

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 63**

May 4, 1999 – Offered by COMMITTEE ON SMALL BUSINESS AND ECONOMIC
DEVELOPMENT.

1 **AN ACT to repeal** 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5), 20.515 (2) (title),
2 20.515 (2) (a), 20.515 (2) (b), 20.515 (2) (g) and subchapter X of chapter 40
3 [precedes 40.98]; **to amend** 40.02 (26) (intro.), 40.02 (26) (intro.), 40.02 (28) and
4 40.02 (28); and **to create** 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5), 20.515 (2)
5 (title), 20.515 (2) (a), 20.515 (2) (b), 20.515 (2) (g) and subchapter X of chapter
6 40 [precedes 40.98] of the statutes; **relating to:** requiring the department of
7 employe trust funds to establish a health care coverage program for employers
8 in the private sector, creating a private employer health care coverage board,
9 providing a grant to the administrator of the health care coverage program and
10 making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

11 **SECTION 1.** 13.94 (1) (p) of the statutes is created to read:

1 13.94 (1) (p) No later than January 1, 2008, prepare a program evaluation audit
2 of the private employer health care coverage program established under subch. X of
3 ch. 40. The legislative audit bureau shall file a copy of the audit report under this
4 paragraph with the distributees specified in par. (b).

5 **SECTION 2.** 13.94 (1) (p) of the statutes, as created by 1999 Wisconsin Act
6 (this act), is repealed.

7 **SECTION 3.** 15.07 (1) (b) 21. of the statutes is created to read:

8 15.07 (1) (b) 21. Private employer health care coverage board.

9 **SECTION 4.** 15.07 (1) (b) 21. of the statutes, as created by 1999 Wisconsin Act
10 (this act), is repealed.

11 **SECTION 5.** 15.165 (5) of the statutes is created to read:

12 15.165 (5) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. (a) There is created
13 in the department of employe trust funds a private employer health care coverage
14 board consisting of the secretary of employe trust funds or his or her designee, the
15 secretary of health and family services or his or her designee and the following
16 members appointed for 3–year terms:

17 1. One member who represents health maintenance organizations.

18 2. One member who represents hospitals.

19 3. One member who represents insurance agents, as defined in s. 628.02 (4).

20 4. Two members who are employes eligible to receive health care coverage
21 under subch. X of ch. 40 and whose employer employs not more than 50 employes.

22 5. One member who represents insurers.

23 6. Two members who are, or who represent, employers that employ not more
24 than 50 employes and who are eligible to offer health care coverage under subch. X
25 of ch. 40.

1 7. One member who is a physician, as defined in s. 448.01 (5).

2 (b) The secretary of employe trust funds or his or her designee and the secretary
 3 of health and family services or his or her designee shall be nonvoting members.

4 **SECTION 6.** 15.165 (5) of the statutes, as created by 1999 Wisconsin Act (this
 5 act), is repealed.

6 **SECTION 7.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
 7 the following amounts for the purposes indicated:

	1999-00	2000-01
--	----------------	----------------

9 **20.515 Employe trust funds, department of**

10 (2) PRIVATE EMPLOYER HEALTH CARE COVERAGE
 11 PROGRAM

12 (a) Private employer health care				
13 coverage program; start-up costs	GPR	B	200,000	-0-

14 (b) Grant for program administra-				
15 tor's costs	GPR	B	200,000	-0-

16 **SECTION 8.** 20.515 (2) (title) of the statutes is created to read:

17 20.515 (2) (title) PRIVATE EMPLOYER HEALTH CARE COVERAGE PROGRAM.

18 **SECTION 9.** 20.515 (2) (title) of the statutes, as created by 1999 Wisconsin Act
 19 (this act), is repealed.

20 **SECTION 10.** 20.515 (2) (a) of the statutes is created to read:

21 20.515 (2) (a) *Private employer health care coverage program; start-up costs.*

22 Biennially, the amounts in the schedule for the start-up costs for designing and
 23 contracting for administrative services for the private employer health care coverage
 24 program under subch. X of ch. 40.

1 **SECTION 11.** 20.515 (2) (a) of the statutes, as created by 1999 Wisconsin Act ...
2 (this act), is repealed.

3 **SECTION 12.** 20.515 (2) (b) of the statutes is created to read:

4 20.515 (2) (b) *Grant for program administrator's costs.* Biennially, the amounts
5 in the schedule for the grant under 1999 Wisconsin Act ... (this act), section 22 (3).

