

Introduced by

1 A BILL for an Act to create and enact chapter 26.1-36.6 of the North Dakota Century Code,
2 relating to public employees retirement system self-insurance plans for health benefits
3 coverage; to amend and reenact sections 26.1-07.1-01, 54-52.1-01, 54-52.1-04, 54-52.1-04.2,
4 and 54-52.1-04.3 of the North Dakota Century Code, relating to public employee uniform group
5 health benefits coverage; and to provide for implementation.

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

7 **SECTION 1.** Chapter 26.1-36.6 of the North Dakota Century Code is created and enacted
8 as follows:

9 **26.1-36.6-01. Definitions.**

10 As used in this chapter, "self-insurance plan" has the same meaning as provided under
11 section 54-52.1-01.

12 **26.1-36.6-02. Self-insurance plans - Regulation.**

13 The commissioner shall regulate the financial condition, integrity, and equitable
14 administration of a self-insurance plan established under chapter 54-52.1. All powers granted to
15 the commissioner to regulate insurance companies and insurers under title 26.1 apply to the
16 commissioner to regulate a self-insurance plan.

17 **26.1-36.6-03. Self-insurance plans - Requirements.**

18 1. The following policy provisions apply to a self-insurance plan and are subject to the
19 jurisdiction of the commissioner: 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10,
20 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17,
21 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38, 26.1-36-39,
22 26.1-36-41, 26.1-36-44, and 26.1-36-46.

23 2. The following health benefit provisions apply to a self-insurance plan and are subject
24 to the jurisdiction of the commissioner: 26.1-36-06, 26.1-36-06.1, 26.1-36-07,

1 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.8,
2 26.1-36-09.10, 26.1-36-09.11, 26.1-36-09.12, 26.1-36-11, 26.1-36-12.2, 26.1-36-20,
3 26.1-36-21, 26.1-36-22, 26.1-36-23.1, and 26.1-36-43.

4 **26.1-36.6-04. Rules.**

5 The commissioner may adopt rules to administer this chapter.

6 **SECTION 2. AMENDMENT.** Section 26.1-07.1-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-07.1-01. Jurisdiction over providers of health care benefits.**

9 Notwithstanding any other provision of law, and except as provided ~~herein~~under this
10 section, any person ~~or other entity~~, other than an insurance company duly licensed in this or
11 another state which provides coverage in this state for medical, surgical, chiropractic, physical
12 therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric
13 expenses, whether such coverage is by direct payment, reimbursement, or otherwise, ~~must be~~is
14 presumed to be subject to the jurisdiction of the commissioner unless the person ~~or other entity~~
15 shows that while providing such services ~~it~~the person is subject to the jurisdiction of another
16 agency of this state, any subdivisions thereof, or the federal government. A self-insurance plan
17 formed under chapter 54-52.1 is not subject to this section but is subject to the jurisdiction of the
18 commissioner under chapter 26.1-36.6.

19 **SECTION 3. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-52.1-01. Definitions.**

22 As used in this chapter, unless the context otherwise requires:

- 23 1. "Board" means the public employees retirement board.
- 24 2. "Carrier" means:
- 25 a. For the hospital benefits coverage, an insurance company authorized to do
26 business in the state, or a nonprofit hospital service association, or a prepaid
27 group practice hospital care plan authorized to do business in the state, or the
28 state if a self-insurance plan is used for providing hospital benefits coverage.
- 29 b. For the medical benefits coverage, an insurance company authorized to do
30 business in the state, or a nonprofit medical service association, or a prepaid

1 group practice medical care plan authorized to do business in the state, or the
2 state if a self-insurance plan is used for providing medical benefits coverage.

3 c. For the life insurance benefits coverage, an insurance company authorized to do
4 business in the state.

5 3. "Department, board, or agency" means the departments, boards, agencies, or
6 associations of this state, ~~and. The term~~ includes the state's charitable, penal, and
7 higher educational institutions; the Bank of North Dakota; the state mill and elevator
8 association; and counties, cities, district health units, and school districts.

9 4. "Eligible employee" means every permanent employee who is employed by a
10 governmental unit, as that term is defined in section 54-52-01. "Eligible employee"
11 includes members of the legislative assembly, judges of the supreme court, paid
12 members of state or political subdivision boards, commissions, or associations,
13 full-time employees of political subdivisions, elective state officers as defined by
14 ~~subsection 2 of~~ section 54-06-01, and disabled permanent employees who are
15 receiving compensation from the North Dakota workforce safety and insurance fund.
16 As used in this subsection, "permanent employee" means one whose services are not
17 limited in duration, who is filling an approved and regularly funded position in a
18 governmental unit, and who is employed at least seventeen and one-half hours per
19 week and at least five months each year or for those first employed after August 1,
20 2003, is employed at least twenty hours per week and at least twenty weeks each year
21 of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8,
22 and 54-52.1-11, "eligible employee" includes retired and terminated employees who
23 remain eligible to participate in the uniform group insurance program pursuant to
24 applicable state or federal law.

