

**HOUSE BILL NO. 1436**

Introduced by

Representatives Carlson, Bellew, Kasper, Keiser, Streyle, Vigesaa

Senators Bekkedahl, Casper, Laffen, Schaible

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to amend and reenact sections 54-35-02.4, 54-52.1-04, 54-52.1-04.2, and  
2 54-52.1-04.3 of the North Dakota Century Code, relating to the employee benefits program  
3 committee, public employee uniform group insurance health benefits coverage, and to provide  
4 for a retirement board line of credit; to provide a continuing appropriation; to provide for  
5 application; and to provide statements of legislative intent.

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

7 **SECTION 1. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **54-35-02.4. Employee benefits programs committee - Standing committees - Powers**  
10 **and duties.**

11 1. ~~The~~During the interim between regular legislative sessions, the employee benefits  
12 programs committee shall consider and report on ~~these~~ legislative measures and  
13 proposals sponsored by the executive branch, judicial branch, and legislative  
14 management over which ~~it~~the committee takes jurisdiction and which affect, actuarially  
15 or otherwise, the retirement programs of state employees or employees of any political  
16 subdivision, and health and retiree health plans of state employees or employees of  
17 any political subdivision. The committee shall make a thorough review of ~~any~~a  
18 measure or proposal over which ~~it~~the committee takes ~~under its~~ jurisdiction, including  
19 an actuarial review. The committee shall take jurisdiction over any such measure or  
20 proposal that authorizes an automatic increase or other change in benefits beyond the  
21 ensuing biennium which would not require legislative approval. The committee  
22 ~~must~~shall include in the report of the committee a statement ~~that~~ the proposal would  
23 allow future changes without legislative involvement. The committee shall report its

- 1 findings and recommendations, along with any necessary legislation, to the legislative  
2 management and to the legislative assembly.
- 3 2. To carry out its responsibilities, the committee, or its designee, may:
- 4 a. Enter contracts, including retainer agreements, with an actuary or actuarial firm  
5 for expert assistance and consultation. Each retirement, insurance, or retiree  
6 insurance program shall pay, from its retirement, insurance, or retiree health  
7 benefits fund, as appropriate, and without the need for a prior appropriation, the  
8 cost of any actuarial report required by the committee or a standing committee as  
9 provided under subsection 6 which relates to that program.
- 10 b. Call on personnel from state agencies or political subdivisions to furnish such  
11 information and render such assistance as the committee may from time to time  
12 request.
- 13 c. Establish rules for its operation of the committee, including the submission and  
14 review of proposals and the establishing of standards for actuarial review.
- 15 3. ~~The~~During the interim between regular legislative sessions, the committee may solicit  
16 draft measures and proposals from ~~interested persons during the interim between~~  
17 ~~legislative sessions~~the executive branch, judicial branch, and legislative management,  
18 and may also study measures and proposals referred to ~~it~~the committee by the  
19 legislative assembly or the legislative management.
- 20 4. ~~A copy of the committee's report concerning any legislative measure shall, if that~~If a  
21 legislative measure or proposal over which the committee took jurisdiction under  
22 subsection 1 is introduced for consideration by a legislative assembly, a copy of the  
23 related committee report must be appended to the copy of that measure ~~which is~~  
24 referred to a standing committee.
- 25 5. A legislative measure affecting a public employees retirement program, public  
26 employees health insurance program, or public employee retiree health insurance  
27 program may not be ~~introduced~~submitted by the executive branch, judicial branch, or  
28 legislative management for introduction in either house unless ~~it~~the measure is  
29 accompanied by a report from the committee. A majority of the members of the  
30 committee, acting through the chairman, has sole authority to determine whether ~~any~~a  
31 legislative measure affects a program.

