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HOUSE BILL 358

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DANICE PICRAUX

FOR THE HEALTH CARE REFORM COMMITTEE

AN ACT

RELATING TO PUBLICLY FUNDED HEALTH CARE PROGRAMS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978 TO PROVIDE FOR CONSOLIDATION OF NEGOTIATION AND PURCHASING OF INSURANCE.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 4 of this act may be cited as the "Health Care Purchasing Act".

Section 2. [NEW MATERIAL] PURPOSE OF ACT. -- The purpose of the Health Care Purchasing Act is to ensure public employees, public school employees and retirees of public employment and the public schools access to more affordable and enhanced quality of health insurance through cost containment and savings effected by procedures for consolidating and purchasing of publicly financed health insurance.

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1 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
2 Health Care Purchasing Act:

3 A. "consolidated purchasing" means a single process
4 for the procurement and contracting for health care benefits
5 with one contractor for the same services by the publicly funded
6 health care agencies in compliance with the competitive sealed
7 proposal process of the Procurement Code and includes related
8 activities such as actuarial, cost containment and benefits
9 consultation and analysis; and

10 B. "publicly funded health care agency" means the:

- 11 (1) risk management division and the group
12 benefits committee of the general services department;
13 (2) retiree health care authority;
14 (3) public school insurance authority; and
15 (4) publicly funded health care program of any
16 public school district with a student enrollment in excess of
17 sixty thousand students.

18 Section 4. [NEW MATERIAL] MANDATORY CONSOLIDATED
19 PURCHASING. --Consolidated purchasing shall be required among all
20 publicly funded health care agencies' requests for proposals for
21 publicly funded health insurance on or after July 1, 1999 and
22 for all publicly funded health insurance contracts renewed or
23 issued on or after July 1, 2000. No such agency shall enter
24 into any other contracts for health benefits except to the
25 extent that medicare supplemental coverage and long-term care

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1 coverage are not included in the scope of the consolidated
2 purchasing benefit plan. In conducting the consolidated
3 purchasing required by this section, the publicly funded health
4 care agencies shall offer a single consolidated purchasing
5 benefit plan for all the agencies.

6 Section 5. Section 10-7C-7 NMSA 1978 (being Laws 1990,
7 Chapter 6, Section 7) is amended to read:

8 "10-7C-7. BOARD--DUTIES.--In order to achieve the purposes
9 of the Retiree Health Care Act, the board may take all actions
10 reasonably necessary to implement that act, including but not
11 limited to the following:

12 A. employ or contract for the services of the state
13 fiscal agent or select its own fiscal agent in accordance with
14 the Procurement Code;

15 B. employ or contract for persons to assist it in
16 carrying out the Retiree Health Care Act and determine the
17 duties and compensation of these employees;

18 C. collect and disburse funds;

19 D. collect all current and historical claims and
20 financial information necessary for effective procurement of
21 lines of insurance coverage;

22 E. promulgate and adopt necessary rules, regulations
23 and procedures for implementation of the Retiree Health Care
24 Act;

25 F. negotiate insurance policies covering additional

1 or lesser benefits as determined appropriate by the board, but
2 the board shall maintain all coverage as required by federal or
3 state law for each eligible retiree. In the event it is
4 practical to wholly self-insure part or all of the retiree
5 health care coverages, the board may do so;

6 G. procure group health care and other coverages
7 authorized by the Retiree Health Care Act in accordance with the
8 Procurement Code and the Health Care Purchasing Act;

9 H. establish the procedures for contributions and
10 deductions;

11 I. determine methods and procedures for claims
12 administration;

13 J. administer the fund;

14 K. contract for and make available to all eligible
15 retirees and eligible dependents basic and optional group health
16 insurance plans. The optional coverage may include a lower
17 deductible, lower coinsurance or additional categories of
18 benefits permitted under this section and all other applicable
19 sections of the Retiree Health Care Act to provide additional
20 levels of coverages and benefits. Any additional contributions
21 for these optional plans shall be paid for by the eligible
22 retiree or eligible dependent. The coverage provided by the
23 [~~plan or~~] plans shall be secondary to all other benefit
24 coverages to which the eligible retiree or eligible dependent is
25 entitled. In the event a covered eligible retiree becomes

1 employed by an employer offering its employees a basic plan of
2 benefits, the coverage provided by the plan under the Retiree
3 Health Care Act shall be secondary to such coverage regardless
4 of whether the employee enrolls in that employer's plan. In the
5 event the eligible retiree or eligible dependent is entitled to
6 receive medicare hospital insurance benefits at no charge, then
7 the coverage provided by the plan under the Retiree Health Care
8 Act shall be secondary to medicare hospital and medical
9 insurance to the extent permitted by federal law;

10 L. provide, at its discretion, different plans for
11 eligible retirees and eligible dependents covered by medicare
12 than the plans provided for eligible retirees and eligible
13 dependents who are not covered by medicare; and

