

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1326

H.P. 972

House of Representatives, March 28, 2011

### **An Act To Allow School Administrative Units To Seek Less Expensive Health Insurance Alternatives**

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative SARTY of Denmark.

Cosponsored by Representative McKANE of Newcastle, Senator WHITTEMORE of Somerset and Representatives: CHASE of Wells, COTTA of China, CURTIS of Madison, JOHNSON of Greenville, KESCHL of Belgrade, SANDERSON of Chelsea, WEAVER of York, Senator: COURTNEY of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §1001, sub-§5**, as repealed and replaced by PL 1989, c. 425,  
3 §1, is amended to read:

4 **5. Insurance premiums and employee benefits.** They may:

5 A. Pay the premiums on life, health, dental, disability, accident, hospitalization,  
6 major medical and such other types of insurance as may be provided to employees  
7 and their families from time to time;

8 B. Provide direct reimbursement of the costs incurred by employees and their family  
9 members pursuant to a direct reimbursement plan for dental costs, including  
10 endodontic, periodontic and orthodontic costs, ~~provided except~~ that reimbursement of  
11 orthodontic costs ~~shall be~~ is limited to 60% of the plan participant's costs.

12 (1) Prior to the commencement of operation of any such direct reimbursement  
13 plan or program, the school board shall adopt guidelines ~~which that~~ embody a  
14 funding mechanism adequate to the financial needs of the plan or program and  
15 shall provide for the fixed costs of operations of the plan for the first prospective  
16 fund year. A reasonable amount sufficient to satisfy immediate claims costs ~~shall~~  
17 must be held in a segregated account to be used solely for this purpose.

18 (2) The school board or other legal entity establishing a plan or program for the  
19 purpose of direct reimbursement pursuant to this paragraph, whether or not a  
20 body corporate, may with respect to the plan or program sue or be sued; make  
21 contracts; hold and dispose of real property; borrow money, contract debts and  
22 pledge assets in the name of the plan; and perform such other actions incidental  
23 to this subparagraph as necessary.

24 (3) The plan or program may be established as a separate legal or administrative  
25 entity.

26 (4) The legal entity ~~which that~~ establishes a plan or program ~~which that~~ provides  
27 coverage for more than one school administrative unit with respect to the benefits  
28 authorized in this paragraph shall adopt a plan of management ~~which that~~, at a  
29 minimum, provides the following:

30 (a) The means of establishing and maintaining a governing authority of the  
31 program, including the selection of a governing authority, which ~~shall must~~  
32 be a board of directors or trustees for the plan, a majority of whom ~~shall must~~  
33 be from the participating school administrative unit or units;

34 (b) That the governing authority has the responsibility with regard to fixing  
35 contributions to the plan, maintaining reserves, levying and collecting  
36 assessments for deficiencies, disposing of surplus and administering the plan  
37 in the event of its termination, liquidation or insolvency;

38 (c) The identification of funds and reserves by the type of benefit provided  
39 and exposure area;

40 (d) The basis upon which new members may be admitted to and existing  
41 members may leave the plan;

1 (e) That any member of a group plan or pool established for more than one  
2 school administrative unit shall prepay to the plan administrator an initial  
3 deposit equal to 25% of the annual contribution before coverage is effective;

4 (f) Other provisions as necessary or desirable for the operation of the plan;

5 (g) A provision that if the assets set aside in any group plan for more than  
6 one school administrative unit are at any time determined to be insufficient to  
7 enable the plan to discharge its legal liabilities and other obligations and to  
8 maintain sound reserves for the provision of the employee benefits provided  
9 by the plan, the governing authority shall within 90 days satisfy the  
10 deficiency or levy a prorated assessment upon the participating school  
11 administrative unit or units for the amount needed to satisfy the deficiency.  
12 The agreement among school administrative units in the group plan ~~shall~~  
13 must provide sanctions for failure to comply with a mandatory assessment  
14 under this subparagraph;

15 (5) Prior to the operation of any group or pool plan for more than one school  
16 administrative unit, the governing authority shall adopt underwriting guidelines  
17 ~~which that~~ embody rate charges to prospective members at a level adequate to its  
18 financial needs and shall provide for the fixed costs of operations for the first  
19 prospective fund year. An amount sufficient to reasonably meet immediate  
20 claims costs ~~shall~~ must be held in a segregated account to be used solely for this  
21 purpose. Funds determined to be necessary to fund the program on an ongoing  
22 basis ~~shall~~ must also be held in a segregated account;

23 (6) Each group plan or pool established for more than one school administrative  
24 unit shall file with its members, by the last day of the 6th month following the  
25 end of the fiscal year, audited financial statements certified by an independent  
26 certified public accountant. The financial statement ~~shall~~ must include, but is not  
27 limited to:

28 (a) Appropriate reserves for known claims and expenses associated with  
29 those claims;

30 (b) Claims incurred but not reported and expenses associated with those  
31 claims;

32 (c) Unearned contributions; and

33 (d) Reserve for bad debts.