- 1       6. ~~Any~~During a legislative session, if a standing committee recommends an amendment  
2       ~~made during a legislative session to a legislative measure affecting~~which would affect  
3       a public employees retirement program, public employees health insurance program,  
4       or public employee retiree health insurance program ~~may not be considered by a~~  
5       ~~standing committee unless it is accompanied by a report from the employee benefits-~~  
6       ~~programs committee, the standing committee shall consider the impact, actuarially or~~  
7       ~~otherwise, of the amendment and may request the affected program provide an~~  
8       ~~analysis of the impact of the amendments. If an affected program provides an analysis~~  
9       ~~under this subsection, the program may pay for the analysis in the same manner as~~  
10      ~~provided under subdivision a of subsection 2.~~  
11      7. ~~Any legislation enacted in contravention of this section is invalid and of no force and~~  
12      ~~effect, and any benefits provided under such legislation must be reduced to the level~~  
13      ~~current prior to enactment.~~

14      **SECTION 2. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is  
15      amended and reenacted as follows:

16      **54-52.1-04. Board to contract for insurance.**

- 17      1. The board shall receive bids for the providing of hospital benefits coverage, medical  
18      benefits coverage, life insurance benefits coverage for a specified term, and employee  
19      assistance program services; may receive bids separately for prescription drug  
20      coverage; and shall accept one or more bids of and contract with the carriers ~~that in~~  
21      ~~the judgment of the board~~ determines best ~~servesserve~~ the interests of the state and  
22      ~~its~~the state's eligible employees. Solicitations must be made not later than ninety days  
23      before the expiration of an existing uniform group insurance contract. Bids must be  
24      solicited by advertisement in a manner selected by the board ~~that~~which will provide  
25      reasonable notice to prospective bidders. In preparing bid proposals and evaluating  
26      bids, the board may utilize the services of consultants on a contract basis ~~in order~~  
27      ~~that~~to provide the bids received may be uniformly compared and properly evaluated.  
28      In determining which bid, if any, will best serve the interests of eligible employees and  
29      the state, the board shall give adequate consideration to the following factors:  
30      4. a. The economy to be effected.  
31      2. b. The ease of administration.

- 1       ~~3.~~   c.   The adequacy of the coverages.
- 2       4.   d.   The financial position of the carrier, with special emphasis ~~as to it~~on the
- 3                solvency of the carrier.
- 4       ~~5.~~   e.   The reputation of the carrier and any other information ~~that is~~ available tending to
- 5                show past experience with the carrier in matters of claim settlement,
- 6                underwriting, and services.
- 7       2.   The board may reject any or all bids ~~and, in the event it does so,~~received under this
- 8                section. If the board rejects all bids received, the board shall again solicit bids as
- 9                provided in this section. The
- 10       3.   Under section 54-52.1-04.1 or 54-52.1-04.2, the board may contract with a health
- 11                maintenance organization or establish a plan of self-insurance for providing health-
- 12                insurance to provide hospital, medical, or prescription drug benefits coverage only-
- 13                under an administrative services only (ASO) contract or a third-party administrator-
- 14                (TPA) contract.

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

17       **54-52.1-04.2. Self-insurance plan for hospital and, medical, and prescription drug**  
18   **benefits coverage.**

- 19       1.   ~~The board may establish~~This section applies to a self-insurance plan for providing:
- 20            a.   ~~Health insurance~~hospital, medical, and prescription drug benefits coverage;
- 21            b.   ~~Health insurance~~hospital and medical benefits coverage, excluding all or part
- 22                of prescription drug benefits coverage; or
- 23            e.   ~~All~~all or part of prescription drug benefits coverage. The board shall establish a
- 24                self-insurance plan under this section if so directed by the legislative assembly. The
- 25                board may establish a self-insurance plan under this section if the board determines a
- 26                self-insurance plan is less costly than the lowest bid submitted by a carrier for
- 27                underwriting the plan with equivalent contract benefits.
- 28       2.   ~~Any~~A self-insurance plan established by the board under this section must be provided
- 29                under an administrative services only (ASO) contract or a third-party administrator
- 30                (TPA) contract under the uniform group insurance program, ~~and may be established~~
- 31                ~~only if it is determined by the board that an administrative services only or third-party~~

1 administrator plan is less costly than the lowest bid submitted by a carrier for  
2 underwriting the plan with equivalent contract benefits. Upon establishing,  
3 3. If the board establishes a self-insurance plan, the board shall solicit bids for an term of  
4 the contract for administrative services only or a third-party administrator contract only  
5 every other biennium, and the board is authorized to must be for two years and the  
6 board may renegotiate an existing administrative services only or third party  
7 administrator contract during the interim. In addition, the contract for one additional  
8 two-year term. The board shall solicit bids for the contract for administrative services  
9 only or a third-party administrator at least once every four years. If the board  
10 establishes a self-insurance plan, the board shall make individual stop-loss coverage  
11 insured by a carrier authorized to do business in this state must be made part of any  
12 self-insured the plan. All bids under this section are due no later than January first, and  
13 must be awarded no later than March first, preceding the end of each biennium. If the  
14 board solicits bids under this section, the board shall solicit bids for a contract for  
15 insurance or a health maintenance organization, or both. The board may transition  
16 from a self-insurance plan to a contract for insurance or a health maintenance  
17 organization if the board determines the self-insurance plan costs more than the  
18 lowest bid submitted for a contract or health maintenance organization plan with  
19 comparable benefits. All bids received by the board under this section must be opened  
20 at a public meeting of the board.