14 M promulgate and adopt rules and regulations
15 governing eligibility, participation, enrollment, length of
16 service and any other conditions or requirements for providing
17 substantially equal treatment to participating employers who are
18 independent public employers and their retirees and
19 participating employees. "

20 Section 6. Section 15-7-3 NMSA 1978 (being Laws 1978,
21 Chapter 166, Section 8, as amended) is amended to read:

22 "15-7-3. ADDITIONAL POWERS AND DUTIES OF THE RISK
23 MANAGEMENT DIVISION. --

24 A. The risk management division of the general
25 services department may:

Underscored material = new
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1 (1) enter into contracts;
2 (2) procure insurance, reinsurance or employee
3 group benefits; provided that any proposal or contract for the
4 procurement of any group health care benefits shall be subject
5 to the provisions of the Health Care Purchasing Act; and
6 provided further that reinsurance or excess coverage insurance
7 may be placed by private negotiation, notwithstanding the
8 provisions of the Procurement Code, if [~~such~~] the insurance or
9 reinsurance has a restricted number of interested carriers, the
10 board determines that [~~such~~] the coverage is in the interest of
11 the state and cannot otherwise be procured for a reasonable cost
12 and the director seeks the advice and review of the board in
13 [~~such~~] the placement and in designing private negotiation
14 procedures;

15 (3) in the manner prescribed by Subsection E of
16 Section 9-17-5 NMSA 1978, after a notice and a public hearing,
17 prescribe by regulation reasonable and objective underwriting
18 and safety standards for governmental entities and reasonable
19 standards for municipal self-insurance pooling agreements
20 covering liability under the Tort Claims Act and adopt such
21 other regulations as may be deemed necessary;

22 (4) compromise, adjust, settle and pay claims;

23 (5) pay expenses and costs;

24 (6) in the manner prescribed by Subsection E of
25 Section 9-17-5 NMSA 1978, prescribe by rule or regulation the

1 rating bases, assessments, penalties and risks to be covered by
2 the public liability fund, the workers' compensation retention
3 fund and the public property reserve fund and the extent such
4 risks are to be covered;

5 (7) issue certificates of coverage in
6 accordance with Paragraph (6) of this subsection:

7 (a) to any governmental entity for any
8 tort liability risk covered by the public liability fund;

9 (b) to any governmental entity for any
10 personal injury liability risk or for the defense of any errors
11 or act or omission or neglect or breach of duty, including the
12 risks set forth in Paragraph (2) of Subsection B and Paragraph
13 (2) of Subsection D of Section 41-4-4 NMSA 1978; and

14 (c) to any governmental entity for any
15 part of risk covered by the workers' compensation retention
16 fund, the surety bond fund or the public property reserve fund;

17 (8) study the risks of all governmental
18 entities;

19 (9) initiate the establishment of safety
20 programs and adopt regulations to carry out such programs in the
21 manner prescribed by Subsection E of Section 9-17-5 NMSA 1978;

22 (10) hire a safety program director who shall
23 coordinate all safety programs of all state agencies;

24 (11) consult with and advise local public
25 bodies on their risk management problems; and

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1 (12) employ full-time legal counsel who shall
2 be under the exclusive control and supervision of the director
3 and the secretary of general services.

4 B. The risk management division of the general
5 services department shall provide liability coverage for the
6 following risks:

7 (1) a claim made pursuant to the provisions of
8 42 U.S.C. Section 1983 against a nonprofit corporation, members
9 of its board of directors or its employees when the claim is
10 based upon action taken pursuant to the provisions of a contract
11 between the corporation and the department of health under which
12 the corporation provides developmental disability services to
13 clients of the department and the claim is made by or on behalf
14 of a client; and

15 (2) a claim made pursuant to the provisions of
16 42 U.S.C. Section 1983 against a nonprofit corporation, members
17 of its board of directors or its employees when the corporation
18 operates a facility licensed by the department of health as an
19 intermediate care facility for the mentally retarded and the
20 claim is based upon action taken pursuant to the provisions of
21 the license and is made by or on behalf of a resident of the
22 licensed facility.

23 C. The director shall report his findings and
24 recommendations, if any, for the consideration of each
25 legislature. The report shall include the amount and name of

1 any person receiving payment from the public liability fund of
2 any claim paid during the previous fiscal year exceeding one
3 thousand dollars (\$1,000). The report shall be made available
4 to the legislature on or before December 15 preceding each
5 regular legislative session."

