

**Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1023  
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the public employees retirement system; to provide for a transfer; to provide for solicitations of bids for the public employee health benefits coverage; to provide for a study; to create and enact sections 54-35-02.9 and 54-35-02.10 and a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the public employee health care coverage committee and the authority of the retirement board; to amend and reenact sections 54-35-02.4 and 54-52.1-08.2 of the North Dakota Century Code, relating to the employee benefits programs committee; and to provide an expiration date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income to the public employees retirement system for the purpose of defraying the expenses of the public employees retirement system, for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

|                                | <u>Base Level</u> | <u>Adjustments or<br/>Enhancements</u> | <u>Appropriation</u> |
|--------------------------------|-------------------|--|----------------------|
| Salaries and wages             | \$6,315,360       | \$809                                  | \$6,316,169          |
| Operating expenses             | 2,753,643         | (61,422)                               | 2,692,221            |
| Contingencies                  | <u>250,000</u>    | <u>0</u>                               | <u>250,000</u>       |
| Total special funds            | \$9,319,003       | (\$60,613)                             | \$9,258,390          |
| Full-time equivalent positions | 34.50             | 0.00                                   | 34.50                |

**SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$95,431 from other funds for increases in employee health insurance premiums from \$1,130 to \$1,241 per month.

**SECTION 3. ONE-TIME FUNDING.** The following amounts reflect the one-time funding items approved by the sixty-fourth legislative assembly as adjusted for the 2015-17 biennium:

| <u>One-Time Funding Description</u>                     | <u>2015-17</u> | <u>2017-19</u> |
|---|----------------|----------------|
| Public employees retirement system - temporary salaries | \$100,000      | \$0            |
| Desktop support services                                | <u>77,370</u>  | <u>0</u>       |
| Total special funds                                     | \$177,370      | \$0            |

**SECTION 4. APPROPRIATION LINE ITEM TRANSFERS.** The public employees retirement system office may transfer from their contingencies line item in section 1 of this Act to all other line items. The agency shall notify the office of management and budget of each transfer made pursuant to this section.

**SECTION 5. LEGISLATIVE INTENT - ELECTRONIC DISTRIBUTION OF MATERIALS.** It is the intent of the sixty-fifth legislative assembly that the public employees retirement system office create operating efficiencies when feasible by discontinuing the distribution of paper materials, including newsletters and benefit statements. It is further the intent of the sixty-fifth legislative assembly that the public employees retirement system office develop procedures to electronically distribute materials or provide access to materials through member self-service website applications.

**SECTION 6. PUBLIC EMPLOYEE HEALTH INSURANCE PLANS - SOLICITATION OF BIDS AND CONTRACTING.**

1. During the 2017-18 interim, in consultation with the public employee health care coverage committee and based on the recommendations of the legislative management, the retirement board shall design requests for proposals and shall solicit bids under section 54-52.1-04 for hospital, medical, and prescription drug benefits coverage for the active employee plan for the 2019-21 biennium. The board's primary bid must be for a self-insurance plan under section 54-52.1-04.2, and in accordance with section 54-52.1-04.2, the solicitation for bids must include a request for proposals for a fully insured plan or hybrid fully insured plan, or both.
2. Notwithstanding contrary provisions of law, in response to bids received under subsection 1, the board shall select the carrier or carriers and shall contract for the plan or plans that best serve the interests of the state and its eligible employees. In considering the interests of the state and its employees, the board's considerations must include consideration of flexibility of plan design, employee out-of-pocket costs, and premium. Except as otherwise provided by the sixty-sixth legislative assembly, the contract entered by the board under this subsection is effective for a term of two years and is subject to renewal and rebidding as provided under chapter 54-52.1.
3. A uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees in effect for the period July 1, 2017, through June 30, 2019, terminates on June 30, 2019, after which the plan entered under subsection 2 becomes effective. Notwithstanding any law to the contrary, the uniform group insurance program contract for hospital, medical, and prescription drug benefits coverage for active employees entered by the retirement board which becomes effective July 1, 2017, is not subject to renewal for an additional two-year term for the 2019-21 biennium.

