with the County after June 30, 2001, and subsequently completes such years of employment as are necessary to qualify for the receipt of benefits under the County pension plan, shall be entitled to apply for the following other post-employment benefits when he or she applies for a County pension:
 - (1) Retired County employees, with less than 15 years of employment and who are receiving benefits under the County Pension Plan, are eligible to apply for benefits under this plan and if such application is approved, the former employee would be responsible for paying 100% of the cost of the benefits authorized by this chapter.
 - (2) Retired County employees with 15 to 25 years of employment and who are receiving benefits under the County Pension Plan, are eligible to apply for benefits under this plan and, if such application is approved, the County is authorized to pay 50% of the former employee's benefit costs authorized by this chapter.
 - (3) Retired County employees with 25, or greater, years of employment and who are receiving benefits under the County Pension Plan, are eligible to apply for benefits under this plan and, if such application is approved, the County is authorized to pay 100% of the former employee's benefits authorized by this chapter.
- C. Any former employee, who was employed by the County on July 1, 2001, would be eligible under

Subsection **A** or **B** to receive the benefits authorized by this chapter when he or she receives a County pension. The former employee shall be entitled to determine whether to apply for benefits under Subsection **A** or **B**.

- D. County employees, or former employees, requesting benefits under the County Pension Plan, are only eligible to apply for other post-employment benefits when they apply for County pension benefits.
- E. When a former County employee receives a pension and subsequently dies, if the pensioner had his or her spouse listed as a dependent covered by the County group health insurance plan, the County will, following the death of the pensioner, grant the surviving spouse the same benefits the pensioner received during his or her lifetime, except for group life insurance coverage. If the pensioner was also receiving other post-employment benefits authorized by this chapter, and his or her spouse is an eligible survivor as defined in the County Pension Plan under Chapter **26**, the surviving spouse shall also be eligible to apply for the other post-employment benefits authorized by this chapter.
- F. The spouse of a deceased employee or pensioner is eligible to apply for benefits under this chapter at the time of the employee's or pensioner's death if the spouse was eligible for survivor's benefits under the County pension plan.
- G. The spouse of a pensioner who is receiving group hospital coverage from the County is eligible for coverage if the spouse does not have or loses other coverage.

§ 27-8. Employment restrictions.

No person, while receiving other post-employment benefits under this chapter, shall violate the employment restrictions as contained in § **26-8**, Chapter **26**, the County Pension Plan.

§ 27-9. Funding.

- A. The County Finance Director is authorized to use and allocate the monies previously appropriated and being invested for the sole purpose of funding the benefits provided under this chapter and monies hereafter appropriated by Council to pay benefits under this plan.
- B. The Sussex County Council shall review the financial status of the fund yearly.
- C. The Sussex County Council shall annually reconsider the amount of other post-employment benefit payments and determine the necessity for allocating additional monies for the payment of such benefits.
- D. This fund shall be used for the payment of other post-employment benefits and no other purpose.
- E. The payment of other post-employment benefits shall not be subject to attachment or execution by any creditor of a covered former employee who is receiving benefits under the plan.

§ 27-10. Misrepresentation or fraud.

Any person who makes a material misrepresentation or false statement on an application for benefits or falsifies or permits the falsification of any records of the other post-employment benefit plan in an attempt to defraud the plan or to secure the payment of benefits that would not otherwise be payable, but for the misrepresentation or falsification, shall be guilty of a misdemeanor and, upon conviction, shall be sentenced to pay a fine not exceeding \$1,000 or suffer imprisonment not exceeding one year, or both, under the discretion of the Court.

§ 27-11. Records.

- A. The Personnel Director and the Finance Director shall have the responsibility of keeping such records as are necessary to determine eligibility for the payment of benefits authorized hereunder.
- B. Personnel records shall not be deemed to be public records. However, a written request by a covered employee or former employee to the Personnel Director shall entitle the former employee to review his or her records, provided that no more than two such requests in any twelve-month period will be honored, unless the former employee shows good reason for any additional requests.
- C. Records concerning administration of the fund created by this chapter shall be kept by the Sussex County Finance Director.
- D. Except for access as provided under Subsection **B**, only the County Administrator, County Finance Director and County Personnel Director or designated staff members shall have access to the records of the fund.

§ 27-12. Implementation, operation and maintenance of plan.

The County Administrator and Finance Director shall be authorized to execute such documents as are necessary to implement, operate and maintain the plan, to comply with best accounting practices and to achieve favorable tax recognition and treatment for the plan. Such documentation shall comply with the standards contained in the Governmental Accounting Standards Board Statement 45, entitled "Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions."