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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 573

02/14/2013 Authored by Ward, J.E.; Atkins; Davids; Huntley; Abeler and others

The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act
1.2 relating to insurance; regulating the public employees insurance program;
1.3 requiring participation by certain school employers; amending Minnesota
1.4 Statutes 2012, section 43A.316, subdivisions 2, 4, 5, by adding subdivisions.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 43A.316, subdivision 2, is amended to read:

1.7 Subd. 2. **Definitions.** For the purpose of this section, the terms defined in this
1.8 subdivision have the meaning given them.

1.9 (a) **Commissioner.** "Commissioner" means the commissioner of management and
1.10 budget.

1.11 (b) **Employee.** "Employee" means:

1.12 (1) a person who is a public employee within the definition of section 179A.03,
1.13 subdivision 14, who is insurance eligible and is employed by an eligible employer;

1.14 (2) an elected public official of an eligible employer who is insurance eligible;

1.15 (3) a person employed by a labor organization or employee association certified as
1.16 an exclusive representative of employees of an eligible employer or by another public
1.17 employer approved by the commissioner, so long as the plan meets the requirements of a
1.18 governmental plan under United States Code, title 29, section 1002(32); or

1.19 (4) a person employed by a county or municipal hospital.

1.20 (c) **Eligible employer.** "Eligible employer" means:

1.21 (1) a public employer within the definition of section 179A.03, subdivision 15, that
1.22 is a town, county, city, school district as defined in section 120A.05, service cooperative
1.23 as defined in section 123A.21, intermediate district as defined in section 136D.01,
1.24 Cooperative Center for Vocational Education as defined in section 123A.22, regional

2.1 management information center as defined in section 123A.23, or an education unit
 2.2 organized under the joint powers action, section 471.59; or

2.3 (2) an exclusive representative of employees, as defined in paragraph (b), and its
 2.4 state affiliate;

2.5 (3) a county or municipal hospital; or

2.6 (4) another public employer approved by the commissioner.

2.7 (d) **Exclusive representative.** "Exclusive representative" means an exclusive
 2.8 representative as defined in section 179A.03, subdivision 8.

2.9 (e) **Labor-Management Committee.** "Labor-Management Committee" means the
 2.10 committee established by subdivision 4.

2.11 (f) **Program.** "Program" means the statewide public employees insurance program
 2.12 created by subdivision 3.

2.13 (g) **School employee.** "School employee" means an employee of a school employer.

2.14 (h) **School employer.** "School employer" means a district as defined in section
 2.15 120A.05, a service cooperative as defined in section 123A.21, an intermediate district as
 2.16 defined in section 136D.01, a cooperative center for vocational education as defined in
 2.17 section 123A.22, a regional management information center as defined in section 123A.23,
 2.18 or an education unit organized under a joint powers agreement under section 471.59.

2.19 Sec. 2. Minnesota Statutes 2012, section 43A.316, subdivision 4, is amended to read:

2.20 Subd. 4. **Labor-Management Committee.** ~~The Labor-Management Committee~~
 2.21 ~~consists of ten members appointed by the commissioner. The Labor-Management~~
 2.22 ~~Committee must comprise five members who represent employees, including at least~~
 2.23 ~~one retired employee, and five members who represent eligible employers. Committee~~
 2.24 ~~members are eligible for expense reimbursement in the same manner and amount as~~
 2.25 ~~authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. The~~
 2.26 ~~commissioner shall consult with the labor-management committee in major decisions that~~
 2.27 ~~affect the program. The committee shall study issues relating to the insurance program~~
 2.28 ~~including, but not limited to, flexible benefits, utilization review, quality assessment, and~~
 2.29 ~~cost efficiency. The committee continues to exist while the program remains in operation.~~

2.30 The Labor-Management Committee consists of 14 members appointed to represent
 2.31 eligible school employers and eligible school employees in equal numbers. The seven
 2.32 members who represent eligible school employers shall consist of four appointed by
 2.33 the Minnesota School Boards Association and one each appointed by the Minnesota
 2.34 Association of School Administrators, the Minnesota Elementary School Principals
 2.35 Association, and the Minnesota Secondary School Principals Association. The seven

3.1 members who represent eligible school employees shall consist of four appointed by
3.2 Education Minnesota and one each appointed by the Service Employees International
3.3 Union; the American Federation of State, County, and Municipal Employees, Local
3.4 Council 5; and the Minnesota School Employees Association. Committee members are
3.5 eligible for expense reimbursement in the same manner and amount as authorized by the
3.6 commissioner's plan adopted under section 43A.18, subdivision 2. The commissioner
3.7 shall consult with the labor-management committee in major decisions that affect the
3.8 program. The commissioner and the committee must mutually agree to all plan design
3.9 changes. The committee shall study issues relating to the insurance program including, but
3.10 not limited to, flexible benefits, utilization review, quality assessment, and cost efficiency.
3.11 The committee continues to exist while the program remains in operation.

3.12 Sec. 3. Minnesota Statutes 2012, section 43A.316, subdivision 5, is amended to read:

3.13 Subd. 5. **Public employee participation.** (a) Participation in the program is subject
3.14 to the conditions in this subdivision.

3.15 (b) Each exclusive representative for an eligible employer determines whether the
3.16 employees it represents will participate in the program. The exclusive representative shall
3.17 give the employer notice of intent to participate at least 30 days before the expiration date
3.18 of the collective bargaining agreement preceding the collective bargaining agreement that
3.19 covers the date of entry into the program. The exclusive representative and the eligible
3.20 employer shall give notice to the commissioner of the determination to participate in the
3.21 program at least 30 days before entry into the program. Entry into the program is governed
3.22 by a schedule established by the commissioner.