34 The audited financial statement ~~shall~~ must include information concerning the  
35 adequacy of the plan. This report ~~shall~~ must result from a charge by the directors  
36 to the plan's actuary and auditor and ~~shall~~ must address excess insurance, charges  
37 for coverage to members, service agents' costs and costs of administration of the  
38 program.

39 Two additional copies of the audited financial statements ~~shall~~ must be filed with  
40 the Superintendent of Insurance.

41 If a group plan or pool established for more than one school administrative unit  
42 fails to provide for the audited financial statements required, the Superintendent

1 of Insurance shall perform or cause to be performed the audit. The group plan or  
2 pool shall reimburse the Superintendent of Insurance for the cost of the audit; and

3 (7) Any reimbursement plan or program for the provision of the employee  
4 benefits established and operated pursuant to this paragraph is not an insurance  
5 company, reciprocal insurer or insurer under the laws of this State and the  
6 development, administration and provision of such plans and programs does not  
7 constitute doing an insurance business;

8 C. Pay premiums on liability insurance for employees and school officials; and

9 D. Provide such other employee benefits, directly or indirectly, to their employees as  
10 any school board determines from time to time, upon such terms and conditions and  
11 in such manner as the school board determines, subject to the requirements of all  
12 applicable laws.

13 Nothing in this subsection or subsection 14 prohibits a school board from arranging for  
14 and offering a choice of optional health or dental insurance plans to employees and their  
15 families that may vary in benefits provided and costs.

16 **Sec. 2. 20-A MRSA §1001, sub-§5-D** is enacted to read:

17 **5-D. Group self-insured options.** Notwithstanding any other provision of this  
18 section, they may arrange for a group self-insurance program to provide health or dental  
19 insurance for employees and their families, including a group self-insurance program  
20 established through an interlocal agreement with other school administrative units or  
21 municipalities established pursuant to Title 30-A, chapter 115. The following restrictions  
22 apply to self-insured group health or dental programs.

23 A. For purposes of this subsection, unless the context otherwise indicates, the  
24 following terms have the following meanings.

25 (1) "Program" means a group self-insurance health or dental program.

26 (2) "Program provider" means a school administrative unit that has arranged for  
27 a program under this subsection or collectively those school administrative units  
28 or municipalities that have entered an interlocal agreement to arrange for a  
29 program under this subsection.

30 (3) "Qualified actuary" means an actuary who is a member of the American  
31 Academy of Actuaries qualified as to health reserving methodologies.

32 B. To the extent the program provider assumes the risk with respect to any program  
33 provided under this subsection, the program provider shall maintain a reserve at least  
34 equal to the sum of:

35 (1) An amount estimated to be necessary to pay claims and administrative costs  
36 for the assumed risk for 2 1/2 months; and

37 (2) The amount determined annually by a qualified actuary to be necessary to  
38 fund the unpaid portion of ultimate expected losses, including incurred but not  
39 reported claims, and related expenses incurred in the provision of benefits for  
40 eligible participants, less any credit, as determined by a qualified actuary, for  
41 excess or stop-loss insurance.

1 If the program provider self-insures for more than one program, a reserve meeting the  
2 requirements of this paragraph must be maintained for each program.

3 C. The program provider may purchase excess or stop-loss insurance for any  
4 program, with attachment levels and limits as recommended by a qualified actuary.

5 D. Paragraph B does not apply to a program in the first 2 years after the program is  
6 changed from a fully insured program to a fully or partially self-insured program.  
7 Before a program may begin its first year of operation:

8 (1) The reserve fund must contain a reserve at least equal to the amount  
9 estimated to be necessary to pay the claims and administrative costs with respect  
10 to the assumed risk for one full month; and

11 (2) The rate structure of the program, as certified by a qualified actuary, must be  
12 designed to enable the fund to attain the following reserve levels:

13 (a) By the end of the first year of the program, the reserve required by  
14 paragraph B, subparagraph (2) and an amount estimated to be necessary to  
15 pay claims and administrative costs for the assumed risk for 2 full months;  
16 and

17 (b) By the end of the 2nd year of the program, the reserve required by  
18 paragraph B, subparagraph (2) and an amount estimated to be necessary to  
19 pay claims and administrative costs for the assumed risk for 2 1/2 full  
20 months.

