

Sixty-fifth  
Legislative Assembly  
of North Dakota

ENGROSSED 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:
  - 13 a. Meet at least quarterly at the discretion of the chairman.
  - 14 b. Receive quarterly reports from the public employees retirement system on the  
15 activities of the public employees retirement system, including the status of and  
16 any proposed changes to its retirement system plans and uniform group  
17 insurance plans. Before each regular legislative session, the public employees  
18 retirement system shall present to the committee the executive budget proposals,  
19 including any anticipated changes, relating to retirement plans and uniform group  
20 insurance plans administered by the public employees retirement system. The  
21 committee shall consider and report on these activities and executive budget  
22 proposals.
  - 23 c. Investigate the feasibility and desirability of making changes to the retirement  
24 plans and uniform group insurance plans administered by the public employees

- 1                    retirement system. The committee may request actuarial reports on the actuarial  
2                    impact of possible changes and of plan design options.
- 3                    d. Consider and report on these legislative measures and proposals sponsored by  
4                    the executive branch, judicial branch, and legislative management over which  
5                    ~~it~~the committee takes jurisdiction and which affect, actuarially or otherwise, the  
6                    retirement programs of state employees or employees of any political  
7                    subdivision, and health and retiree health plans of state employees or employees  
8                    of any political subdivision. The committee shall make a thorough review of  
9                    ~~any measure or a~~ legislative proposal over which it ~~the committee takes under its~~  
10                    jurisdiction, including an actuarial review. The committee shall take
- 11                    e. Take jurisdiction over any measure or such legislative proposal that authorizes an  
12                    automatic increase or other change in benefits beyond the ensuing biennium  
13                    which would not require legislative approval. The committee ~~must~~ shall include in  
14                    the report of the committee a statement ~~that~~ the proposal would allow future  
15                    changes without legislative involvement. ~~The committee shall report its~~
- 16                    f. Report the committee's findings and recommendations, along with any necessary  
17                    legislation, to the legislative management and to the legislative assembly.
- 18                    2. To carry out its responsibilities, the committee, or its designee, may:
- 19                    a. Enter contracts, including retainer agreements, with an actuary or actuarial firm  
20                    for expert assistance and consultation. Each retirement, insurance, or retiree  
21                    insurance program shall pay, from its retirement, insurance, or retiree health  
22                    benefits fund, as appropriate, and without the need for a prior appropriation, the  
23                    cost of any actuarial report required by the committee or a standing committee as  
24                    provided under subsection 6 which relates to that program.
- 25                    b. Call on personnel from state agencies or political subdivisions to furnish such  
26                    information and render such assistance as the committee may from time to time  
27                    request.
- 28                    c. Establish rules for its operation of the committee, including the submission and  
29                    review of proposals and the establishing of standards for actuarial review.
- 30                    3. ~~The~~ During the interim between regular legislative sessions, the committee may solicit  
31                    ~~draft measures and legislative proposals from interested persons during the interim~~

1           ~~between legislative sessions~~ the executive branch, judicial branch, and legislative  
2           management, and may also study measures and proposals referred to ~~it~~ the committee  
3           by the legislative assembly or the legislative management.

4           4. ~~A copy of the committee's report concerning any legislative measure shall, if~~  
5           ~~that measure~~ If a legislative proposal over which the committee took jurisdiction under  
6           subsection 1 is introduced for consideration by a legislative assembly, a copy of the  
7           related committee report must be appended to the copy of that measure ~~which is~~  
8           referred to a standing committee.

9           5. A legislative measure affecting a public employees retirement program, public  
10          employees health insurance program, or public employee retiree health insurance  
11          program may not be ~~introduced~~ submitted by the executive branch, judicial branch, or  
12          legislative management for introduction in either house unless ~~it~~ the measure is  
13          accompanied by a report from the committee. A majority of the members of the  
14          committee, acting through the chairman, has sole authority to determine whether ~~any~~ a  
15          legislative measure affects a program.