6 **SECTION 13.** 20.515 (2) (b) of the statutes, as created by 1999 Wisconsin Act ...
7 (this act), is repealed.

8 **SECTION 14.** 20.515 (2) (g) of the statutes is created to read:

9 20.515 (2) (g) *Private employer health care coverage plan.* All moneys received
10 under subch. X of ch. 40 from employers who elect to participate in the private
11 employer health care coverage program under subch. X of ch. 40, for the costs of
12 designing, marketing and contracting for administrative services for the program.

13 **SECTION 15.** 20.515 (2) (g) of the statutes, as created by 1999 Wisconsin Act ...
14 (this act), is repealed.

15 **SECTION 16.** 40.02 (26) (intro.) of the statutes is amended to read:

16 40.02 (26) (intro.) “Employe” means any person who receives earnings as
17 payment for personal services rendered for the benefit of any employer including
18 officers of the employer, except as provided in subch. X. An employe is deemed to
19 have separated from the service of an employer at the end of the day on which the
20 employe last performed services for the employer, or, if later, the day on which the
21 employe–employer relationship is terminated because of the expiration or
22 termination of leave without pay, sick leave, vacation or other leave of absence. A
23 person shall not be considered an employe if a person:

24 **SECTION 17.** 40.02 (26) (intro.) of the statutes, as affected by 1999 Wisconsin
25 Act ... (this act), is amended to read:

1 40.02 **(26)** (intro.) “Employee” means any person who receives earnings as
2 payment for personal services rendered for the benefit of any employer including
3 officers of the employer, ~~except as provided in subch. X.~~ An employe is deemed to
4 have separated from the service of an employer at the end of the day on which the
5 employe last performed services for the employer, or, if later, the day on which the
6 employe–employer relationship is terminated because of the expiration or
7 termination of leave without pay, sick leave, vacation or other leave of absence. A
8 person shall not be considered an employe if a person:

9 **SECTION 18.** 40.02 (28) of the statutes is amended to read:

10 40.02 **(28)** “Employer” means the state, including each state agency, any
11 county, city, village, town, school district, other governmental unit or
12 instrumentality of 2 or more units of government now existing or hereafter created
13 within the state ~~and~~, any federated public library system established under s. 43.19
14 whose territory lies within a single county with a population of 500,000 or more and
15 a local exposition district created under subch. II of ch. 229, except as provided under
16 ss. 40.51 (7) and 40.61 (3), ~~or a local exposition district created under subch. II of ch.~~
17 ~~229 and subch. X.~~ Each employer shall be a separate legal jurisdiction for OASDHI
18 purposes.

19 **SECTION 19.** 40.02 (28) of the statutes, as affected by 1999 Wisconsin Act ...
20 (this act), is amended to read:

21 40.02 **(28)** “Employer” means the state, including each state agency, any
22 county, city, village, town, school district, other governmental unit or
23 instrumentality of 2 or more units of government now existing or hereafter created
24 within the state, any federated public library system established under s. 43.19
25 whose territory lies within a single county with a population of 500,000 or more and

1 a local exposition district created under subch. II of ch. 229, except as provided under
2 ss. 40.51 (7) and 40.61 (3) ~~and subch. X~~. Each employer shall be a separate legal
3 jurisdiction for OASDHI purposes.

4 **SECTION 20.** Subchapter X of chapter 40 [precedes 40.98] of the statutes is
5 created to read:

6 **CHAPTER 40**

7 **SUBCHAPTER X**

8 **PRIVATE EMPLOYER HEALTH**

9 **CARE COVERAGE**

10 **40.98 Health care coverage. (1)** In this subchapter:

11 (ar) “Board” means the private employer health care coverage board.

12 (b) “Dependent” means a spouse, an unmarried child under the age of 19 years,
13 an unmarried child who is a full-time student under the age of 21 years and who is
14 financially dependent upon the parent, or an unmarried child of any age who is
15 medically certified as disabled and who is dependent upon the parent.

16 (c) “Employe” means any person who receives earnings as payment for personal
17 services rendered for the benefit of any employer including officers of the employer.
18 An employe is considered to have separated from the service of an employer at the
19 end of the day on which the employe last performed services for the employer, or, if
20 later, the day on which the employe–employer relationship is terminated because of
21 the expiration or termination of leave without pay, sick leave, vacation or other leave
22 of absence. A person shall not be considered an employe if any of the following
23 applies:

24 1. The person is employed under a contract involving the furnishing of more
25 than personal services.