21 If the program provider purchases stop-loss or excess insurance with respect to the  
22 risk, the required reserve is reduced by the credit specified in paragraph B. A  
23 self-insurance program may not continue if the reserve fund with respect to that  
24 program does not contain the amounts set forth in subparagraph (2) by the time limits  
25 established.

26 E. The program provider may not enter into a contract with a 3rd-party administrator  
27 that has not demonstrated compliance with all applicable state laws and that is not, at  
28 the time of entering into the contract, administering a health plan or providing health  
29 care coverage for a total number of lives equal to the number that would be covered  
30 by the program provider contract.

31 F. Every applicant to provide service as a 3rd-party administrator for the program  
32 shall file a fidelity bond in favor of the program provider executed by a surety  
33 company for the benefit of the program provider or beneficiaries of the program and  
34 shall maintain the fidelity bond in force while representing the program. The bond  
35 must be continuous in form and in one of the following amounts, up to \$1,000,000:

36 (1) For an administrator that collects contributions and premiums for a program  
37 but does not administer or pay claims, the greater of \$50,000 and 5% of  
38 contributions and premiums projected to be received or collected for the  
39 following plan year from the program provider or from persons covered by the  
40 program;

41 (2) For an administrator that administers and pays claims but does not collect  
42 premiums and contributions, the greater of \$50,000 and 5% of the claims and

1 claim expenses projected to be held for the following year to pay claims and  
2 claim expenses for persons covered by the program; or

3 (3) For an administrator that collects premiums and contributions and  
4 administers and pays claims, the greater of the amounts determined under  
5 subparagraphs (1) and (2).

6 This paragraph applies only if no other applicable state law requires bonding of  
7 3rd-party administrators.

8 G. Any contract entered into by the program provider must provide for coverage that  
9 meets the same level of benefits as those that would be required by state law if the  
10 coverage were provided by a health insurance plan governed by Title 24 or Title  
11 24-A.

12 **Sec. 3. 24 MRSA §2307-C** is enacted to read:

13 **§2307-C. Information concerning school administrative unit's experience rating**

14 Notwithstanding any provisions of law governing confidentiality to the contrary, a  
15 nonprofit hospital or medical service organization shall provide information concerning a  
16 school administrative unit's own experience and claims history as a member covered  
17 under a group policy or contract to that school administrative unit at that school  
18 administrative unit's own request and to a municipality that is part of the school  
19 administrative unit if the municipality so requests.

20 **Sec. 4. 24-A MRSA §2803-B** is enacted to read:

21 **§2803-B. Information concerning school administrative unit's experience rating**

22 Notwithstanding any provisions of law governing confidentiality to the contrary, an  
23 insurer shall provide information concerning a school administrative unit's own  
24 experience and claims history as a member covered under a group policy or contract to  
25 that school administrative unit at that school administrative unit's own request and to a  
26 municipality that is part of the school administrative unit if the municipality so requests.

27 **Sec. 5. 24-A MRSA §4224-B** is enacted to read:

28 **§4224-B. Information concerning school administrative unit's experience rating**

29 Notwithstanding any provisions of law governing confidentiality to the contrary, a  
30 health maintenance organization shall provide information concerning a school  
31 administrative unit's own experience and claims history as a member covered under a  
32 group policy or contract to that school administrative unit at that school administrative  
33 unit's own request and to a municipality that is part of the school administrative unit if the  
34 municipality so requests.

1 **SUMMARY**

2 This bill allows school administrative units to offer group self-insurance health and  
3 dental programs and to enter into cooperative agreements with other school  
4 administrative units or municipalities to provide such programs.

5 The bill provides that school administrative units may arrange for and offer a choice  
6 of optional health or dental insurance plans to employees and their families that may vary  
7 in benefits provided and costs.

8 The bill also requires insurers, health maintenance organizations and nonprofit  
9 hospital or medical service organizations to provide information concerning a school  
10 administrative unit's own experience and claims history as a member covered under a  
11 group policy or contract to that school administrative unit at that unit's own request and to  
12 a municipality that is part of the school administrative unit if the municipality so requests.