16          6. ~~Any~~ During a legislative session, if a standing committee takes action on a legislative  
17          measure sponsored by a legislator or recommends an amendment made during a  
18          ~~legislative session~~ to a legislative measure affecting ~~which would affect~~ a public  
19          employees retirement program, public employees health insurance program, or public  
20          employee retiree health insurance program ~~may not be considered by a standing~~  
21          ~~committee unless it is accompanied by a report from the employee benefits programs~~  
22          ~~committee,~~ the standing committee shall consider the impact, actuarily or otherwise, of  
23          the amendment or measure and may request the affected program provide an  
24          analysis of the impact of the amendments. If an affected program provides an analysis  
25          under this subsection, the program may pay for the analysis in the same manner as  
26          provided under subdivision a of subsection 2.

27          7. ~~Any legislation enacted in contravention of this section is invalid and of no force and~~  
28          ~~effect, and any benefits provided under such legislation must be reduced to the level~~  
29          ~~current prior to enactment.~~

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

1       **54-52.1-04. Board to contract for insurance.**

2       1. The board shall receive bids for the providing of hospital benefits coverage, medical  
3       benefits coverage, life insurance benefits coverage for a specified term, and employee  
4       assistance program services; may receive bids separately for prescription drug  
5       coverage; and shall accept one or more bids of and contract with the carriers ~~that in-~~  
6       ~~the judgment of the board~~ determines best ~~servesserve~~ the interests of the state and  
7       ~~its~~ the state's eligible employees. Solicitations must be made not later than ninety days  
8       before the expiration of an existing uniform group insurance contract. Bids must be  
9       solicited by advertisement in a manner selected by the board ~~that~~ which will provide  
10      reasonable notice to prospective bidders. In preparing bid proposals and evaluating  
11      bids, the board may utilize the services of consultants on a contract basis ~~in order-~~  
12      ~~that~~ to provide the bids received may be uniformly compared and properly evaluated.  
13      In determining which bid, if any, will best serve the interests of eligible employees and  
14      the state, the board shall give adequate consideration to the following factors:

- 15      ~~1.~~ a. The economy to be effected.  
16      ~~2.~~ b. The ease of administration.  
17      ~~3.~~ c. The adequacy of the coverages.  
18      ~~4.~~ d. The financial position of the carrier, with special emphasis ~~as to it~~ on the  
19      solvency of the carrier.  
20      ~~5.~~ e. The reputation of the carrier and any other information ~~that is~~ available tending to  
21      show past experience with the carrier in matters of claim settlement,  
22      underwriting, and services.

23      2. The board may reject any or all bids ~~and, in the event it does so,~~ received under this  
24      section. If the board rejects all bids received, the board shall again solicit bids as  
25      provided in this section. The

26      3. Under section 54-52.1-04.1 or 54-52.1-04.2, the board may contract with a health  
27      maintenance organization or establish a plan of self-insurance for providing health-  
28      ~~insurance to provide hospital, medical, or prescription drug benefits coverage only-~~  
29      ~~under an administrative services only (ASO) contract or a third-party administrator-~~  
30      ~~(TPA) contract.~~

1       4. A contract and the terms of a contract entered by the board under this chapter are  
2           subject to legislative appropriation and legislative changes.

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

5       **54-52.1-04.2. Self-insurance plan for hospital and, medical, and prescription drug**  
6 **benefits coverage.**

7       1. ~~The board may establish~~This section applies to a self-insurance plan for providing:

8           a. ~~Health insurance~~hospital, medical, and prescription drug benefits coverage;

9           b. ~~Health insurance~~hospital and medical benefits coverage, excluding all or part  
10 of prescription drug benefits coverage; or

11           e. ~~All~~all or part of prescription drug benefits coverage. The board shall establish a  
12 self-insurance plan under this section if so directed by the legislative assembly. The  
13 board may establish a self-insurance plan under this section if the board determines a  
14 self-insurance plan is less costly than the lowest bid submitted by a carrier for  
15 underwriting the plan with equivalent contract benefits.

16       2. ~~Any~~A self-insurance plan established by the board under this section must be provided  
17 under an administrative services only (ASO) contract or a third-party administrator  
18 (TPA) contract under the uniform group insurance program, and may be established  
19 only if it is determined by the board that an administrative services only or third-party  
20 administrator plan is less costly than the lowest bid submitted by a carrier for  
21 underwriting the plan with equivalent contract benefits. Upon establishing,

