

A bill for an act

relating to insurance; creating a statewide health insurance pool for school district employees; appropriating money; amending Minnesota Statutes 2006, sections 3.971, subdivision 6; 13.203; 62E.02, subdivision 23; 62E.10, subdivision 1; 62E.11, subdivision 5; 297I.05, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Section 1. Minnesota Statutes 2006, section 3.971, subdivision 6, is amended to read:

Subd. 6. **Financial audits.** The legislative auditor shall audit the financial statements of the state of Minnesota required by section 16A.50 and, as resources permit, shall audit Minnesota State Colleges and Universities, the University of Minnesota, state agencies, departments, boards, commissions, courts, and other state organizations subject to audit by the legislative auditor, including the State Agricultural Society, Agricultural Utilization Research Institute, Minnesota Technology, Inc., the Minnesota School Employee Insurance Board, Minnesota Historical Society, Labor Interpretive Center, Minnesota Partnership for Action Against Tobacco, Metropolitan Sports Facilities Commission, Metropolitan Airports Commission, and Metropolitan Mosquito Control District. Financial audits must be conducted according to generally accepted government auditing standards. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance by employees of departments and agencies of the state government and the other organizations listed in this subdivision.

Sec. 2. Minnesota Statutes 2006, section 13.203, is amended to read:

**13.203 SERVICE COOPERATIVE AND SCHOOL EMPLOYEE
INSURANCE BOARD CLAIMS DATA.**

(a) Claims experience and ~~all~~ related information received from carriers and claims administrators participating in a group health or dental plan, including any long-term disability plan, offered through the Minnesota service cooperatives to Minnesota school districts and other political subdivisions or by the Minnesota School Employee Insurance Board created under section 62A.662, and survey information collected from employees and employers participating in these plans and programs, ~~except when the executive director of a Minnesota service cooperative determines that release of the data will not be detrimental to the plan or program~~, are classified as nonpublic data ~~not on individuals~~.

(b) Data that are classified as nonpublic data under paragraph (a) may be disclosed if the executive director of a Minnesota service cooperative or the Minnesota School Employee Insurance Board determines that release of the data will not be detrimental to the plan or program.

Sec. 3. **[62A.662] SCHOOL EMPLOYEE INSURANCE PLAN.**

Subdivision 1. Definitions. For purposes of this section:

(1) "eligible employee" means a person who is insurance eligible under a collective bargaining agreement or under the personnel policy of an eligible employer; and

(2) "eligible employer" means a school district as defined in section 120A.05; a service cooperative as defined in section 123A.21; an intermediate district as defined in section 136D.01; a cooperative center for vocational education as defined in section 123A.22; a regional management information center as defined in section 123A.23; an education unit organized under section 471.59; or a charter school organized under section 124D.10.

(3) "health plan" means a health plan as defined in section 62A.011; and

(4) "self-insured health benefit plan" means self-insured health care coverage that is offered by the Minnesota School Employee Insurance Board under this section.

Subd. 2. Creation of board. (a) The Minnesota School Employee Insurance Board is created as a public corporation subject to the provisions of chapter 317A, except as otherwise provided in this section. As provided in section 15.082, the state is not liable for obligations of this public corporation. An eligible employer is not liable for obligations of this public corporation.

(b) The board shall create and administer the Minnesota school employee insurance pool as described in this section.

(c) Insurance plans and offerings must be effective July 1, 2009.

(d) If the board does not offer coverage by December 15, 2010, the board expires and this section expires on that date.

Subd. 3. **Board of directors.** (a) The Minnesota School Employee Insurance Board consists of:

(1) seven members representing exclusive representatives of eligible employees, appointed by exclusive representatives, as provided in paragraph (b); and

(2) seven members representing eligible employers, appointed by the Minnesota School Boards Association.

(b) The seven members of the board who represent statewide affiliates of exclusive representatives of eligible employees are appointed as follows: four members appointed by Education Minnesota and one member each appointed by the Service Employees International Union, the Minnesota School Employees Association, and American Federation of State, County, and Municipal Employees.

