

**2001 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB81)**

Received: 10/03/2001

Received By: **champra**

Wanted: **As time permits**

Identical to LRB:

For: **Rodney Moen (608) 266-8546**

By/Representing: **Melissa**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Addl. Drafters: **kahlepj**

Subject: **Employ Pub - miscellaneous  
Insurance - health  
State Finance - miscellaneous**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Private employer health care coverage program

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**Instructions:**

Draft vetoed parts of Act 16 on private employer health care coverage program, but have loan from general fund

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	champra 10/03/2001	wjackson 10/03/2001		_____			
/1			pgreensl 10/03/2001	_____	lrb_docadmin 10/03/2001	lrb_docadmin 10/03/2001	
/2	champra 10/04/2001	wjackson 10/04/2001	jfrantze 10/04/2001	_____	lrb_docadmin 10/04/2001	lrb_docadmin 10/04/2001	

FE Sent For:

<END>

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/?	champra 10/03/2001	wjackson 10/03/2001					
/1		1/2 W/L 10/4	pgreensl 10/03/2001		lrb_docadmin 10/03/2001	lrb_docadmin 10/03/2001	

*Jb 10/4* *Sell 10/4*

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/?	champra		10/3 PS	10/3 SELF			

FE Sent For:

<END>



LRB 50185/1

RAC&PJK:

wlj

Today

**2001 BILL**

SSA

to

2001 SB 81

REGEN

1 AN ACT to amend 20.515 (2) (g) and 635.05 (1); and to create 40.98 (6r) of the  
2 statutes; relating to: a loan from the general fund for the private employer  
3 health care coverage program, small employer health insurance rates,  
4 providing an exemption from emergency rule procedures, and making an  
5 appropriation.

**Analysis by the Legislative Reference Bureau**

Under current law, the department of employee trust funds (DETF) is required to design an actuarially sound health care coverage program for employers in the private sector. Under the program, DETF must solicit bids and enter into a contract with an administrator to administer the program; if DETF is unable to contract with an administrator, DETF must itself administer the program. Under current law, health care coverage under the program was to begin on January 1, 2001; however, as of that date, DETF was unable to enter into a contract with an administrator to administer the program.

Under current law, the rates that insurers may charge for health insurance provided to employers that have between two and fifty employees (small employers) are regulated to the extent that rates charged to small employers with similar case characteristics for the same or similar benefits may not vary from the midpoint rate for those small employers by more than 35% of the midpoint rate. Case characteristics include such characteristics of a small employer's employees as age, sex, and geographic location, but do not include health status, occupation, or claim experience.

**BILL**

~~This bill reduces the amount by which rates charged to small employers with similar case characteristics for the same or similar benefits may vary from the midpoint rate to 15% of the midpoint rate. Because the private employer health care coverage program designed by DETF is subject to any applicable insurance provisions, the requirements in the bill with respect to rates charged to small employers for health insurance will apply to rates charged to small employers participating in that program.~~

~~In addition, the bill appropriates \$850,000 to DETF for the private employer health care coverage program operating costs and requires DETF to repay the general fund any portion of the \$850,000 amount that it encumbers during the 2001-03 fiscal biennium. Under the bill, DETF is to repay the general fund from moneys received from employers who elect to participate in the private employer health care coverage program.~~

~~For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.~~

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

1           **SECTION 1.** 20.515 (2) (g) of the statutes is amended to read:

2           20.515 (2) (g) *Private employer health care coverage plan.* All moneys received  
3 under subch. X of ch. 40 from employers who elect to participate in the private  
4 employer health care coverage program under subch. X of ch. 40, for the costs of  
5 designing, marketing and contracting for or providing administrative services for  
6 the program and for lapsing to the general fund the amounts required under s. 40.98  
7 (6r).

8           **SECTION 2.** 40.98 (6r) of the statutes is created to read:

9           40.98 (6r) The secretary of administration shall lapse from the appropriation  
10 account under s. 20.515 (2) (g) to the general fund an amount equal to the amount  
11 encumbered from the appropriation under s. 20.515 (2) (a) during the 2001-03 fiscal  
12 biennium that exceeds \$211,100 when the secretary of administration, after  
13 consulting with the board, determines that funds in the appropriation account under

**BILL**

1 s. 20.515 (2) (g) are sufficient to make the lapse. The secretary of administration may  
2 lapse the amounts in installments.

3 **SECTION 3.** 635.05 (1) of the statutes is amended to read:

4 635.05 (1) Establishing restrictions on premium rates that a small employer  
5 insurer may charge a small employer such that the premium rates charged to small  
6 employers with similar case characteristics for the same or similar benefit design  
7 characteristics do not vary from the midpoint rate for those small employers by more  
8 than ~~35%~~ <sup>15%</sup> of that midpoint rate. 10%

9 **SECTION 4. Nonstatutory provisions.**

10 (1) RULES RELATED TO SMALL EMPLOYER HEALTH INSURANCE RATES. Using the  
11 procedure under section 227.24 of the statutes, the commissioner of insurance may  
12 promulgate the rules required under section 635.05 (1) of the statutes, as affected by  
13 this act, for the period before the effective date of the permanent rules required under  
14 section 635.05 (1) of the statutes, as affected by this act, but not to exceed the period  
15 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
16 section 227.24 (1) (a), (2) (b), and (3) of the statutes, the commissioner is not required  
17 to provide evidence that promulgating a rule under this subsection as an emergency  
18 rule is necessary for the preservation of public peace, health, safety, or welfare and  
19 is not required to provide a finding of emergency for a rule promulgated under this  
20 subsection.