3.23 (c) Employees not represented by exclusive representatives may become members
3.24 of the program upon a determination of an eligible employer to include these employees
3.25 in the program. Either all or none of the employer's unrepresented employees must
3.26 participate. The eligible employer shall give at least 30 days' notice to the commissioner
3.27 before entering the program. Entry into the program is governed by a schedule established
3.28 by the commissioner.

3.29 (d) Participation in the program is for a two-year term. Participation is automatically
3.30 renewed for an additional two-year term unless the exclusive representative, or the
3.31 employer for unrepresented employees, gives the commissioner notice of withdrawal
3.32 at least 30 days before expiration of the participation period. A group that withdraws
3.33 must wait two years before rejoining. An exclusive representative, or employer for
3.34 unrepresented employees, may also withdraw if premiums increase 50 percent or more
3.35 from one insurance year to the next.

4.1 (e) The exclusive representative shall give the employer notice of intent to withdraw
4.2 to the commissioner at least 30 days before the expiration date of a collective bargaining
4.3 agreement that includes the date on which the term of participation expires.

4.4 (f) Each participating eligible employer shall notify the commissioner of names of
4.5 individuals who will be participating within two weeks of the commissioner receiving
4.6 notice of the parties' intent to participate. The employer shall also submit other information
4.7 as required by the commissioner for administration of the program.

4.8 (g) A school employer that makes available health insurance coverage for employees,
4.9 either in a self-insured or fully insured arrangement, including those purchasing coverage
4.10 through a service cooperative as defined by section 123A.21, must purchase health
4.11 insurance coverage through the program, beginning January 1, 2014, as contracts or
4.12 agreements with providers that were in place upon enactment expire. Employees of school
4.13 employers obligated by a health insurance contract expiring December 31, 2013, must
4.14 begin participation in the program on January 1, 2014. In the event an insurance contract
4.15 expires after enactment and before December 31, 2013, subsequent contracts will be limited
4.16 to one year in duration. School employers may opt out as described in clauses (1) to (5).

4.17 (1) The school board of a school employer that was individually self-insured, not
4.18 including a service cooperative under section 123A.21, with 1,000 or more insured lives
4.19 on the day of enactment and each exclusive representative of employees of that school
4.20 employer shall jointly determine whether the employees represented by the exclusive
4.21 representative will opt out of the program. The school employer must give notice to the
4.22 commissioner of the school employer's decision to opt out, at least 30 days prior to the
4.23 required entrance into the program. The notice must include all the names of the exclusive
4.24 representatives opting out as well as the names of nonrepresented employees. Clauses (2)
4.25 to (7) apply only to employees of the school employers described in this clause.

4.26 (2) Employees not represented by an exclusive representative may enter the public
4.27 employee insurance program in the manner described in paragraph (c).

4.28 (3) Exclusive representatives of school employers and nonrepresented employees
4.29 of school employers who do not enter the program on the date of initial eligibility for
4.30 participation shall be ineligible to participate until a period of four years has elapsed since
4.31 initial eligibility and may, at the discretion of the commissioner, be pooled and rated
4.32 separately from the other employees in the program for the first four years after entering
4.33 the program. This clause does not prohibit an employee from a district or exclusive
4.34 representative that has not declined participation from later becoming a member of the
4.35 program.

5.1 (4) The decision of the school board of a school employer and an exclusive
5.2 representative of employees or, in the case of employees not represented by an exclusive
5.3 representative, the decision of the school board of a school employer, to not opt out of
5.4 entry into the program is irrevocable.

5.5 (5) School employers may opt out only if the total self-insured lives remaining after
5.6 applying clauses (2) to (4) is more than 1,000 insured lives.

5.7 (6) School employers with individual self-insured plans whose employees will be
5.8 participating in the program that have unused reserve funds after all obligations have
5.9 been met, may negotiate with the exclusive representative regarding the reserve amount
5.10 attributable to the proportionate number of insured lives covered by that exclusive
5.11 representative. If the school employer and the exclusive representative are unable to
5.12 come to an agreement, the remaining funds will be used to pay the full premium to the
5.13 program for all employees represented by the exclusive representative of that school
5.14 employer participating in the program until the proportionate reserve funds are depleted.
5.15 These funds shall be used for a proportional premium payment at the time it is necessary
5.16 to deplete the balance.

5.17 (7) School employers leaving a section 123A.21 plan with a service cooperative
5.18 will receive a prorated share of the service cooperative reserves and distribute them as
5.19 required in clause (6).

5.20 Sec. 4. Minnesota Statutes 2012, section 43A.316, is amended by adding a subdivision
5.21 to read:

5.22 Subd. 11. **Nonidentifiable aggregate claims data from past coverage.** Upon
5.23 request by the commissioner, entities that are providing or have provided coverage to
5.24 eligible school employees, shall provide to the commissioner at no charge nonidentifiable
5.25 aggregate claims data for that coverage. The information must include data relating to
5.26 school employees' group benefit sets, demographics, claims experience, and any other data
5.27 or information deemed by the commissioner as necessary to accurately and appropriately
5.28 underwrite the risk of the school employees, notwithstanding section 13.203.

5.29 Sec. 5. Minnesota Statutes 2012, section 43A.316, is amended by adding a subdivision
5.30 to read:

5.31 Subd. 12. **School employee start-up funding; administration of ongoing**
5.32 **revenues and expenses.** The commissioner may impose a reserve surcharge in the first
5.33 three years of school employee enrollment at the commissioner's discretion.