

CHAPTER 279--H.F.No. 2180

An act relating to insurance; amending provisions relating to health coverage for school district employees; amending Minnesota Statutes 2012, sections 43A.316, subdivision 10, by adding a subdivision; 123B.09, subdivision 12; 123B.75, by adding a subdivision; 471.6161, subdivisions 1, 2, 3, by adding a subdivision; 471.617, subdivision 2; 471.895, subdivision 1; Minnesota Statutes 2013 Supplement, section 124D.10, subdivisions 4a, 11, 21.

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

Section 1. Minnesota Statutes 2012, section 43A.316, subdivision 10, is amended to read:

Subd. 10. **Exemption.** The public employee insurance program and, where applicable, the employers participating in it are exempt from chapters 60A, 62A, 62C, 62D, 62E, and 62H, section 471.617, subdivisions 2 and 3, and the bidding requirements of section 471.6161. The public employee insurance program must follow the requirements of section 471.6161, subdivision 8.

Sec. 2. Minnesota Statutes 2012, section 43A.316, is amended by adding a subdivision to read:

Subd. 11. **Proposal from school district; response required.** Upon receipt of a request for a proposal from a school district pursuant to section 471.6161, subdivision 8, the public employees insurance program shall respond to the request within 60 days.

Sec. 3. Minnesota Statutes 2012, section 123B.09, subdivision 12, is amended to read:

Subd. 12. **Board to fix compensation.** The clerk, treasurer, and superintendent of any district shall receive such compensation as may be fixed by the board. Unless otherwise provided by law, the other members of the board shall also receive such compensation as may be fixed by the board. All members of the board may receive reimbursement for transportation at the rate provided for in section 471.665. No board member or school district employee shall receive any compensation or benefits based on incentives or other money provided to the school district by or from a source of group insurance coverage referenced in section 471.6161, subdivision 1, except for a refund provided under section 123B.75, subdivision 10, or a wellness plan that is mutually agreed upon by the district and the exclusive representatives of employees.

Sec. 4. Minnesota Statutes 2012, section 123B.75, is amended by adding a subdivision to read:

Subd. 10. **Insurance premium refund.** (a) If money collected by an entity providing group insurance under section 471.6161, subdivision 1, for the payment of insurance premiums is above the cost of that coverage and returned to the school district purchasing that coverage as a refund, that school district must negotiate with the exclusive representative regarding the refund amount attributable to the proportionate number of insured lives covered by that exclusive representative.

(b) If there is no exclusive representative or if the employer and the exclusive representative are unable to come to an agreement within 150 days, the remaining refunds shall be used to pay the full premium to the program for any employees not covered by an agreement negotiated under this section until the proportionate refunds are depleted. These refunds shall be used for a proportional premium payment at the time it is necessary to deplete the balance.

Sec. 5. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 4a, is amended to read:

Subd. 4a. **Conflict of interest.** (a) An individual is prohibited from serving as a member of the charter school board of directors if the individual, an immediate family member, or the individual's partner is a full or part owner or principal with a for-profit or nonprofit entity or independent contractor with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. An individual is prohibited from serving as a board member if an immediate family member is an employee of the school. A violation of this prohibition renders a contract voidable at the option of the commissioner or the charter school board of directors. A member of a charter school board of directors who violates this prohibition is individually liable to the charter school for any damage caused by the violation.

(b) No member of the board of directors, employee, officer, or agent of a charter school shall participate in selecting, awarding, or administering a contract if a conflict of interest exists. A conflict exists when:

- (1) the board member, employee, officer, or agent;
- (2) the immediate family of the board member, employee, officer, or agent;
- (3) the partner of the board member, employee, officer, or agent; or
- (4) an organization that employs, or is about to employ any individual in clauses (1) to (3),

has a financial or other interest in the entity with which the charter school is contracting. A violation of this prohibition renders the contract void.

(c) Any employee, agent, or board member of the authorizer who participates in the initial review, approval, ongoing oversight, evaluation, or the charter renewal or nonrenewal process or decision is ineligible to serve on the board of directors of a school chartered by that authorizer.

(d) An individual may serve as a member of the board of directors if no conflict of interest under paragraph (a) exists.

(e) The conflict of interest provisions under this subdivision do not apply to compensation paid to a teacher employed as a teacher by the charter school or a teacher who provides instructional services to the charter school through a cooperative formed under chapter 308A when the teacher also serves on the charter school board of directors.

(f) A charter school board member, employee, or officer is a local official for purposes of section 471.895 with regard to receipt of gifts as defined under section 10A.071, subdivision 1, paragraph (b). A board member, employee, or officer must not receive compensation from a group health insurance provider.

Sec. 6. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 11, is amended to read:

Subd. 11. **Employment and other operating matters.** (a) A charter school must employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The charter school's state aid may be reduced under section 127A.43 if the school employs a teacher who is not appropriately licensed or approved by the board of teaching. The school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The school may discharge

teachers and nonlicensed employees. The charter school board is subject to section 181.932. When offering employment to a prospective employee, a charter school must give that employee a written description of the terms and conditions of employment and the school's personnel policies.

