

1 HOUSE BILL 421

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HEALTH COVERAGE; AMENDING SECTIONS OF THE GROUP
12 BENEFITS ACT TO PROVIDE FOR PARTICIPATION BY CERTAIN NONPROFIT
13 ENTITIES.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 10-7B-2 NMSA 1978 (being Laws 1989,
17 Chapter 231, Section 2, as amended) is amended to read:

18 "10-7B-2. DEFINITIONS.--As used in the Group Benefits
19 Act:

20 A. "committee" means the group benefits committee;

21 B. "director" means the director of the risk
22 management division of the general services department;

23 C. "eligible nonprofit entity" means an entity
24 that, by the date set by the director for providing written
25 notice of participation pursuant to Subsection F of Section

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1 10-7B-6 NMSA 1978, provides the director written evidence of
2 the following:

3 (1) designation as a nonprofit entity pursuant
4 to Section 501(c)(3) of the federal Internal Revenue Code of
5 1986; and

6 (2) receipt of at least fifty percent of the
7 entity's annual operating budget through public funds,
8 including federal, state or local government funds;

9 ~~[G-]~~ D. "employee" means a salaried officer,
10 employee or legislator of the state; a salaried officer or an
11 employee of a local public body; or an elected or appointed
12 supervisor of a soil and water conservation district;

13 ~~[D-]~~ E. "local public body" means any New Mexico
14 incorporated municipality, county or school district;

15 ~~[E-]~~ F. "professional claims administrator" means
16 any person or legal entity that has at least five years of
17 experience handling group benefits claims, as well as such
18 other qualifications as the director may determine from time to
19 time with the committee's advice;

20 ~~[F-]~~ G. "small employer" means a person having
21 for-profit or nonprofit status that employs an average of fifty
22 or fewer persons over a twelve-month period; and

23 ~~[G-]~~ H. "state" or "state agency" means the state
24 of New Mexico or any of its branches, agencies, departments,
25 boards, instrumentalities or institutions."

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1 SECTION 2. Section 10-7B-6 NMSA 1978 (being Laws 1989,
2 Chapter 231, Section 6, as amended) is amended to read:

3 "10-7B-6. STATE EMPLOYEES GROUP BENEFITS SELF-INSURANCE
4 PLAN--AUTHORIZATION--LOCAL PUBLIC BODY PARTICIPATION--ELIGIBLE
5 NONPROFIT ENTITY PARTICIPATION.--

6 A. The risk management division of the general
7 services department may, with the prior advice of the
8 committee, establish and administer a group benefits
9 self-insurance plan, providing life, vision, health, dental and
10 disability coverages, or any combination of such coverages, for
11 employees of the state, [~~and of~~] participating local public
12 bodies and participating eligible nonprofit entities. Any such
13 group benefits self-insurance plan shall afford coverage for
14 employees' dependents at each employee's option. Any such
15 group benefits self-insurance plan may consist of self-
16 insurance or a combination of self-insurance and insurance;
17 provided that particular coverages or risks may be fully
18 insured, fully self-insured or partially insured and partially
19 self-insured.

20 B. The director, with the advice of the committee,
21 shall establish by regulation or letter of administration the
22 types, extent, nature and description of coverages, the
23 eligibility rules for participation, the deductibles, rates and
24 all other matters reasonably necessary to carry on or
25 administer a group benefits self-insurance plan established

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1 pursuant to Subsection A of this section.

2 C. The contribution of each participating state
3 agency to the cost of any such group benefits self-insurance
4 plan shall not exceed that percentage provided for state group
5 benefits insurance plans as provided by law. The contribution
6 of a participating local public body to the cost of any such
7 group benefits self-insurance plan shall not exceed that
8 percentage provided for local public body group benefits
9 insurance plans as provided by law. The contribution of a
10 participating eligible nonprofit entity to the cost of any such
11 group benefits self-insurance plan shall not exceed that
12 percentage provided for eligible nonprofit entity group
13 benefits insurance plans as provided by law.

14 D. Except as provided in Subsection E of this
15 section, public employees' contributions to the cost of any
16 group benefits self-insurance plan may be deducted from their
17 salaries and paid directly to the group self-insurance fund;
18 provided that where risks are insured or reinsured, the
19 director may authorize payment of the costs of such insurance
20 or reinsurance directly to the insurer or reinsurer.

21 E. A legislator and the legislator's covered
22 dependents and a soil and water conservation district
23 supervisor [~~or~~] and the supervisor's covered dependents are
24 eligible to participate in and receive benefits from the group
25 benefits self-insurance plan if the legislator or supervisor

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1 pays monthly premiums in amounts that equal one hundred percent
2 of the cost of the insurance. The premiums shall be paid
3 directly to the group self-insurance fund; provided that where
4 risks are insured or reinsured, the director may authorize
5 payment of the premiums directly to the insurer or reinsurer.

6 F. Local public bodies, eligible nonprofit entities
7 and state agencies that are not participating in the state
8 group benefits insurance plan or self-insurance plan may elect
9 to participate in any group benefits self-insurance plan
10 established pursuant to Subsection A of this section by giving
11 written notice to the director on a date set by the director,
12 which date shall not be later than ninety days prior to the
13 date participation is to begin. The director shall determine
14 an initial rate for the electing entity in accordance with a
15 letter of administration setting forth written guidelines
16 established by the director with the committee's advice. The
17 initial rate shall be based on the claims experience of the
18 electing entity's group for the three immediately preceding
19 continuous years. If three years of continuous experience [~~is~~]
20 are not available, a rate fixed for the entity by the director
21 with the committee's advice shall apply, and the electing
22 entity's group shall be reredated on the first premium
23 anniversary following the date one full year of experience for
24 the group becomes available. Any such election may be
25 terminated effective not earlier than June 30 of the third

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1 calendar year succeeding the year in which the election became
2 effective or on any June 30 thereafter. Notice of termination
3 shall be made in writing to the director not later than April 1
4 immediately preceding the June 30 on which participation will
5 terminate. A reelection to participate in the plan following a
6 termination ~~[may]~~ shall not be made effective for at least
7 three full years following the effective date of termination.

