



State of Wisconsin  
1997 - 1998 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1997 SENATE BILL 332**

March 5, 1998 - 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) (g) and subchapter X of chapter 40 [precedes 40.98];  
3     **to amend** 40.02 (26) (intro.), 40.02 (26) (intro.), 40.02 (28) and 40.02 (28); and  
4     **to create** 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5), 20.515 (2) (title), 20.515 (2)  
5             (a), 20.515 (2) (g) and subchapter X of chapter 40 [precedes 40.98] of the  
6             statutes; **relating to:** requiring the department of employe trust funds to  
7             establish a health care coverage plan for employers in the private sector,  
8             creating a private employer health care coverage board and making an  
9             appropriation.

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

10           **SECTION 1.** 13.94 (1) (p) of the statutes is created to read:  
11           13.94 (1) (p) No later than January 1, 2004, prepare a program evaluation audit  
12           of the private employer health care coverage plan established under subch. X of ch.

1 40. The legislative audit bureau shall file a copy of the audit report under this  
2 paragraph with the distributees specified in par. (b).

3 **SECTION 2.** 13.94 (1) (p) of the statutes, as created by 1997 Wisconsin Act ...  
4 (this act), is repealed.

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

6 15.07 (1) (b) 21. Private employer health care coverage board.

7 **SECTION 4.** 15.07 (1) (b) 21. of the statutes, as created by 1997 Wisconsin Act  
8 .... (this act), is repealed.

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

10 15.165 (5) PRIVATE EMPLOYER HEALTH CARE COVERAGE BOARD. (a) There is created  
11 in the department of employe trust funds a private employer health care coverage  
12 board consisting of the secretary of employe trust funds or his or her designee, the  
13 secretary of health and family services or his or her designee and the following  
14 members appointed for 3-year terms:

- 15 1. One member who represents health maintenance organizations.
- 16 2. One member who represents hospitals.
- 17 3. One member who represents insurance agents, as defined in s. 628.02 (4).
- 18 4. Two members who are employes eligible to receive health care coverage  
19 under subch. X of ch. 40 and whose employer employs not more than 50 employes.
- 20 5. One member who represents insurers.
- 21 6. Two members who are, or who represent, employers that employ not more  
22 than 50 employes and who are eligible to offer health care coverage under subch. X  
23 of ch. 40.
- 24 7. One member who is a physician, as defined in s. 448.01 (5).
- 25 8. Two members who represent the public interest.

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

3 **SECTION 6.** 15.165 (5) of the statutes, as created by 1997 Wisconsin Act .... (this  
4 act), is repealed.

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

**1997-98      1998-99**

7 **20.515    Employe trust funds, department of**

8 (2) PRIVATE EMPLOYER HEALTH CARE COVERAGE PLAN

9 (a) Private employer health care  
10 coverage plan; start-up costs      GPR      A      -0-      -0-

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

12 20.515 (2) (title) PRIVATE EMPLOYER HEALTH CARE COVERAGE PLAN.

13 **SECTION 9.** 20.515 (2) (title) of the statutes, as created by 1997 Wisconsin Act  
14 .... (this act), is repealed.

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

16 20.515 (2) (a) *Private employer health care coverage plan; start-up costs.* The  
17 amounts in the schedule for the start-up costs for designing, establishing and  
18 administering the private employer health care coverage plan under subch. X of ch.  
19 40.

20 **SECTION 11.** 20.515 (2) (a) of the statutes, as created by 1997 Wisconsin Act ....  
21 (this act), is repealed.

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

1           20.515 (2) (g) *Private employer health care coverage plan*. All moneys received  
2 under subch. X of ch. 40 from employers who elect to participate in the private  
3 employer health care coverage plan under subch. X of ch. 40, for the costs of  
4 designing, establishing and administering the plan.

5           **SECTION 13.** 20.515 (2) (g) of the statutes, as created by 1997 Wisconsin Act ....  
6 (this act), is repealed.

