

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.

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 users under title 26.1 and all powers  
16 provided to the commissioner to regulate multiple employer welfare arrangements under section  
17 26.1-01-07.4 apply to the commissioner to regulate a self-insurance plan.

18 **26.1-36.6-03. Self-insurance plans - Requirements.**

19 The following provisions apply to a self-insurance plan and are subject to the jurisdiction of  
20 the commissioner: 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-06, 26.1-36-06.1, 26.1-36-07,  
21 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, 26.1-36-09.10,  
22 26.1-36-09.11, 26.1-36-09.12, 26.1-36-10, 26.1-36-11, 26.1-36-12, 26.1-36-12.2, 26.1-36-12.4,  
23 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-20,

1 26.1-36-21, 26.1-36-22, 26.1-36-23, 26.1-36-23.1, 26.1-36-29, 26.1-36-37.1, 26.1-36-38,  
2 26.1-36-39, 26.1-36-41, 26.1-36-43, 26.1-36-44, and 26.1-36-46.

3 **26.1-36.6-04. Rules.**

4 The commissioner may adopt rules to administer this chapter.

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

7 **26.1-07.1-01. Jurisdiction over providers of health care benefits.**

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

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

20 **54-52.1-01. Definitions.**

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

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

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

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

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

23          5. "Health insurance benefits coverage" means hospital benefits coverage or medical  
24          benefits coverage, or both.

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

27          ~~6-7.~~ "Hospital benefits coverage" means a plan ~~which~~that either provides coverage for, or  
28          pays, or reimburses expenses for hospital services incurred in accordance with the  
29          uniform contract.

30          ~~7-8.~~ "Life insurance benefits coverage" means a plan ~~which~~that provides both term life  
31          insurance and accidental death and dismemberment insurance in amounts determined

1 by the board, with a minimum of one thousand dollars provided for the term life  
2 insurance portion of the coverage.

3 ~~8-9.~~ "Medical benefits coverage" means a plan ~~which~~that either provides coverage for, or  
4 pays, or reimburses expenses for medical services in accordance with the uniform  
5 contract.

6 ~~9-10.~~ "Member contribution" means the payment by the member into the retiree health  
7 benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.

8 ~~10-11.~~ "Member's account balance" means the member's contributions plus interest at the  
9 rate set by the board.

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

12 ~~11-13.~~ "Temporary employee" means a governmental unit employee who is not filling an  
13 approved and regularly funded position in an eligible governmental unit and whose  
14 services may or may not be limited in duration.

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

17 **54-52.1-04. Board to contract for insurance.**

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



1 administrative services only or third-party administrator contract during the interim. In-  
2 addition, individual Individual stop-loss coverage insured by a carrier authorized to do  
3 business in this state ~~must~~may be made part of any self-insured plan. The self-  
4 insurance plan is exempt from stop-loss coverage requirements under section  
5 26.1-01-07.4. All bids under this section are due no later than January first, and must  
6 be awarded no later than March first, preceding the end of each biennium. All bids  
7 under this section must be opened at a public meeting of the board.

8 **SECTION 6. AMENDMENT.** Section 54-52.1-04.3 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **54-52.1-04.3. Contingency reserve fund - Continuing appropriation - Insurance**  
11 **commissioner.**

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