8 G. As soon as practicable, the director with the
9 committee's advice shall establish an experience rating plan
10 for state agencies, ~~[and]~~ local public bodies and eligible
11 nonprofit entities participating in any group benefits self-
12 insurance plan created pursuant to Subsection A of this
13 section. Rates applicable to state agencies, ~~[and]~~
14 participating local public bodies and participating eligible
15 nonprofit entities shall be based on ~~[such]~~ the experience
16 rating plan. ~~[Any such]~~ An experience rating plan may provide
17 separate rates for individual state agencies, ~~[and]~~ individual
18 local public bodies and individual eligible nonprofit entities
19 or for ~~[such other]~~ the experience centers ~~[as]~~ the director
20 ~~[may determine]~~ determines.

21 H. The division may establish a reasonable fee to
22 cover the costs of administering group benefits to eligible
23 nonprofit entities."

24 SECTION 3. Section 10-7B-7 NMSA 1978 (being Laws 1989,
25 Chapter 231, Section 7) is amended to read:

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1 "10-7B-7. GROUP SELF-INSURANCE FUND CREATED.--

2 A. The "group self-insurance fund" is created. The
3 fund and any income produced by the fund shall be held in trust
4 for the benefit of participating state agencies and their
5 employees, ~~and~~ local public bodies and their employees and
6 eligible nonprofit entities and their employees, deposited in a
7 segregated account and invested by the director with the advice
8 of the committee. Money in the fund shall be used solely for
9 the purposes of the fund and shall not be used to pay any
10 general or special obligation or debt of the state, other than
11 as authorized by this section. Balances in the fund in excess
12 of amounts needed for the purposes of the fund shall not be
13 used to pay dividends or refunds, however described, to
14 individual public employees or their dependents or to eligible
15 nonprofit entities or their employees, but may be used, in the
16 director's discretion, to reduce future contributions, to
17 provide additional benefits or as a reserve to stabilize
18 premiums.

19 B. The fund shall consist of money appropriated to
20 the fund, income from investment of the fund, employers'
21 contributions, employees' contributions, eligible nonprofit
22 entities' contributions, insurance or reinsurance proceeds and
23 other funds received by gift, grant, bequest or otherwise for
24 deposit in the fund, including ~~[but not limited to]~~ refunds of
25 amounts from prior state group life, vision, dental, health and

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1 disability insurance plans, all of which are hereby
2 appropriated to and for the purposes of the fund.

3 C. Disbursements from the fund shall be made by
4 warrant signed by the secretary of finance and administration
5 upon vouchers signed by the director. Lump sum disbursements
6 from the fund may be advanced, in the manner described in this
7 subsection, to a professional claims administrator to be used
8 to pay benefits. Such lump sum disbursements may be made not
9 more than weekly in advance. The professional claims
10 administrator shall keep any such lump sum advance in a
11 segregated account and shall hold the advance in trust for the
12 benefit of participating employees. On or before the last day
13 of each month, the professional claims administrator shall
14 prepare a request for replenishment of the lump sum
15 disbursement in the amount actually paid out for benefits
16 during the month. Not more than thirty days after the last day
17 of each month, the professional claims administrator shall make
18 and submit to the director a detailed report of expenditures of
19 any such lump sum advance during the month.

20 D. Money in the fund may be used by and is hereby
21 appropriated to the risk management division of the general
22 services department:

23 (1) to purchase life, vision, health, dental
24 and disability insurance, or any combination of these, for
25 state and local public body employees and eligible nonprofit

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1 entity employees participating in the group self-insurance plan
2 and their covered dependents, from an insurance company
3 determined to be the best responsible bidder, as defined in the
4 Procurement Code, after:

5 (a) requesting sealed proposals from
6 three or more insurance agents licensed in New Mexico; or

7 (b) requesting sealed proposals in
8 accordance with the provisions of the Procurement Code;

9 (2) to contract with and pay one or more
10 professional claims administrators;

11 (3) to contract with and pay private attorneys
12 or law firms for advice and for defense of contested claims
13 determinations;

14 (4) to contract with and pay qualified
15 independent actuaries, financial auditors and claims management
16 and procedures auditors;

17 (5) to contract with and pay consultants,
18 financial advisors and investment advisors for independent
19 consulting and advice;

20 (6) to pay reasonable investment commissions
21 and expenses;

22 (7) to make lump sum advances to any person or
23 firm acting as a professional claims administrator, such
24 advances to be used exclusively to pay benefits to
25 participating employees;

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1 (8) to pay benefits to or for participating
2 employees and their dependents;

3 (9) to pay any other costs and expenses
4 incurred in carrying out this section; and

5 (10) as otherwise provided by law.

6 E. The fund shall be maintained in actuarially
7 sound condition as evidenced by the annual written
8 certification of an actuary qualified for such work that, as of
9 June 30 of the current year, the fund was actuarially sound.

10 F. Annually on or before January 15, the director
11 shall submit to the legislature a report on any group self-
12 insurance plan created pursuant to Subsection A of Section [5
13 ~~of the Group Benefits Act~~] 10-7B-6 NMSA 1978, a financial audit
14 of the fund and a claims management and procedures audit by a
15 qualified claims auditor for the one-year period ending on June
16 30 immediately preceding the report. With respect to claims
17 files, the claims audit may, in the director's discretion, be
18 limited to a random sampling."

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