**SECTION 7. PUBLIC EMPLOYEE HEALTH CARE COVERAGE COMMITTEE STUDY - REPORTS.**

1. During the 2017-18 interim, the public employee health care coverage committee shall study, review, and make recommendations regarding the terms of the retirement board's requests for proposals for hospital, medical, and prescription drug benefits coverage for active employees for the 2019-21 biennium as required under section 6 of this Act. In making recommendations, the committee shall consider the interests of the state and its eligible employees, including flexibility of plan design, employee out-of-pocket costs, and premium.
2. Before July 1, 2018, and then again before the end of the interim, the committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management, and the legislative management shall report the findings and recommendations to the retirement board, the public employees retirement system, and the sixty-sixth legislative assembly.

**SECTION 8. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which ~~it takes~~the committee exercises jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, ~~and health and retiree health plans of state employees or employees of any political subdivision~~ and the uniform group insurance program. The committee shall make a thorough review of ~~any~~a measure or proposal ~~over which it takes~~ under its ~~the~~committee exercises jurisdiction, including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee ~~must~~shall include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its

findings and recommendations, along with any necessary legislation, to the legislative management and to the legislative assembly.

2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
  - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation of the committee, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to ~~the committee~~ by the legislative assembly or the legislative management.
4. ~~A copy of the committee's report concerning any legislative measure shall, if that measure~~ a legislative proposal over which the committee exercised jurisdiction is introduced for consideration by a legislative assembly, a copy of the related committee report must be appended to the copy of that measure ~~which is referred to a standing committee.~~
5. A legislative measure affecting a public employees retirement program, ~~public employees health insurance program, or public employee retiree health insurance program~~ or uniform group insurance program may not be introduced in either house unless ~~the measure~~ is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether ~~any~~ a legislative measure affects a program.
6. ~~Any~~ An amendment made during a legislative session to a legislative measure ~~affecting~~ which would affect a public employees retirement program, ~~public employees health insurance program, or public employee retiree health insurance or uniform group insurance program~~ may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.
8. As used in this section, the term "uniform group insurance plan" does not include a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage. The scope of the subject matter over which this committee has jurisdiction does not include legislative proposals or measures over which the public employee health care coverage committee has jurisdiction under section 54-35-02.10.

**SECTION 9.** Section 54-35-02.9 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.9. Public employee health care coverage committee - Appointment.**

1. During each interim, the public employee health care coverage committee must be appointed as follows:
  - a. Four members of the senate appointed by the majority leader of the senate;

- b. Two members of the senate appointed by the minority leader of the senate;
  - c. Four members of the house of representatives appointed by the majority leader of the house of representatives;
  - d. Two members of the house of representatives appointed by the minority leader of the house of representatives; and
  - e. No more than four nonvoting members appointed by the governor.
2. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. However, a committee member appointed by the governor is not entitled to per diem and is entitled to mileage and expenses as provided by law for state officers and employees which is to be paid by the governor or by the employing agency if that member is an employee of the state.
  3. The committee shall meet at least quarterly during the interim between regular legislative sessions.

**SECTION 10.** Section 54-35-02.10 of the North Dakota Century Code is created and enacted as follows:

**54-35-02.10. Public employee health care coverage committee - Powers and duties - Standing committees - Legislative management.**

