



STATE TREASURER OF NORTH CAROLINA

DALE R. FOLWELL, CPA

May 19, 2017

Dear Legislators:

It is my duty as North Carolina State Treasurer to call your attention to a matter that may have severe financial and practical implications for the State of North Carolina. The State Health Plan is currently involved in litigation concerning health insurance provided by the State of North Carolina to certain qualifying retirees by the Plan (*Lake v. North Carolina State Health Plan for Teachers and State Employees, et al.*).

The suit was filed in Gaston County Superior Court in April 2012 by 26 retired teachers and state employees. The Plaintiffs have successfully moved for class certification; the class currently exceeds 220,000 retirees. The main issue is whether the State wrongfully charged a monthly premium to retired employees for the State's 80/20 coinsurance health plan. The Plaintiffs claim that they were promised a premium-free 80/20 health plan for the duration of their retirement, that the alleged promise became a contractual right, and that the alleged contract was breached when the State began charging monthly premiums of \$10.00 for Medicare-eligible retirees and \$21.62 for non-Medicare retirees in September of 2011.

The judge announced in December that he was ruling in the Plaintiffs' favor as to liability. The Court has yet to issue a formal order, but the parties expect it to come very soon. We have been told that the Court will rule that the Plaintiffs (and all class members) are entitled to the version of the 80/20 PPO Plan in existence in September 2011, or its equivalent, with no premium for their lifetimes; and that the damages for retirees who remained on the 80/20 PPO Plan will be the amount of premiums they actually paid.

We have been told that all damages, as well as injunctive relief, will be stayed pending final resolution of the case after all appeals have been exhausted. If this ruling stands, the costs to the State of North Carolina may exceed \$100 million, which does not include the cost to the Plan of complying with the Plaintiffs' demands going forward. Those demands could add billions to our unfunded liability for retiree health coverage. If the ruling stands, it would also considerably limit the State's flexibility to reform the State Health Plan.

I have made a commitment to the taxpayers of North Carolina that I will take deliberate and immediate steps to address the State's \$42 billion unfunded liability for retiree health insurance. Should the Plaintiffs ultimately prevail, our current liability could increase dramatically, reaching an unsustainable level in the very near future.

This situation calls for legislative action. I look forward to working with the General Assembly to set aside additional funds to address the unfunded liability in the Retiree Health Benefit Fund.

My office stands ready to advise the General Assembly on how this litigation affects the State Health Plan and its future.

Respectfully,

A handwritten signature in black ink that reads "Dale R. Folwell, CPA". The signature is written in a cursive, flowing style.

Dale R. Folwell, CPA