

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 1835

(SENATE AUTHORS: SIEBEN, Jensen and Reinert)

DATE	D-PG	OFFICIAL STATUS
02/25/2014	5835	Introduction and first reading Referred to Commerce
03/03/2014	5907a	Comm report: To pass as amended and re-refer to Education
03/04/2014	5964	Author added Reinert
03/12/2014	6139a	Comm report: To pass as amended and re-refer to State and Local Government
03/19/2014		Comm report: To pass as amended and re-refer to Judiciary

1.1 A bill for an act

1.2 relating to insurance; amending provisions relating to health coverage for school

1.3 district employees; amending Minnesota Statutes 2012, sections 43A.316,

1.4 subdivision 10, by adding a subdivision; 123A.21, subdivisions 5, 6, 9; 123B.09,

1.5 subdivision 12; 471.6161, subdivisions 1, 2, 3, by adding a subdivision;

1.6 471.895, subdivision 1; Minnesota Statutes 2013 Supplement, section 124D.10,

1.7 subdivisions 4a, 11, 21.

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

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

1.10 read:

1.11 Subd. 10. **Exemption.** The public employee insurance program and, where

1.12 applicable, the employers participating in it are exempt from chapters 60A, 62A, 62C,

1.13 62D, 62E, and 62H, section 471.617, subdivisions 2 and 3, ~~and the bidding requirements~~

1.14 ~~of section 471.6161.~~

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

1.16 to read:

1.17 Subd. 11. **Proposal from school district; response required.** Upon receipt of a

1.18 request for a proposal from a school district pursuant to section 471.6161, subdivision 8,

1.19 the public employees insurance program shall respond to such request within 60 days.

1.20 Sec. 3. Minnesota Statutes 2012, section 123A.21, subdivision 5, is amended to read:

1.21 Subd. 5. **Duties and powers of SC board of directors.** The board of directors shall

1.22 have authority to maintain and operate a SC. Subject to the availability of necessary

1.23 resources, the powers and duties of this board shall include the following:

(a) The board of directors shall submit, by June 1 of each year to each participating member, an annual plan which describes the objectives and procedures to be implemented in assisting in resolution of the needs of the SC.

(b) The SC board of directors shall provide adequate office, service center, and administrative facilities by lease, purchase, gift, or otherwise.

(c) The SC board of directors shall employ a central administrative staff and other personnel as necessary to provide and support the agreed-upon programs and services. The board may discharge staff and personnel pursuant to applicable provisions of law. SC staff and personnel may participate in retirement programs and any other programs available to public school staff and personnel.

(d) The SC board of directors may appoint special advisory committees composed of superintendents, central office personnel, building principals, teachers, parents, lay persons, and representatives from cities, counties, and other governmental units. The committees are considered a committee of a public body for purposes of section 13D.01, subdivision 1, paragraph (c), when addressing issues related to health insurance.

(e) The SC board of directors may employ service area personnel pursuant to licensure and certification standards developed by the appropriate state agency such as the commissioner and the State Board of Teaching.

(f) The SC board of directors may enter into contracts with school boards of local districts including school districts outside the SC area.

(g) The SC board of directors may enter into contracts with other public and private agencies and institutions to provide administrative staff and other personnel as necessary to furnish and support the agreed-upon programs and services.

(h) The SC board of directors shall exercise all powers and carry out all duties delegated to it by members under provisions of the SC bylaws. The SC board of directors shall be governed, when not otherwise provided, by applicable laws of the state.

(i) The SC board of directors shall submit an annual evaluation report of the effectiveness of programs and services to the members by September 1 of each year following the previous June 30 in which the programs and services were provided.

(j) The SC board is encouraged to establish cooperative, working relationships and partnerships with postsecondary educational institutions, other public agencies, business, and industry.

Sec. 4. Minnesota Statutes 2012, section 123A.21, subdivision 6, is amended to read:

Subd. 6. **Appointment of advisory council.** There may be advisory councils selected to give advice and counsel to the SC board of directors. The councils may be

composed of representatives from public and nonpublic schools, cities, counties, and other governmental units. The advisory councils are considered to be a committee of a public body for purposes of section 13D.01, subdivision 1, paragraph (c), when addressing issues related to health insurance.

Sec. 5. Minnesota Statutes 2012, section 123A.21, subdivision 9, is amended to read:

Subd. 9. **Financial support for the service cooperatives.** (a) Financial support for SC programs and services shall be provided by participating members with private, state, and federal financial support supplementing as available. The SC board of directors may, in each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess and certify to each participating school district, nonpublic school administrative unit, city, county, and other governmental unit its proportionate share of all expenses. This share shall be based upon the extent of participation by each school district, nonpublic school administrative unit, city, county, or other governmental unit and shall be in the form of a service fee. Each participating school district, nonpublic school administrative unit, city, county, or other governmental unit shall remit its assessment to the SC board as provided in the SC bylaws. The assessments shall be paid within the maximum levy limitations of each participating member. No participating member shall have any additional liability for the debts or obligations of the SC except that assessment which has been certified as its proportionate share and any other liability the member assumes under section 123A.24, subdivisions 1 and 2.