(c) Appointing authorities must make their initial appointments no later than August 1, 2007, by filing a notice of the appointment with the commissioner of commerce. Notices of subsequent appointments must be filed with the board. An entity entitled to appoint a board member may replace the board member at any time.

(d) Board members are eligible for compensation and expense reimbursement under section 15.0575, subdivision 3.

(e) The board must arrange for one or more methods of dispute resolution so as to minimize the possibility of deadlocks.

(f) The board shall establish governance requirements, which may include staggered terms, term limits, quorum, a plan of operation, and audit provisions. The board is subject to financial audit by the legislative auditor under section 3.971, subdivision 6.

Subd. 4. **Design and nature of plan.** (a) Health coverage offered through the Minnesota school employee insurance pool shall be made available by the board to all eligible employees of eligible employers, as defined in subdivision 1.

(b) If an eligible employer provides health coverage or money to purchase health coverage to eligible employees, the coverage must be provided or purchased only through the health plans or self-insured health benefit plans offered by the board.

(c) Nothing in this section affects the right of each eligible employer to determine, through collective bargaining under the public employment labor relations act:

(1) the employer's eligibility requirements regarding the terms and conditions under which employees, dependents, retirees, and other persons are eligible for health coverage from the employer;

4.1 (2) how much of the premium charged for the insurance will be paid by the employer
4.2 and how much will be paid by the eligible person; and

4.3 (3) which health plans or self-insured health benefit plans offered by the board will
4.4 be made available by the eligible employer.

4.5 (d) The board must initially offer at least six health plans or self-insured health
4.6 benefit plans. One plan must provide coverage without a deductible and without other
4.7 enrollee cost-sharing other than reasonable co-payments for nonpreventive care. One
4.8 plan must be a high-deductible health plan that qualifies under federal law for use with a
4.9 health savings account. The other four plans must have levels of enrollee cost-sharing
4.10 that are between the two plans just described. The board may establish more than one
4.11 tier of premium rates for any specific plan. Plans and premium rates may vary across
4.12 geographic regions established by the board. Any health plan or self-insured health
4.13 benefit plan offered by the board must comply with chapters 62A, 62J, 62M, 62Q, and
4.14 72A, and must provide the optimal combination of coverage, cost, choice, and stability
4.15 in the judgment of the board. Any health plan or self-insured health benefit plan offered
4.16 must be approved by the commissioner of commerce. The board shall investigate the
4.17 feasibility of offering coverage through more than one health plan company or other
4.18 network of health care providers.

4.19 (e) The board must include claims reserves, stabilization reserves, reinsurance, and
4.20 other features that, in the judgment of the board, will result in long-term stability and
4.21 solvency of the health plans and self-insured health benefit plans offered.

4.22 (f) The board may determine whether the plans should be fully insured through a
4.23 health carrier licensed in this state, self-insured, or a combination of those two alternatives.
4.24 If at any time any plan offered by the board is not fully insured, the board and the
4.25 self-insured health benefit plan are subject to section 471.617 and any rules adopted under
4.26 that section, including Minnesota Rules, chapter 2785.

4.27 (g) Any health plan or self-insured health benefit plan must include disease
4.28 management and consumer education, including wellness programs and measures
4.29 encouraging the wise use of health coverage, to the extent determined to be appropriate
4.30 by the board.

4.31 (h) Upon request of the board, entities that are providing or have provided coverage
4.32 to employees of eligible employers within two years before the effective date of this
4.33 section, shall provide to the board at no charge nonidentifiable aggregate claims data for
4.34 that coverage. The information must include data relating to employee group benefit sets,
4.35 demographics, and claims experience. Notwithstanding section 13.203, Minnesota service
4.36 cooperatives must also comply with this paragraph.

(i) Effective July 1, 2009, a contract entered into between an eligible employer and an eligible employee or the exclusive representative of an eligible employee may not contain provisions that establish cash payment in lieu of health insurance to an eligible employee if the employee is not receiving the payment on or before June 30, 2009. Nothing in this section prevents an eligible employee who otherwise qualifies for payment of cash in lieu of insurance on June 30, 2009, from continuing to receive this payment.

