

1989 Senate Bill 160

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1989 Wisconsin Act 14

(Vetoed in Part)

AN ACT to amend 20.515 (1) (c), 40.02 (10), 40.02 (26g), 40.04 (1) and (2) (c) and 40.86 (intro.); and to create 20.515 (1) (u), 40.04 (9m), 40.05 (8), 40.85 (2) (f) and (g) and 40.875 of the statutes, relating to contract and administrative costs under employee-funded reimbursement accounts and making appropriations.

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

SECTION 1. 20.515 (1) (c) of the statutes is amended to read:

20.515 (1) (c) *Contingencies.* A sum sufficient to make all payments due other parties under subchs. III to VI and VIII of ch. 40 when the moneys for the payment have not yet been received by the public employee trust fund. The public employee trust fund shall reimburse this appropriation as soon as moneys are received for the cost of the payments.

SECTION 2. 20.515 (1) (u) of the statutes is created to read:

20.515 (1) (u) *Employee-funded reimbursement account plan.* All moneys deposited in the public employee trust fund under s. 40.875 (1) (e), for the purpose of reimbursing employee-funded reimbursement account plan providers for claims payments to employees under the employee-funded reimbursement account plan and to pay costs under contracts with employee-funded reimbursement account plan providers.

SECTION 3. 40.02 (10) of the statutes is amended to read:

40.02 (10) "Benefit plan" includes the Wisconsin retirement system, the employee-funded reimbursement account plan, OASDHI, group health insurance, group income continuation insurance, group life insurance or any other insurance plan established under this chapter, regardless of whether each type of insurance is provided through one or multiple contracts or provides different levels of benefits to different employees.

SECTION 4. 40.02 (26g) of the statutes is amended to read:

40.02 (26g) "Employee-funded reimbursement account plan" means a plan in accordance with section 125 of the internal revenue code, as defined in s. ~~74.02~~ 71.01, under which an employee may direct an employer to place part of the employee's gross compensation in an account to pay for certain future expenses

of the employee under section 125 of the internal revenue code.

SECTION 5. 40.04 (1) and (2) (c) of the statutes are amended to read:

40.04 (1) The separate accounts and reserves under subs. (2) to ~~(9)~~ (10) and any additional accounts and reserves determined by the department to be useful in achieving the fund's purposes, or necessary to protect the interests of the participants or the future solvency of the fund, shall be maintained within the fund. The accounts and reserves maintained for each benefit plan shall fairly reflect the operations of that benefit plan and any deficit occurring within the accounts of a benefit plan shall not be offset against balances or reserves in any other benefit plan.

(2) (c) The secretary shall estimate the administrative costs to be incurred by the department in each fiscal year and shall also estimate the investment income which will be credited to this account in the fiscal year. The estimated administrative costs less the estimated investment income shall be equitably allocated by the secretary, with due consideration being given to the derivation and amount of the investment income, to the several benefit plans administered by the department. In determining the amount of the allocation, adjustments shall be made for any difference in prior years between the actual administrative costs and investment income from that originally estimated under this paragraph. An amount equal to the adjusted allocated costs shall be transferred to this account from the investment earnings credited to the respective benefit plan accounts and from payments by the respective insurers or employee-funded reimbursement plan providers for administrative services.

SECTION 6. 40.04 (9m) of the statutes is created to read:

40.04 (9m) The department shall do all of the following:

(a) Maintain a separate account in the fund for the employee-funded reimbursement account plan authorized under subch. VIII.

(b) Credit to the account established under par. (a) money received from employees in connection with the employee-funded reimbursement account plan and income from investment of the reserves in the account.

(c) Charge to the account established under par. (a) payments made to reimburse employee-funded reimbursement account plan providers for payments made to employees under the employee-funded reimbursement account plan under subch. VIII.

SECTION 7. 40.05 (8) of the statutes is created to read:

40.05 (8) EMPLOYEE-FUNDED REIMBURSEMENT ACCOUNT PLAN FEE. For the administration and implementation of employee-funded reimbursement account plans authorized under subch. VIII, each state agency with employees eligible to participate in an employee-funded reimbursement account plan shall contribute the fee charged under s. 40.875 (1) (a).

SECTION 8. 40.85 (2) (f) and (g) of the statutes are created to read:

40.85 (2) (f) Require as a condition of the contracts entered into under sub. (1) that the employee-funded reimbursement account plan providers reimburse the department, to be credited to the administrative account of the public employee trust fund under s. 40.04 (2) (c), for administrative costs incurred by the department in connection with employee-funded reimbursement account plans.

(g) Deposit into the account established under s. 40.04 (9m) (a) that part of an employee's gross compensation that the employee wants placed in an employee-funded reimbursement account.

SECTION 9. 40.86 (intro.) of the statutes is amended to read:

40.86 Covered expenses. (intro.) An employee-funded reimbursement account plan may provide reimbursement to an employee, to the extent permitted under section 125 of the internal revenue code, as defined in s. ~~71.02~~ 71.01, for only the following expenses actually incurred and paid by an employee:

SECTION 10. 40.875 of the statutes is created to read:

40.875 Administrative and contract costs. (1) The department shall do all of the following:

(a) Beginning on January 1, 1990, collect, from each state agency with employees eligible to participate in an employee-funded reimbursement account plan, a fee in an amount determined by the department to equal that state agency's share of all of the following:

1. Costs under contracts with employee-funded reimbursement account plan providers.

2. The department's administrative costs under this subchapter.

(b) Establish a formula, subject to approval by the board, to determine the fees charged to state agencies under par. (a).

(c) Establish procedures for collecting ~~on a monthly basis~~ the fees charged under par. (a). **Vetoed in Part**

(d) Collect forfeitures from employee-funded reimbursement accounts, under the terms of contracts with employee-funded reimbursement account plan providers or with employees.

(e) Deposit fees collected under par. (a), forfeitures collected under par. (d) and interest earned on the fees and forfeitures in the fund, credited to the account established under s. 40.04 (9m) (a) to pay costs described in par. (a) 1 and 2.

(f) Charge costs described in par. (a) 1 and 2 to the account established under s. 40.04 (9m) (a).

(2) The department may base the fees charged under sub. (1) (a) on estimates of anticipated administrative and contract costs.

SECTION 11. **Nonstatutory provisions.** When determining the amount to be recovered by the fees to be charged to state agencies under section 40.875 (1) of the statutes, as created by this act, the department of employee trust funds shall include amounts loaned to the department before the effective date of this SECTION by action of the joint committee on finance under section 13.101 (4m) of the statutes for the implementation of the employee-funded reimbursement account plan under subchapter VIII of chapter 40 of the statutes.