6 Section 7. Section 22-2-6.7 NMSA 1978 (being Laws 1986,
7 Chapter 94, Section 7, as amended) is amended to read:

8 "22-2-6.7. AUTHORITY--DUTIES.--In order to effectuate the
9 purposes of the Public School Insurance Authority Act, the
10 authority has the power to:

11 A. employ the services of the state fiscal agent or
12 select its own fiscal agent pursuant to regulations adopted by
13 the board; provided that for the purposes of disbursing all
14 money other than that in the fund, the secretary of finance and
15 administration shall be the fiscal agent for the authority;

16 B. enter into professional services and consulting
17 contracts or agreements as necessary;

18 C. collect, provide for the investment of and
19 disburse money in the fund;

20 D. collect all current and historical claims and
21 financial information necessary for effective procurement of
22 lines of insurance coverage;

23 E. promulgate necessary rules, regulations and
24 procedures for implementation of the Public School Insurance
25 Authority Act;

Underscored material = new
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1 F. negotiate new insurance policies covering
2 additional or lesser benefits as determined appropriate by the
3 authority, but the authority shall maintain all coverage levels
4 required by federal and state law for each participating member.
5 In the event it is practical to wholly self-insure a particular
6 line of coverage, the authority may do so;

7 G. procure lines of insurance coverage in compliance
8 with the provisions of the Health Care Purchasing Act and the
9 competitive sealed proposal process of the Procurement Code;
10 provided that any group medical insurance plan offered pursuant
11 to this section shall include effective cost-containment
12 measures to control the growth of health care costs. The board
13 shall report annually by September 1 to appropriate interim
14 legislative committees on the effectiveness of the
15 cost-containment measures required by this subsection;

16 H. purchase, renovate, equip and furnish a building
17 for the board. The board shall consider purchasing a building
18 in a community with a population of forty thousand or less; and

19 I. loan from its seventy-eighth fiscal year budget
20 to the retiree health care authority an amount not exceeding
21 five hundred thousand dollars (\$500,000) to be used for retiree
22 health care authority start-up costs. The loan shall bear
23 interest at a rate equal to the rate of return or yield for
24 ten-year United States treasury bonds existing on the date of
25 the loan closing. Principal and interest shall be paid back

1 before the end of the seventy-ninth fiscal year. "

2 Section 8. EFFECTIVE DATE. --The effective date of the
3 provisions of this act is July 1, 1997.

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State of New Mexico
House of Representatives

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4 FORTY-THIRD LEGISLATURE
5 FIRST SESSION, 1997
6
7

8 February 20, 1997
9

10
11 Mr. Speaker:
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13 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
14 been referred

15 HOUSE BILL 358
16

17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:
19

20 1. On page 1, line 24, strike "and" and insert in lieu
21 thereof "the".

22 2. On page 2, strike all of lines 3 through 9, and insert in
23 lieu thereof the following:
24

25 "A. "consolidated purchasing" means a single process

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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1
2 for the procurement of all health care benefits by the publicly
3 funded insurance agencies in compliance with the Procurement Code
4 and includes associated activities related to the procurement such
5 as actuarial, cost containment, benefits consultation and
6 analysis; and".

7 3. On pages 2 and 3, strike all of Section 4 and insert in
8 lieu thereof the following new section:

9 "Section 4. [NEW MATERIAL] MANDATORY CONSOLIDATED
10 PURCHASING. --

11
12 A. The agencies shall enter into a cooperative
13 consolidated purchasing effort to provide plans of health care
14 benefits for the benefit of eligible participants of the
15 respective agencies. The request for proposal shall set forth one
16 or more plans of health care benefits and shall include
17 accommodation of fully funded arrangements as well as varying
18 degrees of self-funded pool options.

19 B. A consolidated purchasing request for proposals for
20 all health care benefits by the publicly funded health care
21 agencies shall be issued on or before July 1, 1999 and any
22 contracts for health care benefits renewed or issued on or after
23 July 1, 2000 shall be the result of consolidated purchasing.

24 C. All requests for proposals issued as part of the
25 consolidated purchasing shall include at least one distinct

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FIRST SESSION, 1997

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service area consisting of the Albuquerque metropolitan area.
Proposals on a distinct service area shall be evaluated
separately. "

4. On page 10, line 17, after the period strike the
remainder of the line and lines 18 through 25, and on page 11,
strike all of line 1 up to the quotation marks.,
and thence referred to the APPROPRIATIONS AND FINANCE
COMMI TTEE.

Respectfully submitted,

Fred Luna, Chair man

Adopted _____

Not Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

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The roll call vote was 9 For 0 Against
Yes: 9
Excused: Corley, Getty, Olguin, Varela
Absent: None

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Underscored material = new
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**State of New Mexico
House of Representatives**

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 25, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred

HOUSE BILL 358, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Max Coll, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 2 Against

Yes: 10

No: Bird, Buffett

Excused: Heaton, Saavedra, Varela, Wallace, Watchman

Absent: None

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FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 12, 1997

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
whom has been referred

HOUSE BILL 358, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Roman M. Maes, III, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Fidel, Robinson

Absent: None

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Underscored material = new
[bracketed material] = delete