21 **SECTION 5. Appropriation changes.**

22 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
23 to the department of administration under section 20.515 (2) (a) of the statutes, as  
24 affected by the acts of 2001, the dollar amount is increased by \$850,000 for fiscal year  
25 2001–02 to fulfill the purpose for which the appropriation is made.

**BILL****1 SECTION 6. Initial applicability.**

2 (1) SMALL EMPLOYER HEALTH INSURANCE RATES. The treatment of section 635.05  
3 (1) of the statutes and SECTION 4 (1) of this act first apply to rates charged under  
4 policies or plans issued or renewed to small employers on September 1, 2002.

5 **SECTION 7. Effective dates.** This act takes effect on the day after publication,  
6 except as follows:

7 (1) SMALL EMPLOYER HEALTH INSURANCE RATES. The treatment of section 635.05  
8 (1) of the statutes takes effect on September 1, 2002.

9 (END)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3730/1dn  
PJK&RAC:wlj.pg

LRB 50185/1dn  
PJK & RAC

September 21, 2001

Because the small employer health insurance rate changes in the budget will take effect on September 1, 2002, I made the rate change in this draft effective on the same date (Sept. 1, 2002) rather than a year from the date of this bill's passage. Okay?

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us

I provided that the secretary of administration, after consulting with the private employer health care coverage board, is to determine the timing of the payback for the general fund loan. Is this consistent with your intent?

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0185/1dn  
PJK&RAC:wlj:pg

October 3, 2001

Because the small employer health insurance rate changes in the budget will take effect on September 1, 2002, I made the rate change in this draft effective on the same date (Sept. 1, 2002) rather than a year from the date of this bill's passage. Okay?

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us

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Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us



*D-Note*  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBs0185/v 2  
RAC&PJK:wlj/aa

*Today*

*RMR*

SENATE SUBSTITUTE AMENDMENT,  
TO 2001 SENATE BILL 81

REGEN

1 AN ACT *to amend* 20.515 (2) (g) and 635.05 (1); and *to create* 40.98 (6r) of the  
2 statutes; **relating to:** a loan from the general fund for the private employer  
3 health care coverage program, small employer health insurance rates,  
4 providing an exemption from emergency rule procedures, and making an  
5 appropriation.

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6 consulting with the board, determines that funds in the appropriation account under  
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16 (END)

Insert  
A.

**2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0185/2ins  
RAC&PJK::

(A)

**SECTION 1. Nonstatutory provisions.**

(1) **REQUIRED GENERAL FUND BALANCE.** Section 20.003 (4) of the statutes and 2001 Wisconsin Act 16, section 9101 (25j), do not apply to the action of the legislature in enacting this act.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0185/2dn  
RAC&PJK:wlj:pg

At your request, this substitute amendment includes a nonstatutory provision which states that s. 20.003 (4), stats., and 2001 Wisconsin Act 16, section 9101 (25j), do not apply to the action of the legislature in enacting the bill. Please note that s. 20.003 (4), stats., and 2001 Wisconsin Act 16, section 9101 (25j), are not legally enforceable, but rather constitute a rule of procedure under article IV, section 8, of the Wisconsin constitution. The Wisconsin supreme court has held that the remedy for failing to comply with rules of procedures lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while rules of procedure may govern internal legislative procedure, courts will not enforce procedural rules, and the rules do not affect the validity of any enactment resulting from a procedure that may be viewed as contravening them. Therefore, the nonstatutory provision is included only for the purpose of internal legislative operations, not for the purpose of ensuring the legality of the bill.

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0185/2dn  
RAC:wlj:pg

October 4, 2001

At your request, this substitute amendment includes a nonstatutory provision which states that s. 20.003 (4), stats., and 2001 Wisconsin Act 16, section 9101 (25j), do not apply to the action of the legislature in enacting the bill. Please note that s. 20.003 (4), stats., and 2001 Wisconsin Act 16, section 9101 (25j), are not legally enforceable, but rather constitute a rule of procedure under article IV, section 8, of the Wisconsin constitution. The Wisconsin supreme court has held that the remedy for failing to comply with rules of procedures lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while rules of procedure may govern internal legislative procedure, courts will not enforce procedural rules, and the rules do not affect the validity of any enactment resulting from a procedure that may be viewed as contravening them. Therefore, the nonstatutory provision is included only for the purpose of internal legislative operations, not for the purpose of ensuring the legality of the bill.

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E-mail: rick.champagne@legis.state.wi.us



✓ **Emery, Lynn**

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**From:** Emery, Lynn

**Sent:** Monday, October 22, 2001 3:02 PM

**To:** White, Melissa

**Subject:** LRB s0185/2 & 2dn (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)  
(E-Mail: [lynn.emery@legis.state.wi.us](mailto:lynn.emery@legis.state.wi.us)) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

10/22/2001