(b) A person, without holding a valid administrator's license, may perform administrative, supervisory, or instructional leadership duties. The board of directors shall establish qualifications for persons that hold administrative, supervisory, or instructional leadership roles. The qualifications shall include at least the following areas: instruction and assessment; human resource and personnel management; financial management; legal and compliance management; effective communication; and board, authorizer, and community relationships. The board of directors shall use those qualifications as the basis for job descriptions, hiring, and performance evaluations of those who hold administrative, supervisory, or instructional leadership roles. The board of directors and an individual who does not hold a valid administrative license and who serves in an administrative, supervisory, or instructional leadership position shall develop a professional development plan. Documentation of the implementation of the professional development plan of these persons shall be included in the school's annual report.

(c) The board of directors also shall decide and be responsible for policy matters related to the operation of the school, including budgeting, curriculum programming, personnel, and operating procedures. The board shall adopt a policy on nepotism in employment. The board shall adopt personnel evaluation policies and practices that, at a minimum:

- (1) carry out the school's mission and goals;
- (2) evaluate the execution of charter contract goals and commitments;
- (3) evaluate student achievement, postsecondary and workforce readiness, and student engagement and connection goals;
- (4) establish a teacher evaluation process under subdivision 8, paragraph (t); and
- (5) provide professional development related to the individual's job responsibilities.

(d) A charter school board with at least 25 employees or a teacher cooperative of licensed teachers providing instruction under a contract between a school and a cooperative that provides group health insurance coverage shall:

- (1) request proposals for group health insurance coverage from a minimum of three sources at least every two years; and
- (2) notify employees covered by the group health insurance coverage before the effective date of the changes in the group coverage policy contract.

A charter school board or a cooperative of teachers that provides group health insurance coverage must establish and publish on its Web site the policy for the purchase of group health insurance coverage. A charter school board policy must include a sealed proposal process, which requires all proposals to be opened at the same time. Upon the openings of the proposals in accordance with the school or cooperative policy, the proposals become public data under chapter 13.

Nothing in this section supersedes the right of an exclusive representative to negotiate over terms and conditions of employment.

Sec. 7. Minnesota Statutes 2013 Supplement, section 124D.10, subdivision 21, is amended to read:

Subd. 21. **Collective bargaining.** Employees of the board of directors of a charter school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of a charter school is a public employer, for the purposes of chapter 179A, upon formation of one or more bargaining units at the school. Bargaining units at the school must be separate from any other units within an authorizing district, except that bargaining units may remain part of the appropriate unit within an authorizing district, if the employees of the school, the board of directors of the school, the exclusive representative of the appropriate unit in the authorizing district, and the board of the authorizing district agree to include the employees in the appropriate unit of the authorizing district. The board of directors of a charter school with employees organized under this subdivision must comply with sections 471.6161 and 471.895.

Sec. 8. Minnesota Statutes 2012, section 471.6161, subdivision 1, is amended to read:

Subdivision 1. **Group insurance coverage.** For purposes of this section, "group insurance coverage" means benefit coverage provided to a group through a carrier an entity authorized under chapters section 43A.316 or 123A.21, subdivision 7; or chapter 61A, 62A, 62C, and or 62D to do business in the state.

Sec. 9. Minnesota Statutes 2012, section 471.6161, subdivision 2, is amended to read:

Subd. 2. **Request for proposal.** Every political subdivision authorized by law to purchase group insurance for its employees and providing or intending to provide group insurance coverage and benefits for 25 or more of its employees shall request proposals from and enter into contracts with carriers entities referenced in subdivision 1 that in the judgment of the political subdivision are best qualified to provide coverage. The request for proposals shall be in writing and at a minimum shall include: coverage to be provided, criteria for evaluation of carrier proposals from entities referenced in subdivision 1, and the aggregate claims records for the appropriate period. A political subdivision may exclude from consideration proposals requiring self-insurance. Public notice of the request for proposals must be provided in a newspaper or trade journal at least 21 days before the final date for submitting proposals.

Sec. 10. Minnesota Statutes 2012, section 471.6161, subdivision 3, is amended to read:

Subd. 3. **Selection of carrier.** The political subdivision shall make benefit and cost comparisons and evaluate the proposals using the written criteria. The political subdivision may negotiate with the carrier an entity referenced in subdivision 1 on benefits, premiums, and other contract terms. Carriers applying Any entity providing group insurance coverage to the political subdivision must provide the political subdivision with aggregate claims records for the appropriate period. The political subdivision must prepare a written rationale for its decision before entering into a contract with a carrier an entity referenced in subdivision 1.