(j) All premiums paid for health coverage provided by the board must be used by the board solely for the cost of the operation of the board and the benefit of eligible employees and eligible employers in connection with the health coverage offered by the board.

Subd. 5. **MCHA membership and assessments.** The board is a contributing member of the Minnesota Comprehensive Health Association and must pay assessments made by the association on its premium revenues, as provided in section 62E.11, subdivision 5, paragraph (b).

Subd. 6. **Report.** The board shall report to the legislature and to the commissioner of commerce by January 15, 2009, on a final design for the pool that complies with subdivision 4 and on governance requirements for the board, which may include staggered terms, term limits, quorum, and a plan of operation and audit provisions. The report must include any legislative changes necessary to ensure conformance with chapters 62A, 62J, 62M, 62Q, and 72A.

Subd. 7. **Progress dependent upon funding.** The board shall carry out its obligations to the extent permitted by financial and other resources available to the board for that purpose. The board may seek and accept gifts and grants.

Subd. 8. **Periodic evaluation.** (a) Beginning December 15, 2009, and for the next two years, the board must submit an annual report to the commissioner of commerce and the legislature, in compliance with sections 3.195 and 3.197, summarizing and evaluating the performance of the pool during the previous year of operation.

(b) Beginning in 2013 and in each odd-numbered year thereafter, the board must submit to the legislature a biennial report summarizing and evaluating the performance of the pool during the preceding two fiscal years.

Subd. 9. **Actuarial study; MCHA and tax effects.** (a) The board shall have a study prepared by a qualified actuary that estimates for the first two fiscal years of operation of the pool:

(1) the rate of assessment for losses of the comprehensive health insurance plan under section 62E.11, subdivision 5, to be paid by the pool that would provide amounts equal to the assessments that would have been paid by providers of coverage to eligible employers if the pool had not been established; and

(2) the rate of tax under section 297I.05, subdivision 5, paragraph (b), that would provide amounts equal to the premiums tax that would have been paid by providers of coverage to eligible employers if the pool had not been established. This estimate must include the separate amounts of the tax that would have been paid under (i) section 297I.05, subdivisions 1 to 4, and (ii) section 297I.05, subdivision 5.

(b) The board shall provide the study to the commissioners of commerce and revenue by January 1, 2009.

(c) After review of the study and after making any necessary modifications or adjustments, the commissioner of commerce shall certify the rate under section 62E.11, subdivision 5, paragraph (b), clause (2), and shall notify the board and the association of the rate by March 1, 2009. The rate certified applies until modified by legislation enacted into law.

(d) After review of the study and after making any necessary modifications or adjustments, the commissioner of revenue shall certify the rate of tax under section 297I.05, subdivision 5, paragraph (b), by March 1, 2009. The rate certified applies until modified by legislation enacted into law.

Subd. 10. **Applicability of data practices laws.** The board is a government entity subject to chapter 13.

Sec. 4. Minnesota Statutes 2006, section 62E.02, subdivision 23, is amended to read:

Subd. 23. **Contributing member.** "Contributing member" means those companies regulated under chapter 62A and offering, selling, issuing, or renewing policies or contracts of accident and health insurance; health maintenance organizations regulated under chapter 62D; nonprofit health service plan corporations regulated under chapter 62C; community integrated service networks regulated under chapter 62N; fraternal benefit societies regulated under chapter 64B; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; ~~and~~ joint self-insurance plans regulated under chapter 62H; and the Minnesota School Employee Insurance Board created under section 62A.662. For the purposes of determining liability of contributing members pursuant to section 62E.11 payments received from or on behalf of Minnesota residents for coverage by a health maintenance organization ~~or~~ a community integrated service network, or the Minnesota School Employee Insurance Board shall be considered to be accident and health insurance premiums.