25 5. "Health insurance benefits coverage" means hospital benefits coverage or medical
26 benefits coverage, or both.

27 6. "Health maintenance organization" means an organization certified to establish and
28 operate a health maintenance organization in compliance with chapter 26.1-18.1.

29 ~~6-7.~~ "Hospital benefits coverage" means a plan ~~which~~ that either provides coverage for, or
30 pays, or reimburses expenses for hospital services incurred in accordance with the
31 uniform contract.

1 ~~7-8.~~ "Life insurance benefits coverage" means a plan ~~which~~that provides both term life
2 insurance and accidental death and dismemberment insurance in amounts determined
3 by the board, with a minimum of one thousand dollars provided for the term life
4 insurance portion of the coverage.

5 ~~8-9.~~ "Medical benefits coverage" means a plan ~~which~~that either provides coverage for, or
6 pays, or reimburses expenses for medical services in accordance with the uniform
7 contract.

8 ~~9-10.~~ "Member contribution" means the payment by the member into the retiree health
9 benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.

10 ~~10-11.~~ "Member's account balance" means the member's contributions plus interest at the
11 rate set by the board.

12 ~~11.~~ "Self-insurance health plan" means a plan of self-insurance providing health insurance
13 benefits coverage under sections 54-52.1-04.2 and 54-52.1-04.3.

14 ~~11-13.~~ "Temporary employee" means a governmental unit employee who is not filling an
15 approved and regularly funded position in an eligible governmental unit and whose
16 services may or may not be limited in duration.

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

19 **54-52.1-04. Board to contract for insurance.**

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

1 employees and the state, the board shall give adequate consideration to the following
2 factors:

- 3 1. ~~a.~~ The economy to be effected.
- 4 2. ~~b.~~ The ease of administration.
- 5 3. ~~c.~~ The adequacy of the coverages.
- 6 4. ~~d.~~ The financial position of the carrier, with special emphasis ~~as to its~~ on the
7 solvency of the carrier.
- 8 5. ~~e.~~ The reputation of the carrier and any other information ~~that is~~ available tending to
9 show past experience with the carrier in matters of claim settlement,
10 underwriting, and services.
- 11 2. The board may reject any or all bids ~~and, in the event it does so, .~~ If the board rejects
12 all bids, the board shall again solicit bids as provided in this section. The
- 13 3. Under sections 54-52.1-04.1, 54-52.1-04.2, and 54-52.1-04.3 the board may contract
14 for health benefits coverage through a health maintenance organization or establish a
15 plan of self-insurance for providing health insurance benefits coverage only under an
16 administrative services only (ASO) contract or a third-party administrator (TPA)
17 contract plan.

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

20 **54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage.**

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

1 shall solicit bids for an administrative services only or third-party administrator contract
2 only every other biennium, and the board is authorized to renegotiate an existing
3 administrative services only or third-party administrator contract during the interim. ~~In~~
4 ~~addition, individual~~Individual stop-loss coverage insured by a carrier authorized to do
5 business in this state ~~must~~may be made part of any self-insured plan. All bids under
6 this section are due no later than January first, and must be awarded no later than
7 March first, preceding the end of each biennium. All bids under this section must be
8 opened at a public meeting of the board.

9 **SECTION 6. 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. Contingency reserve fund - Continuing appropriation - Insurance**
12 **commissioner.**

13 The board shall establish under a self-insurance plan a contingency reserve fund to provide
14 for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group
15 insurance program. The board shall determine the amount necessary to provide a balance in
16 the contingency reserve fund between ~~one and one-half~~two months and three months of claims
17 paid based on the average monthly claims paid during the twelve-month period immediately
18 preceding March first of each year. The board also shall determine the amount necessary to
19 provide an additional balance in the contingency reserve fund between one month and one and
20 one-half months for claims incurred but not yet reported. The board may arrange for the
21 services of an actuarial consultant to assist the board in making these determinations. Upon the
22 initial changeover from a contract for insurance pursuant to section 54-52.1-04 to a
23 self-insurance plan pursuant to section 54-52.1-04.2, the board must have a plan in place which
24 is reasonably calculated to meet the funding requirements of this chapter ~~within sixty months.~~
25 All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for
26 the payment of claims and other costs of the uniform group insurance program during periods of
27 adverse claims or cost fluctuations. A self-insurance plan must comply with section
28 26.1-36.6-03. The insurance commissioner shall ensure compliance with and enforce the
29 provisions of this section pursuant to chapter 26.1-36.6.

- 1 **SECTION 7. IMPLEMENTATION.** Notwithstanding contrary provisions in section 28-32-03,
- 2 the legislative assembly grants the insurance commissioner emergency rulemaking authority to
- 3 adopt the initial rules under section 26.1-36.6-04.