1 2. The person is customarily engaged in an independently established trade,
2 business or profession providing the same type of services to more than one employer
3 and the person's services to an employer are not compensated for on a payroll of that
4 employer.

5 3. The person is a patient or inmate of a hospital, home or institution and
6 performs services in the hospital, home or institution.

7 (d) "Employer" means any person doing business or operating an organization
8 in this state and employing at least 2 employes. "Employer" does not include an
9 employer as defined in s. 40.02 (28).

10 (e) "Health care coverage program" means the health care coverage program
11 established under sub. (2) (a).

12 (f) "Insurer" has the meaning given in s. 600.03 (27).

13 **(2)** (a) 1. The department shall design an actuarially sound health care
14 coverage program for employers that includes more than one group health care
15 coverage plan and that provides coverage beginning not later than January 1, 2002.
16 The health care coverage program shall be known as the "Private Employer Health
17 Care Purchasing Alliance". In designing the health care coverage program, the
18 department shall consult with the office of the commissioner of insurance. The
19 health care coverage program may not be implemented until it is approved by the
20 board.

21 2. The department shall solicit and accept bids and enter into a contract for the
22 administration of the health care coverage plans under the program, based on
23 criteria established by the board.

1 3. The administrator selected under subd. 2. shall enter into contracts with
2 insurers who are to provide health care coverage under the health care coverage
3 program.

4 (b) Every health care coverage plan under the health care coverage program
5 is subject to the provisions of chs. 600 to 646 that apply to group health benefit plans,
6 as defined in s. 632.745 (9), to the same extent as any other group health benefit plan,
7 as defined in s. 632.745 (9).

8 (c) The health care coverage program established under par. (a), or any health
9 care coverage plan included in the program, may not be combined with any health
10 care coverage plan under subch. IV.

11 (d) All insurance rates for health care coverage under the program shall be
12 published annually in a single publication that is made available to employers and
13 employes. The rates may be listed by county or by any other regional factor that the
14 board considers appropriate.

15 (e) All plans under the health care coverage program shall have an enrollment
16 period that is established by the board.

17 (f) The administrator shall charge employers who participate in the health care
18 coverage program a fee to cover the cost of administrative services for the health care
19 coverage program. The administrator shall reimburse the department for the
20 expenses incurred by the department in designing, marketing and contracting for
21 administrative services for the program. All moneys received by the department
22 under this paragraph shall be credited to the appropriation account under s. 20.515
23 (2) (g).

24 (g) The department may not sell any health care coverage under the health care
25 coverage program to an employer or enroll any employe in the health care coverage

1 program, but the department shall make information about the program available
2 to employers on a statewide basis.

3 **(3)** Any employer who participates in the health care coverage program shall
4 do all of the following:

5 (a) Offer health care coverage under one or more plans to all of its permanent
6 employes who have a normal work week of 30 or more hours and may offer health
7 care coverage under one or more plans to any of its other employes.

8 (b) Provide health care coverage under one or more plans to at least 50% of its
9 permanent employes who have a normal work week of 30 or more hours and who do
10 not otherwise receive health care coverage as a dependent under any other plan that
11 is not offered by the employer or a percentage of such employes specified by the board,
12 whichever percentage is greater.

13 (c) Pay for each employe at least 50% but not more than 100% of the lowest
14 premium rate that would be available to the employer for that employe's coverage
15 under the health care coverage program.

16 (d) Make premium payments for the health care coverage of its employes in the
17 manner specified by the board.

18 **(4)** Any employer that provides health care coverage for its employes under the
19 program and that voluntarily terminates coverage under the program is not eligible
20 to participate in the program for at least 3 years from the date that coverage is
21 terminated.

22 **(5)** Any insurer that offers a health care coverage plan under the health care
23 coverage program shall provide coverage under the plan to any employer that applies
24 for coverage, and to all of the employer's employes who elect coverage under the
25 health care coverage plan, without regard to the health condition or claims

1 experience of any individual who would be covered under the health care coverage
2 plan if all of the following apply:

3 (a) The employer agrees to pay the premium required for coverage under the
4 health care coverage plan.

5 (b) The employer agrees to comply with all provisions of the health care
6 coverage plan that apply generally to a policyholder or an insured without regard to
7 health condition or claims experience.

8 **(6)** (a) Health care coverage under the health care coverage program may only
9 be sold by insurance agents licensed under ch. 628.

10 (b) An insurance agent may not sell any health care coverage under the health
11 care coverage program on behalf of an insurer unless he or she is employed by the
12 insurer or has a contract with the insurer to sell the health care coverage on behalf
13 of the insurer.