21 **SECTION 4. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **54-52.1-04.3. Self-insurance - Contingency reserve fund - Continuing appropriation -**  
24 **Bank of North Dakota line of credit.**

25 The

26 1. If the board establishes a self-insurance plan under section 54-52.1-04.2, the board  
27 shall establish under a self-insurance plan a contingency reserve fund to provide for  
28 adverse fluctuations in future charges, claims, costs, or expenses of the uniform group  
29 insurance program. The Annually, the board shall determine the amount necessary to  
30 provide a balance in the contingency reserve fund between one and one-half months  
31 and three months of claims paid based on the average monthly claims paid during the

1            ~~preceding~~ twelve-month period immediately preceding March first of each year.

2            ~~The~~ Annually, the board also shall determine the amount necessary to provide an  
3            additional balance in the contingency reserve fund between one month and one and  
4            one-half months for claims incurred but not yet reported. The board may arrange for  
5            the services of an actuarial consultant to assist the board in making these  
6            determinations.

7            2. Upon the initial changeover from a contract for insurance ~~pursuant to~~ under section  
8            54-52.1-04 ~~or a health maintenance organization under section 54-52.1-04.1,~~ to a  
9            self-insurance plan ~~pursuant to~~ under section 54-52.1-04.2, the board ~~must have~~ shall  
10           adopt a plan ~~in place which is~~ reasonably calculated to meet the funding requirements  
11           of this chapter within sixty months. All moneys in the contingency reserve fund, not  
12           otherwise appropriated, are appropriated for the payment of claims and other costs of  
13           the uniform group insurance program during periods of adverse claims or cost  
14           fluctuations. If the board transitions from a self-insurance plan to a contract for  
15           insurance or a health maintenance organization, the board shall adopt a plan  
16           reasonably calculated to meet the remaining liabilities of the self-insurance plan.

17           3. The Bank of North Dakota shall extend to the board a line of credit not to exceed fifty  
18           million dollars at an annual rate not to exceed one and three-quarters percent. The  
19           board shall repay the line of credit from health insurance premium revenue or from  
20           other funds, as appropriated by the legislative assembly. The board may access the  
21           line of credit, as necessary, to provide adequate reserve funds, to purchase stop-loss  
22           coverage, and to defray other expenditures of administration of the self-insurance  
23           plan.

24            **SECTION 5. SELF-INSURANCE HEALTH PLANS - APPLICATION - STATEMENT OF**  
25            **LEGISLATIVE INTENT.**

26            1. The retirement board shall establish a self-insurance plan for hospital, medical, and  
27            prescription drug benefits coverage under section 54-52.1-04.2. The self-insurance  
28            plan becomes effective January 1, 2018, is effective for a term of eighteen months, is  
29            subject to renewal and rebidding as provided under section 54-52.1-04.2, and must be  
30            based on the same plan design and benefits as the coverage in effect on July 1, 2017.

- 1           2.    A uniform group insurance program contract for hospital, medical, and prescription  
2           drug benefits coverage in effect on the effective date of this Act terminates on  
3           December 31, 2017, after which the self-insurance plan becomes effective.
- 4           3.    Notwithstanding any law to the contrary, it is the intent of the sixty-fifth legislative  
5           assembly that the uniform group insurance program contract for hospital, medical, and  
6           prescription drug benefits coverage signed by the retirement board which becomes  
7           effective July 1, 2017, be limited in duration to a six-month term.

8           **SECTION 6. HEALTH INSURANCE RESERVE FUND.** The retirement board shall use  
9           available moneys in the fund created under section 54-52.1-06 for the purpose of financing the  
10          self-insurance plan established under section 5 of this Act.

11          **SECTION 7. EXEMPTION.** This Act is not subject to review by the employee benefits  
12          programs committee under section 54-35-02.4.