Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1539

Introduced by

Representatives Weisz, Lefor, M. Ruby, Vigesaa

(Approved by the Delayed Bills Committee)

A BILL for an Act to amend and reenact subsection 5 of section 15-39.1-05.2, sections 15-39.1-10.11 and 15-39.1-35, subsection 5 of section 18-11-15, and sections 39-03.1-29, 54-52-23, 54-52.1-04.16, and 54-52.1-08.2 of the North Dakota Century Code, relating to duties of the employee benefits programs committee; and to repeal sections 54-35-02.3 and 54-35-02.4 of the North Dakota Century Code, relating to the employee benefits programs committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 15-39.1-05.2 of the North Dakota Century Code is amended and reenacted as follows:

5. Shall submit to the legislative ~~management's employee benefits programs committee~~management any necessary or desirable changes in statutes relating to the administration of the fund.

SECTION 2. AMENDMENT. Section 15-39.1-10.11 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-10.11. Postretirement adjustments.

An individual who on June 30, 2001, is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive a monthly increase equal to an amount determined by taking two dollars per month multiplied by the member's number of years of service credit plus one dollar per month multiplied by the number of years since the member's retirement. In addition, an individual who is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 is entitled to receive a seventy-five hundredths of one percent increase of the individual's current monthly benefit with the increased benefit payable each month thereafter beginning on July 1, 2001. An individual who on June 30, 2002, is receiving monthly benefits from the fund on an

account paid under this chapter or under former chapter 15-39 is entitled to receive a seventy-five hundredths of one percent increase of the individual's current monthly benefit with the increased benefit payable each month thereafter beginning on July 1, 2002. This annual benefit adjustment is conditioned on an actuarial test performed annually by the board's actuarial consultant to determine the actuarial adequacy of the statutory contribution rate. The board shall report the results of the actuarial test annually to the ~~employee benefits programs committee~~legislative management. If the actuarial valuation indicates a shortfall between the actuarially determined benchmark contribution rate and the statutory rate, the board may reduce or suspend the conditional annual benefit adjustment. The actuarial adequacy test fails if one or more of the following are true:

1. The shortfall is greater than six-tenths of one percent in any year; or
2. The shortfall is greater than three-tenths of one percent in any two consecutive years.

SECTION 3. AMENDMENT. Section 15-39.1-35 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-35. Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the ~~employee benefits programs committee~~legislative management. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 4. AMENDMENT. Subsection 5 of section 18-11-15 of the North Dakota Century Code is amended and reenacted as follows:

5. With the consent of the governing body of the city involved, upon the advice of its actuary that the pension schedule can be implemented on an actuarially sound basis and notification to the legislative ~~management's employee benefits programs committee~~management, and in substitution for the pension payment schedule provided in subsection 1, 3, or 4, a firefighters relief association shall pay a monthly service pension to members of the association with the following qualifications, the following amount:

Years of service	Years of age	Percent of first-class firefighter's monthly salary on January first during year the pension is paid
10	50	20%
11	50	22%
12	50	24%
13	50	26%
14	50	28%
15	50	30%
16	50	32%
17	50	34%
18	50	36%
19	50	38%
20	50	40%
21	51	43%
22	52	46%
23	53	49%
24	54	52%
25	55	55%
26	56	58%
27	57	61%
28	58	64%
29	59	67%
30	60	70%

SECTION 5. AMENDMENT. Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-29. Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the

~~employee benefits programs committee~~legislative management. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 6. AMENDMENT. Section 54-52-23 of the North Dakota Century Code is amended and reenacted as follows:

54-52-23. Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the ~~employee benefits programs committee~~legislative management. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 7. AMENDMENT. Section 54-52.1-04.16 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-04.16. Prescription drug coverage - Performance audits.

1. Except for Medicare part D, prescription drug coverage, the board may not enter or renew a contract for prescription drug coverage unless the contract authorizes the board during the term of the contract to conduct a performance audit of the prescription drug coverage and any related pharmacy benefits management services. The contract must provide:
   a. The board must have full access to data regarding:
      (1) The total dollars paid to the pharmacy benefits manager by the carrier and the board;
      (2) The total amount of dollars paid to the pharmacy benefits manager by the carrier which were not subsequently paid to a licensed pharmacy in the state; and
      (3) Payments made to all pharmacy providers.
   b. The board must have full access to data regarding the average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy

benefits manager to licensed pharmacies with which the pharmacy benefits manager shares common ownership or control or is affiliated.

c. The board must have full access to data regarding the average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy benefits manager to pharmacies licensed in the state.

d. The board must have full access to data regarding any direct and indirect fees, charges, or recoupment, or any kind of assessments imposed by the pharmacy benefits manager on pharmacies licensed with which the pharmacy benefits manager shares common ownership or control or is affiliated.

e. The board must have full access to data regarding any direct and indirect fees, charges, or recoupment, or any kind of assessments imposed by the pharmacy benefits manager, on pharmacies licensed in the state.

f. The contract must provide that all drug rebates, financial incentives, fees, and discounts must be disclosed to the board.

2. The board shall use an independent auditor who has no conflict of interest with the carrier, pharmacy benefits manager, or board. The board's auditor, the insurance department, and the ~~employee benefits programs committee~~legislative management may access any information the board may access under this section. All information accessed by the board, board's auditor, insurance department, or ~~employee benefits programs committee~~legislative management which is a trade secret is a confidential record. This subsection does not limit the information required to be disclosed to the board under subsection 1.

3. Except for Medicare part D, if the board contracts directly with a pharmacy benefits manager or provides prescription drug coverage through a self-insurance plan, the contract must provide the pharmacy benefits manager shall disclose to the board and the board's auditor all rebates and any other fees that provide the pharmacy benefits manager with sources of income under the contract, including under related contracts the pharmacy benefits manager has with third parties, such as drug manufacturers.

4. Anything the board has access to under this section, the insurance department and ~~employee benefits programs committee has~~legislative management have access to.

SECTION 8. AMENDMENT. Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.

If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative ~~management's employee benefits programs committee~~management. The board may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the board under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 9. REPEAL. Sections 54-35-02.3 and 54-35-02.4 of the North Dakota Century Code are repealed.