

Fifty-eighth
Legislative Assembly
of North Dakota

Introduced by

(At the request of the Public Employees Retirement System)

1 A BILL for an Act to create and enact a new section to chapter 54-52.1 of the North Dakota
2 Century Code, relating to an employer-based wellness program; to amend and reenact
3 subsection 4 of section 54-52.1-01, subsection 3 of section 54-52.1-03, and sections
4 54-52.1-03.1, 54-52.1-04, 54-52.1-04.2, 54-52.1-04.7, 54-52.1-04.8, 54-52.1-04.9, 54-52.1-11,
5 and 54-52.3-05 of the North Dakota Century Code, relating to eligibility for and employee
6 payments contracting for group insurance coverage, and confidentiality of information under the
7 uniform group insurance program; to provide an appropriation; and to provide a continuing
8 appropriation.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Subsection 4 of section 54-52.1-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

12 4. "Eligible employee" means every permanent employee who is employed by a
13 governmental unit, as that term is defined in section 54-52-01. "Eligible employee"
14 includes members of the legislative assembly, judges of the supreme court, paid
15 members of state or political subdivision boards, commissions, or associations,
16 full-time employees of political subdivisions, elective state officers as defined by
17 subsection 2 of section 54-06-01, and disabled permanent employees who are
18 receiving compensation from the North Dakota workers' compensation fund. As
19 used in this subsection, "permanent employee" means one whose services are not
20 limited in duration, who is filling an approved and regularly funded position in a
21 governmental unit, and who is employed at least seventeen and one-half hours per
22 week and at least five months each year or for those first employed after August 1,
23 2003, is employed at least twenty hours per week and at least twenty weeks each
24 year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7,

54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.

SECTION 2. AMENDMENT. Subsection 3 of section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. A retiree who has accepted a periodic distribution from the defined contribution retirement plan pursuant to section 54-52.6-13 who the board determines is eligible for participation in the uniform group insurance program or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund (~~TIAA-CREF~~) for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the board. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided. A retiree who has met the initial eligibility requirements of this subsection to begin participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree's participation in the program by paying the required premium pursuant to rules adopted by the board.

SECTION 3. AMENDMENT. Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution. A political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject

1 to minimum requirements established by the board and a minimum period of participation of
2 sixty months. If the political subdivision withdraws from participation in the uniform group
3 insurance program, before completing sixty months of participation, the political subdivision
4 shall make payment to the board in an amount equal to any expenses incurred in the uniform
5 group insurance program that exceed income received on behalf of the political subdivision's
6 employees as determined under rules adopted by the board. ~~The political subdivision may~~
7 ~~determine the amount of the employer's monthly contribution toward the total monthly premium~~
8 ~~amount required of each eligible participating employee.~~

9 **SECTION 4. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-52.1-04. Board to contract for insurance.** The board shall ~~receive bids~~ contract
12 for the providing of hospital benefits coverage, medical benefits coverage, life insurance
13 benefits coverage for a specified term, and employee assistance program services, ~~and shall~~
14 ~~accept the bid of and contract~~ with the carrier that in the judgment of the board best serves the
15 interests of the state and its eligible employees. Solicitations must be made not later than
16 ninety days before the expiration of an existing uniform group insurance contract. ~~Bids must be~~
17 ~~solicited by advertisement in a manner selected by the board that will provide reasonable notice~~
18 ~~to prospective bidders. In preparing bid proposals and evaluating bids~~ potential service
19 providers, the board may utilize the services of consultants on a contract basis in order that the
20 ~~bids received~~ potential providers may be uniformly compared and properly evaluated. In
21 determining which ~~bid, if any,~~ provider will best serve the interests of eligible employees and the
22 state, the board shall give adequate consideration to the following factors:

- 23 1. The economy to be effected.
- 24 2. The ease of administration.
- 25 3. The adequacy of the coverages.
- 26 4. The financial position of the carrier, with special emphasis as to its solvency.
- 27 5. The reputation of the carrier and any other information that is available tending to
28 show past experience with the carrier in matters of claim settlement, underwriting,
29 and services.

30 ~~The board may reject any or all bids and, in the event it does so, shall again solicit bids as~~
31 ~~provided in this section.~~ The board may establish a plan of self-insurance for providing health

1 insurance benefits coverage only under an administrative services only ~~(ASO)~~ contract or a
2 third-party administrator ~~(TPA)~~ contract.

3 **SECTION 5. AMENDMENT.** Section 54-52.1-04.2 of the North Dakota Century Code
4 is amended and reenacted as follows:

5 **54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage -**
6 **Continuing appropriation.** The board may establish a self-insurance plan for providing health
7 insurance benefits coverage under an administrative services only ~~(ASO)~~ contract or a
8 third-party administrator ~~(TPA)~~ contract under the uniform group insurance program, or the
9 board may completely self-administer a self-insurance plan under the uniform group insurance
10 program, if it is determined by the board that an administrative services only or third party
11 administrator plan determines one or more of these options is less costly than the lowest bid
12 submitted by contracting with a carrier for underwriting the plan with equivalent contract
13 benefits. Upon establishing a self insurance plan, the board shall solicit bids for an
14 administrative services only or third party administrator contract only every other biennium, and
15 the board is authorized to renegotiate an existing administrative services only or third party
16 administrator contract during the interim. In addition, individual Individual stop-loss coverage
17 insured by a carrier authorized to do business in this state must be made part of any
18 self-insured plan. All bids under this section are due no later than January first, and must be
19 awarded no later than March first, preceding the end of each biennium. All bids under this
20 section must be opened at a public meeting of the board. If the board implements a
21 self-administered self-insurance program, there is appropriated to the board on a continuing
22 basis the total amount of all premiums received for purposes of paying claims and
23 administrative expenses of this section, and the board may create whatever full-time equivalent
24 staff is necessary to properly and efficiently implement and administer the program.
25 Regardless of whether the board chooses to self-insure under one of these options, the board
26 may develop a provider network by negotiating and contracting with health care providers and
27 associations.