(b) Any property acquired by the SC board is public property to be used for essential public and governmental purposes which shall be exempt from all taxes and special assessments levied by a city, county, state, or political subdivision thereof. If the SC is dissolved, its property must be distributed to the members at the time of the dissolution.

(c) A member may elect to withdraw participation in the SC by a majority vote of its full board membership and upon compliance with the applicable withdrawal provisions of the SC organizational agreement. The withdrawal shall be effective on the June 30 following receipt by the board of directors of written notification of the withdrawal by February 1 of the same year. Notwithstanding the withdrawal, the proportionate share of any expenses already certified to the withdrawing member for the SC shall be paid to the SC board.

(d) The SC is a public corporation and agency and its board of directors may make application for, accept, and expend private, state, and federal funds that are available for programs of the members.

(e) The SC is a public corporation and agency and as such, no earnings or interests of the SC may inure to the benefit of an individual or private entity.

(f)(1) If money collected by an SC for the payment of insurance premiums that are above the cost of that coverage is returned to the entity purchasing that coverage, that entity must negotiate with the exclusive representative regarding the refund amount attributable to the proportionate number of insured lives covered by that exclusive representative.

(2) 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 funds 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 refund funds are depleted. These funds shall be used for a proportional premium payment at the time it is necessary to deplete the balance.

Sec. 6. 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 123A.21, subdivision 9, paragraph (f).

Sec. 7. 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 must not accept gifts as defined under section 10A.071, subdivision 1, paragraph (b), and must not request another person to give a gift to a board member, employee, or officer. A board member, employee, or officer must not receive compensation from a group health insurance provider.

Sec. 8. 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

6.1 charter school must give that employee a written description of the terms and conditions
6.2 of employment and the school's personnel policies.

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

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

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

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

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

6.34 A charter school board or a cooperative of teachers that provides group insurance
6.35 coverage must establish and publish on its Web site the policy for the purchase of group
6.36 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 provision supersedes the right of an exclusive representative to negotiate over terms and conditions of employment.

Sec. 9. 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. 10. 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. 11. 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

8.1 for proposals must be provided in a newspaper or trade journal at least 21 days before the
8.2 final date for submitting proposals.

8.3 Sec. 12. Minnesota Statutes 2012, section 471.6161, subdivision 3, is amended to read:

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

8.12 Sec. 13. Minnesota Statutes 2012, section 471.6161, is amended by adding a
8.13 subdivision to read:

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

8.18 (b) School districts shall request proposals for group insurance coverage as provided
8.19 in subdivision 2 from a minimum of three potential sources of coverage. One of these
8.20 requests must go to an administrator governed by chapter 43A. School districts opting
8.21 for self-insurance must also follow these provisions, except as provided in paragraph
8.22 (g). School districts must make requests for proposals 150 days prior to the expiration
8.23 of the existing contract but not more frequently than every 24 months. The request for
8.24 proposals must include the most recently available 24 months of nonidentifiable aggregate
8.25 claims data. The request for proposals must be publicly released at or prior to its release
8.26 to potential bidders.

8.27 (c) Entities referenced in subdivision 1:

8.28 (1) must submit renewal premium rates to school districts and exclusive
8.29 representatives of employees at least 90 days before the effective date of the premium
8.30 rate change; and

8.31 (2) must submit any proposed plan design changes to school districts and employees
8.32 at least 90 days before the effective date to ensure proper negotiations with bargaining units.

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

9.4 (e) All proposals and renewals shall be sealed upon receipt until they are all opened 90
9.5 days prior to the plan's renewal date. The proposals shall be opened on the first business day
9.6 after the 90-day deadline in the presence of the exclusive representative, where applicable.

9.7 (f) Notwithstanding any other law to the contrary, a school board may continue to
9.8 negotiate with up to two of the bidders in order to reduce costs or improve services. The
9.9 choice of bidders must be agreed to by the exclusive representative of the largest group
9.10 of employees.

9.11 (g) School districts opting for self-insurance shall follow all of the requirements of
9.12 this section, except that:

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

9.15 (2) these requests for proposals must be from a minimum of two providers;

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

9.19 (4) requests for proposals must be sent to providers no less than 120 days from
9.20 the expiration of the existing contract; and

9.21 (5) self-insured districts may open proposals 60 days prior to the plan's renewal date.
9.22 The proposals may be opened on the first business day after the 60-day deadline, and must
9.23 be opened in the presence of the exclusive representative, where applicable.

9.24 Sec. 14. Minnesota Statutes 2012, section 471.895, subdivision 1, is amended to read:

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

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

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

9.30 (d) "Local official" means:

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

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

- 10.1
- Sec. 15. **EFFECTIVE DATE.**
- 10.2
- Sections 1 to 14 are effective July 1, 2014.