22       3. If the board establishes a self-insurance plan, the board shall solicit bids for an term of  
23 the contract for administrative services only or a third-party administrator contract only  
24 every other biennium, and the board is authorized to must be for two years and the  
25 board may renegotiate an existing administrative services only or third-party  
26 administrator contract during the interim. In addition, the contract for one additional  
27 two-year term. The board shall solicit bids for the contract for administrative services  
28 only or a third-party administrator at least once every four years. If the board  
29 establishes a self-insurance plan, the board shall make individual stop-loss coverage  
30 insured by a carrier authorized to do business in this state must be made part of any  
31 self-insured the plan. All bids under this section are due no later than January first, and

1            ~~must be awarded no later than March first, preceding the end of each biennium. If the~~  
2            ~~board solicits bids under this section, the board shall solicit bids for a contract for~~  
3            ~~insurance or a health maintenance organization, or both. The board may transition~~  
4            ~~from a self-insurance plan to a contract for insurance or a health maintenance~~  
5            ~~organization if the board determines the self-insurance plan costs more than the~~  
6            ~~lowest bid submitted for a contract or health maintenance organization plan with~~  
7            ~~comparable benefits. All bids received by the board under this section must be opened~~  
8            ~~at a public meeting of the board.~~

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

11            **54-52.1-04.3. Self-insurance - Contingency reserve fund - Continuing appropriation -**  
12 **Bank of North Dakota line of credit.**

13            The

14            1. ~~If the board establishes a self-insurance plan under section 54-52.1-04.2, the board~~  
15            ~~shall establish under a self-insurance plan a contingency reserve fund to provide for~~  
16            ~~adverse fluctuations in future charges, claims, costs, or expenses of the uniform group~~  
17            ~~insurance program. The~~Annually, the board shall determine the amount necessary to  
18            provide a balance in the contingency reserve fund between one and one-half months  
19            and three months of claims paid based on the average monthly claims paid during the  
20            ~~preceding twelve-month period immediately preceding March first of each year.~~

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

26            2. Upon the initial changeover from a contract for insurance pursuant to ~~under~~ section  
27            54-52.1-04 or a health maintenance organization under section 54-52.1-04.1, to a  
28            self-insurance plan pursuant to ~~under~~ section 54-52.1-04.2, the board ~~must have~~shall  
29            adopt a plan ~~in place which is~~ reasonably calculated to meet the funding requirements  
30            of this chapter within sixty months. Such plan may include consideration of funds  
31            extended to the board from the Bank of North Dakota. All moneys in the contingency

1 reserve fund, not otherwise appropriated, are appropriated for the payment of claims  
2 and other costs of the uniform group insurance program during periods of adverse  
3 claims or cost fluctuations. If the board transitions from a self-insurance plan to a  
4 contract for insurance or a health maintenance organization, the board shall adopt a  
5 plan reasonably calculated to meet the remaining liabilities of the self-insurance plan.  
6 3. The Bank of North Dakota shall extend to the board a line of credit not to exceed fifty  
7 million dollars at an annual rate not to exceed three percent for a two-year term or four  
8 percent for a five -year term. The board shall repay the line of credit from health  
9 insurance premium revenue or from other funds, as appropriated by the legislative  
10 assembly. The board may access the line of credit, as necessary, to provide adequate  
11 reserve funds, to purchase stop-loss coverage, and to defray other expenditures of  
12 administration of the self-insurance plan.

13 **SECTION 5. SELF-INSURANCE HEALTH PLANS - APPLICATION - STATEMENT OF**  
14 **LEGISLATIVE INTENT.**

- 15 1. The retirement board shall establish a self-insurance plan for hospital, medical, and  
16 prescription drug benefits coverage under section 54-52.1-04.2, except for benefits for  
17 retirees and for Medicare part D. The self-insurance plan becomes effective  
18 January 1, 2018, is effective for a term of eighteen months, is subject to renewal and  
19 rebidding as provided under section 54-52.1-04.2, and must be based on the same  
20 plan design and benefits as the coverage in effect on July 1, 2017.
- 21 2. A uniform group insurance program contract for hospital, medical, and prescription  
22 drug benefits coverage in effect on the effective date of this Act terminates on  
23 December 31, 2017, after which the self-insurance plan under subsection 1 becomes  
24 effective.
- 25 3. Notwithstanding any law to the contrary, it is the intent of the sixty-fifth legislative  
26 assembly that the uniform group insurance program contract for hospital, medical, and  
27 prescription drug benefits coverage signed by the retirement board which becomes  
28 effective July 1, 2017, be limited in duration to a six-month term.

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

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