

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2060

Introduced by

Government and Veterans Affairs Committee

(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, 54-52.1-11, and 54-52.3-05 of the North Dakota
5 Century Code, relating to eligibility for and employee payments to the uniform group insurance
6 program, 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 for the
12 providing of ~~hospital benefits coverage~~, medical benefits coverage, life insurance benefits
13 coverage for a specified term, and employee assistance program services, and shall accept the
14 bid of and contract with the carrier that in the judgment of the board best serves the interests of
15 the state and its eligible employees. The board is not required to solicit bids for the providing of
16 hospital benefits coverage and medical benefits coverage, but shall contract with the carrier that
17 in the judgment of the board best serves the interests of the state and its eligible employees.
18 Solicitations for bids or a contract must be made not later than ninety days before the expiration
19 of an existing uniform group insurance contract. Bids must be solicited by advertisement in a
20 manner selected by the board that will provide reasonable notice to prospective bidders. In
21 preparing bid proposals and evaluating bids or other proposals, the board may utilize the
22 services of consultants on a contract basis in order that the bids or proposals received may be
23 uniformly compared and properly evaluated. In determining which bid or proposal, if any, will
24 best serve the interests of eligible employees and the state, the board shall give adequate
25 consideration to the following factors:

- 26 1. The economy to be effected.
- 27 2. The ease of administration.
- 28 3. The adequacy of the coverages.
- 29 4. The financial position of the carrier, with special emphasis as to its solvency.

5. The reputation of the carrier and any other information that is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The board may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. The board may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third-party administrator (TPA) contract.

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

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

1 **SECTION 6.** A new section to chapter 54-52.1 of the North Dakota Century Code is
2 created and enacted as follows:

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

7 **SECTION 7. AMENDMENT.** Section 54-52.1-11 of the North Dakota Century Code is
8 amended and reenacted as follows:

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

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

27 **SECTION 8. AMENDMENT.** Section 54-52.3-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **54-52.3-05. Confidentiality of program records.** Any records and information
30 pertaining to a public employee's medical and dependent care reimbursement under the pretax
31 benefits program are confidential and are not public records subject to section 44-04-18 and

section 6 of article XI of the Constitution of North Dakota. The records and information may be 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 9. APPROPRIATION. There is appropriated out of any moneys from special funds derived from income, 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.