28 **SECTION 6. AMENDMENT.** Section 54-52.1-04.7 of the North Dakota Century Code
29 is amended and reenacted as follows:

30 **54-52.1-04.7. Uniform group insurance program - Vision and dental plans.** The
31 board may establish a dental plan, a vision plan, or both, for eligible employees. The board

1 shall ~~receive bids~~ contract for the plan or plans pursuant to section 54-52.1-04. The board may
2 ~~reject any or all bids and, at its option,~~ provide a plan of self-insurance. Premiums for this
3 coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience
4 rating allowance, discount, or other reduction of premium must be credited as provided by
5 section 54-52.1-06.

6 **SECTION 7. AMENDMENT.** Section 54-52.1-04.8 of the North Dakota Century Code
7 is amended and reenacted as follows:

8 **54-52.1-04.8. Uniform group insurance program - Long-term care plan.** The board
9 may establish a long-term care plan for eligible employees. The board shall ~~receive bids~~
10 contract for the plan under section 54-52.1-04. The board may ~~reject any or all bids and, at its~~
11 option, provide a plan of self-insurance. Premiums for this plan must be paid by the eligible
12 employee. Any refund, rebate, dividend, experience rating allowance, discount, or other
13 reduction of premium must be credited as provided by section 54-52.1-06.

14 **SECTION 8. AMENDMENT.** Section 54-52.1-04.9 of the North Dakota Century Code
15 is amended and reenacted as follows:

16 **54-52.1-04.9. Uniform group insurance program - Employee assistance program.**
17 The board shall establish an employee assistance program available to persons in the medical
18 and hospital benefits coverage group. The premium for this coverage must be paid as provided
19 by section 54-52.1-06. The board shall ~~receive bids~~ contract for this program under section
20 54-52.1-04. Each department, board, or agency shall obtain employee assistance program
21 services through the board for eligible employees and may not enter into any agreement to
22 obtain employee assistance program services with a third-party provider except that a
23 department, board, or agency may use its own employee assistance program services to the
24 extent such services are provided by personnel of that department, board, or agency. As used
25 in this section, "employee assistance program" means an employer-sponsored service for
26 employees under which a professional employee assistance program staff assists employees
27 and their families in finding help for emotional, drug, alcohol, family, health, and other personal
28 or job-related problems that may be affecting their work performance.

29 **SECTION 9.** A new section to chapter 54-52.1 of the North Dakota Century Code is
30 created and enacted as follows:

1 **Wellness program.** The board shall develop an employer-based wellness program.
2 The program must encourage employers to adopt a board-developed wellness program by
3 either charging extra health insurance premium to nonparticipating employers or reducing
4 premium for participating employers.

5 **SECTION 10. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-52.1-11. Confidentiality of employee records.** Information pertaining to an
8 eligible employee's group medical records for claims, employee premium payments made,
9 salary reduction amounts taken, history of any available insurance coverage purchased, and
10 amounts and types of insurance applied for under the supplemental life insurance coverage
11 under this chapter is confidential and is not a public record. The information and records may
12 be disclosed, under rules adopted by the board, only to:

- 13 1. A person to whom the eligible employee has given written ~~consent~~ authorization to
14 have the information disclosed.
- 15 2. A person legally representing the eligible employee, upon proper proof of
16 representation, and unless the eligible employee specifically withholds ~~consent~~
17 authorization.
- 18 3. A person authorized by a court order.
- 19 4. A person or entity to which the board is required to disclose information pursuant to
20 federal or state statutes or regulations.
- 21 5. ~~If involved in a dissolution proceeding, the member's spouse or former spouse, that~~
22 ~~person's legal representative, and the judge presiding over the member's~~
23 ~~dissolution proceeding.~~ Any person or entity if the purpose of the disclosure is for
24 treatment, payment, or health care operations.

25 **SECTION 11. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **54-52.3-05. Confidentiality of program records.** Any records and information
28 pertaining to a public employee's medical and dependent care reimbursement under the pretax
29 benefits program are confidential and are not public records subject to section 44-04-18 and
30 section 6 of article XI of the Constitution of North Dakota. The records and information may be
31 disclosed, under rules adopted by the board, only to:

1. A person to whom the employee has given written ~~consent~~ authorization to have the information disclosed.
2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.
4. A person or entity to which the board is required to disclose information pursuant to federal or state statutes or regulations.
5. Any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

SECTION 12. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$132,561, or so much of the sum as may be necessary, to the public employees retirement system board for the purpose of fulfilling the requirements imposed by this Act. The public employees retirement system board is authorized one additional full-time equivalent position to implement this Act.