14 (c) The board shall set, and may adjust as often as semiannually, the
15 commission rate for the sale of a policy under the health care coverage program. The
16 rate shall be based on the average commission rate that insurance agents are paid
17 in the state for the sale of comparable health insurance policies at the time that the
18 rate is set or adjusted.

19 (d) An insurer shall specify on the first page of any policy sold under the health
20 care coverage program the amount of the commission paid to the insurance agent.

21 **(7)** (a) Annually, on or before December 31, the board shall submit a report to
22 the appropriate standing committees under s. 13.172 (3) and to the governor on the
23 operation of the health care coverage program. The report shall specify the number
24 of employers and employes participating in the health care coverage program,
25 calculate the costs of the health care coverage program to employers and their

1 employes and include recommendations for improving the health care coverage
2 program.

3 (b) No later than January 1, 2008, the board shall submit a report to the
4 appropriate standing committees under s. 13.172 (3) and to the governor that offers
5 recommendations as to whether the department should continue to be involved in
6 the design, marketing and contracting for administrative services for the health care
7 coverage program. If the board recommends that the department not be involved in
8 the performance of these functions, the board shall submit proposed legislation
9 eliminating the department's involvement in the performance of these functions to
10 the appropriate standing committees under s. 13.172 (3) at the time that the board
11 submits its report.

12 **SECTION 21.** Subchapter X of chapter 40 [precedes 40.98] of the statutes, as
13 created by 1999 Wisconsin Act (this act), is repealed.

14 **SECTION 22. Nonstatutory provisions.**

15 (1) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. Notwithstanding the
16 length of terms specified for the members of the private employer health care
17 coverage board under section 15.165 (5) of the statutes, as created by this act, the
18 initial members shall be appointed for the following terms:

19 (a) The members specified under section 15.165 (5) (a) 1., 3. and 7. of the
20 statutes, as created by this act, for terms expiring on May 1, 2002.

21 (b) The members specified under section 15.165 (5) (a) 2. and 5. of the statutes,
22 as created by this act, for terms expiring on May 1, 2003.

23 (c) The members specified under section 15.165 (5) (a) 4. and 6. of the statutes,
24 as created by this act, for terms expiring on May 1, 2004.

1 (2) POSITION AUTHORIZATIONS FOR THE DEPARTMENT OF EMPLOYE TRUST FUNDS. The
2 authorized FTE positions for the department of employe trust funds are increased
3 by 3.5 GPR positions on the effective date of this subsection, to be funded from the
4 appropriation under section 20.515 (2) (a) of the statutes, as created by this act, for
5 the purpose of designing and contracting for administrative services for the private
6 employer health care coverage program under subchapter X of chapter 40 of the
7 statutes, as created by this act.

8 (3) GRANT FOR ADMINISTRATION OF PROGRAM.

9 (a) In this subsection:

10 1. “Administrator” means the administrator selected by the department under
11 section 40.98 (2) (a) 2. of the statutes, as created by this act.

12 2. “Department” means the department of employe trust funds.

13 3. “Secretary” means the secretary of employe trust funds.

14 (b) The department shall make a grant of \$200,000 from the appropriation
15 under section 20.515 (2) (b) of the statutes, as created by this act, to the administrator
16 for costs associated with administering the health care coverage plans under the
17 program under subchapter X of chapter 40 of the statutes, as created by this act, if
18 all of the following apply:

19 1. The administrator submits a plan to the department detailing the proposed
20 use of the grant and the secretary approves the plan.

21 2. The administrator enters into a written agreement with the department that
22 specifies the conditions for use of the grant proceeds, including reporting and
23 auditing requirements.

24 3. The administrator agrees in writing to submit to the department the report
25 required under paragraph (c) by the time required under paragraph (c).

1 (c) If the administrator receives a grant under this subsection, the
2 administrator shall submit to the department, within 6 months after spending the
3 full amount of the grant, a report detailing how the grant proceeds were used.

4 **SECTION 23. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) The amendment of section 40.02 (26) (intro.) (by SECTION 17) and (28) (by
7 SECTION 19) of the statutes takes effect on January 1, 2010.

8 (2) The repeal of sections 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5) and 20.515
9 (2) (title), (a) and (g) and subchapter X of chapter 40 of the statutes takes effect on
10 January 1, 2010.

11 (3) The repeal of section 20.515 (2) (b) of the statutes takes effect on June 30,
12 2002.

13 (END)