Sec. 5. Minnesota Statutes 2006, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. **Creation; tax exemption.** There is established a Comprehensive Health Association to promote the public health and welfare of the state of Minnesota with membership consisting of all insurers; self-insurers; fraternal; joint self-insurance plans regulated under chapter 62H; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; the Minnesota School Employee Insurance Board created under section 62A.662; health maintenance organizations; and community integrated service networks licensed or authorized to do business in this state. The Comprehensive Health Association is exempt from the taxes imposed under chapter 297I and any other laws of this state and all property owned by the association is exempt from taxation.

Sec. 6. Minnesota Statutes 2006, section 62E.11, subdivision 5, is amended to read:

Subd. 5. **Allocation of losses.** (a) Each contributing member of the association shall share the losses due to claims expenses of the comprehensive health insurance plan for plans issued or approved for issuance by the association, and shall share in the operating and administrative expenses incurred or estimated to be incurred by the association incident to the conduct of its affairs. Claims expenses of the state plan which exceed the premium payments allocated to the payment of benefits shall be the liability of the contributing members. Contributing members shall share in the claims expense of the state plan and operating and administrative expenses of the association in an amount equal to the ratio of the contributing member's total accident and health insurance premium, received from or on behalf of Minnesota residents as divided by the total accident and health insurance premium, received by all contributing members from or on behalf of Minnesota residents, as determined by the commissioner. Payments made by the state to a contributing member for medical assistance, MinnesotaCare, or general assistance medical care services according to chapters 256, 256B, and 256D shall be excluded when determining a contributing member's total premium.

(b) In making the allocation of losses provided in paragraph (a), the association's assessment against the Minnesota School Employee Insurance Board must equal the product of: (1) the percentage of premiums assessed against other association members; (2) the rate certified by the commissioner under section 62A.662, subdivision 9, paragraph (c); and (3) premiums received by the Minnesota School Employee Insurance Board. For purposes of this calculation, premiums of the board used must be net of rate credits and retroactive rate refunds on the same basis as the premiums of other association members.

Sec. 7. Minnesota Statutes 2006, section 297I.05, subdivision 5, is amended to read:

Subd. 5. **Health maintenance organizations, nonprofit health service plan corporations, ~~and~~ community integrated service networks, and the Minnesota School Employee Insurance Board.** (a) A tax is imposed on health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the organization, network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar year.

(b) A tax is imposed on the Minnesota School Employee Insurance Board under section 62A.662, to the extent the board receives amounts for coverage not otherwise subject to tax under this section. The rate of tax is equal to the percentage rate certified by the commissioner under section 62A.662, subdivision 9, paragraph (d), multiplied by the gross premiums less return premiums received in the calendar year.

(c) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

(d) By March 1, 2009, based on the study prepared under section 62A.662, subdivision 9, paragraph (a), the commissioner shall certify the percentage of all revenues, including penalties and interest, collected under this chapter from the Minnesota School Employee Insurance Board, that are to be deposited in the general fund and the health care access fund. The commissioner shall deposit the revenues and pay refunds of overpayments of tax imposed on the Minnesota School Employee Insurance Board based on the certified percentage. Amounts are appropriated from the respective funds to the commissioner to make any refunds of tax imposed under paragraph (b).

Sec. 8. **INITIAL MEETING.**

The commissioner of commerce shall convene the first meeting of the Minnesota School Employee Insurance Board no later than 30 days after all board members have been appointed. The board must elect a chair or cochair from its membership at its first meeting.

Sec. 9. **APPROPRIATION.**

H.F. No. 464, 4th Engrossment - 85th Legislative Session (2007-2008)

9.1 \$4,000,000 is appropriated in fiscal year 2008 from the general fund to the
9.2 commissioner of commerce as a loan for start-up costs to the Minnesota School Employee
9.3 Insurance Board. The Minnesota School Employee Insurance Board must repay the loan
9.4 to the general fund in ten equal installments paid at the end of each fiscal year, beginning
9.5 with the 2010 fiscal year.

9.6 Sec. 10. **EFFECTIVE DATE.**

9.7 This act is effective July 1, 2007, except that sections 6 and 7, paragraph (b), are
9.8 effective July 1, 2009.