Sec. 11. Minnesota Statutes 2012, section 471.6161, is amended by adding a subdivision to read:

Subd. 8. **School districts; group health insurance coverage.** (a) Any entity providing group health insurance coverage to a school district must provide the school district with school district-specific non-identifiable aggregate claims records for the most recent 24 months within 30 days of the request.

(b) School districts shall request proposals for group health insurance coverage as provided in subdivision 2 from a minimum of three potential sources of coverage. One of these requests must go to an administrator governed by chapter 43A. Entities referenced in subdivision 1 must respond to requests for proposals received directly from a school district. School districts that are self-insured must also follow these provisions, except as provided in paragraph (f). School districts must make requests for proposals at least

150 days prior to the expiration of the existing contract but not more frequently than once every 24 months. The request for proposals must include the most recently available 24 months of nonidentifiable aggregate claims data. The request for proposals must be publicly released at or prior to its release to potential sources of coverage.

(c) School district contracts for group health insurance must not be longer than two years unless the exclusive representative of the largest employment group and the school district agree otherwise.

(d) All initial proposals shall be sealed upon receipt until they are all opened no less than 90 days prior to the plan's renewal date in the presence of up to three representatives selected by the exclusive representative of the largest group of employees. Section 13.591, subdivision 3, paragraph (b), applies to data in the proposals. The representatives of the exclusive representative must maintain the data according to this classification and are subject to the remedies and penalties under sections 13.08 and 13.09 for a violation of this requirement.

(e) A school district, in consultation with the same representatives referenced in paragraph (d), may continue to negotiate with any entity that submitted a proposal under paragraph (d) in order to reduce costs or improve services under the proposal. Following the negotiations any entity that submitted an initial proposal may submit a final proposal incorporating the negotiations, which is due no less than 75 days prior to the plan's renewal date. All the final proposals submitted must be opened at the same time in the presence of up to three representatives selected by the exclusive representative of the largest group of employees. Notwithstanding section 13.591, subdivision 3, paragraph (b), following the opening of the final proposals, all the proposals, including any made under paragraph (d), and other data submitted in connection with the proposals are public data. The school district may choose from any of the initial or final proposals without further negotiations and in accordance with subdivision 5, but not sooner than 15 days after the proposals become public data.

(f) School districts that are self-insured shall follow all of the requirements of this section, except that:

(1) their requests for proposals may be for third-party administrator services, where applicable;

(2) these requests for proposals must be from a minimum of three different sources, which may include both entities referenced in subdivision 1 and providers of third-party administrator services;

(3) for purposes of fulfilling the requirement to request a proposal for group insurance coverage from an administrator governed by chapter 43A, self-insured districts are not required to include in the request for proposal the coverage to be provided;

(4) a district that is self-insured on or before the date of enactment, or that is self-insured with more than 1,000 insured lives, may, but need not, request a proposal from an administrator governed by chapter 43A;

(5) requests for proposals must be sent to providers no less than 90 days prior to the expiration of the existing contract; and

(6) proposals must be submitted at least 60 days prior to the plan's renewal date and all proposals shall be opened at the same time and in the presence of the exclusive representative, where applicable.

(g) Nothing in this section shall restrict the authority granted to school district boards of education by section 471.59, except that districts will not be considered self-insured for purposes of this subdivision solely through participation in a joint powers arrangement.

(h) An entity providing group health insurance to a school district under a multiyear contract must give notice of any rate or plan design changes applicable under the contract at least 90 days before the effective date of any change. The notice must be given to the school district and to the exclusive representatives of employees.

Sec. 12. Minnesota Statutes 2012, section 471.617, subdivision 2, is amended to read:

Subd. 2. **Jointly.** Any two or more statutory or home rule charter cities, counties, school districts, or instrumentalities thereof which together have more than 100 employees may jointly self-insure for any employee health benefits including long-term disability, but not for employee life benefits, subject to the same requirements as an individual self-insurer under subdivision 1. Self-insurance pools under this section are subject to section 62L.045. A self-insurance pool established and operated by one or more service cooperatives governed by section 123A.21 to provide coverage described in this subdivision qualifies under this subdivision, but the individual school district members of such a pool shall not be considered to be self-insured for purposes of section 471.6161, subdivision 8, paragraph (f). The commissioner of commerce may adopt rules pursuant to chapter 14, providing standards or guidelines for the operation and administration of self-insurance pools.

Sec. 13. Minnesota Statutes 2012, section 471.895, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" has the meaning given it in section 10A.071, subdivision 1.

(c) "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.

(d) "Local official" means:

(1) an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city; and

(2) an elected or appointed member of a school board, a school superintendent, a school principal, or a district school officer of any independent school district.

Sec. 14. **EFFECTIVE DATE.**

Sections 3 to 7 and 13 are effective July 1, 2014. Sections 1, 2, 8 to 10, and 12 are effective the day following final enactment. Section 11 is effective the day following final enactment and applies to requests for proposals for group insurance coverage issued on or after that date.

Presented to the governor May 15, 2014

Signed by the governor May 16, 2014, 10:21 a.m.