1. During the interim between regular legislative sessions, the public employee health care coverage committee shall:
  - a. Receive from the public employees retirement system quarterly reports on the activities of the retirement board and the public employees retirement system relating to the health care coverage, including the status of and any implemented or proposed changes to the health care coverage. The quarterly report must include status reports on contracts and contract negotiations relating to the health care coverage.
  - b. Monitor the health care coverage, which may include receipt of public or aggregate utilization data, wellness initiative reports, and customer satisfaction surveys.
  - c. Investigate the feasibility and desirability of making changes to the health care coverage and related contracts for future bienniums and prepare and recommend legislation to pursue any recommended changes.
  - d. Study the health care coverage contract bidding and renewal process.
  - e. Receive reports regarding the impact of federal law on the health care coverage and the impact federal law may have on any proposed changes to the health care coverage.
  - f. Before each regular legislative session, receive from the public employees retirement system the executive budget proposals relating to the health care coverage for the upcoming biennium.
  - g. Consider and report on legislative proposals sponsored by the executive branch, judicial branch, and legislative management as provided under subsection 2.
  - h. Conduct studies as directed by the legislative assembly or the legislative management.
  - i. Report to the legislative management the committee's findings and recommendations, along with any legislation necessary to implement the committee's recommendations.

During the interim, the committee may make multiple reports to the legislative management.

2. During the interim between regular legislative sessions, the committee may solicit draft legislative proposals from the executive branch, judicial branch, and legislative management. A legislative measure affecting the health care coverage may not be submitted by the executive branch, judicial branch, or legislative management for introduction in either house unless the measure is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative proposal affects the health care coverage.
  - a. If the committee determines a legislative proposal affects the health care coverage, either actuarially or otherwise, the committee shall conduct a thorough review of the proposal and shall prepare a report with the committee's recommendation regarding the legislative proposal. The review may include an actuarial report or other report of a third party.
  - b. If a legislative proposal for which the committee conducts a review under this subsection is introduced for consideration by the legislative assembly, a copy of the related committee report must be appended to the copy of that measure referred to a standing committee.
3. To carry out the committee's responsibilities, the committee may:
  - a. Through the legislative management, enter a contract with an actuary or actuarial firm or other expert for expert assistance and consultation. The committee shall notify the public employees retirement system of a contract entered under this subsection and, without need for a prior appropriation, the public employees retirement system shall pay the cost of the third-party assistance provided under the contract.
  - b. Direct the public employees retirement system to provide the committee with an actuarial report or other analysis. Without the need for a prior appropriation, the public employees retirement system shall pay the cost of the report or analysis.
  - c. Call on personnel from state agencies or political subdivisions to furnish the information and render the assistance the committee may from time to time request.
  - d. Establish rules for operation of the committee, including the submission and review of legislative proposals and the establishing of standards for actuarial review.
4. During a legislative session, if a standing committee takes action on a legislative measure sponsored by a legislator or recommends an amendment to a legislative measure which would affect the health care coverage, the standing committee shall consider the impact, actuarially or otherwise, of the amendment or measure and may request the public employees retirement system provide an actuarial report or other analysis of the impact of the measure or amendments. If the public employees retirement system provides an analysis or other report under this subsection, the public employees retirement system may pay for the analysis or other report in the same manner as provided under subdivision b of subsection 3.
5. Upon receipt of findings and recommendations of the committee, the legislative management may make recommendations to the retirement board and the public employees retirement system.
6. This section does not require the retirement board or the public employees retirement system to disclose to the committee confidential or exempt information or records. However, upon request of the committee, the retirement board or public employees retirement system shall provide the committee with aggregate information as appropriate.

7. As used in this section, the term "health care coverage" means a uniform group insurance plan for hospital, medical, or prescription drug benefits coverage for an eligible employee which is provided under section 54-52.1-02.

**SECTION 11.** A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board shall establish policies and implement procedures to make and collect payments in the most cost-effective manner, including the use of electronic transfer of funds.

**SECTION 12. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the board determines that ~~any~~ a section or the phraseology of ~~any~~ a section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee. If the board seeks the approval of the employee benefits programs committee under this section, the board shall notify the public employee health care coverage committee. The board may assume responsibility for group purchasing arrangements as provided by federal law. ~~Any~~ A plan ~~modifications~~ modification made by the board under this section ~~are~~ is effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 13. EXPIRATION DATE.** Section 8, 9, 10, and 12 of this Act are effective through July 31, 2019, and after that date are ineffective.

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1023.

House Vote:    Yeas 80            Nays 8            Absent 6

Senate Vote:    Yeas 30            Nays 15           Absent 2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State