7           **SECTION 14.** 40.02 (26) (intro.) of the statutes is amended to read:

8           40.02 (26) (intro.) “Employe” means any person who receives earnings as  
9 payment for personal services rendered for the benefit of any employer including  
10 officers of the employer, except as provided in subch. X. An employe is deemed to  
11 have separated from the service of an employer at the end of the day on which the  
12 employe last performed services for the employer, or, if later, the day on which the  
13 employe-employer relationship is terminated because of the expiration or  
14 termination of leave without pay, sick leave, vacation or other leave of absence. A  
15 person shall not be considered an employe if a person:

16           **SECTION 15.** 40.02 (26) (intro.) of the statutes, as affected by 1997 Wisconsin  
17 Act .... (this act), is amended to read:

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

1           **SECTION 16.** 40.02 (28) of the statutes is amended to read:

2           40.02 (28) "Employer" means the state, including each state agency, any  
3 county, city, village, town, school district, other governmental unit or  
4 instrumentality of 2 or more units of government now existing or hereafter created  
5 within the state ~~and~~, any federated public library system established under s. 43.19  
6 whose territory lies within a single county with a population of 500,000 or more and  
7 a local exposition district created under subch. II of ch. 229, except as provided under  
8 ss. 40.51 (7) and 40.61 (3), ~~or a local exposition district created under subch. II of ch.~~  
9 ~~229 and subch. X~~. Each employer shall be a separate legal jurisdiction for OASDHI  
10 purposes.

11           **SECTION 17.** 40.02 (28) of the statutes, as affected by 1997 Wisconsin Act ....  
12 (this act), is amended to read:

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

21           **SECTION 18.** Subchapter X of chapter 40 [precedes 40.98] of the statutes is  
22 created to read:

23

## **CHAPTER 40**

## 1 SUBCHAPTER X

## 2 PRIVATE EMPLOYER HEALTH

## 3 CARE COVERAGE

4 **40.98 Health care coverage. (1)** In this subchapter:

5 (a) “Board” means the private employer health care coverage board.

6 (b) “Dependent” means a spouse, an unmarried child under the age of 19 years,  
7 an unmarried child who is a full-time student under the age of 21 years and who is  
8 financially dependent upon the parent, or an unmarried child of any age who is  
9 medically certified as disabled and who is dependent upon the parent.10 (c) “Employe” means any person who receives earnings as payment for personal  
11 services rendered for the benefit of any employer including officers of the employer.  
12 An employe is considered to have separated from the service of an employer at the  
13 end of the day on which the employe last performed services for the employer, or, if  
14 later, the day on which the employe-employer relationship is terminated because of  
15 the expiration or termination of leave without pay, sick leave, vacation or other leave  
16 of absence. A person shall not be considered an employe if any of the following  
17 applies:18 1. The person is employed under a contract involving the furnishing of more  
19 than personal services.20 2. The person is customarily engaged in an independently established trade,  
21 business or profession providing the same type of services to more than one employer  
22 and the person’s services to an employer are not compensated for on a payroll of that  
23 employer.24 3. The person is a patient or inmate of a hospital, home or institution and  
25 performs services in the hospital, home or institution.

1 (d) "Employer" means any person who is doing business or operating an  
2 organization in this state and who employs at least 2 employes, but who is not an  
3 employer, as defined in s. 40.02 (28).

4 (e) "Health care coverage plan" means the health care coverage plan  
5 established under sub. (2) (a).

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

7 **(2)** (a) The department shall design, establish and administer an actuarially  
8 sound health care coverage plan for employers that provides coverage beginning not  
9 later than January 1, 2000. In designing the health care coverage plan, the  
10 department shall consult with the departments of commerce and health and family  
11 services and the office of the commissioner of insurance. In establishing the health  
12 care coverage plan, the department shall solicit and accept bids and enter into  
13 contracts with insurers who are to provide health care coverage under the health  
14 care coverage plan. The health care coverage plan is subject to the provisions of chs.  
15 600 to 646 that apply to group health benefit plans, as defined in s. 632.745 (9), to  
16 the same extent as any other group health benefit plan, as defined in s. 632.745 (9).  
17 Before the health care coverage plan may be implemented, the board must approve  
18 the plan.

19 (am) The health care coverage plan established under par. (a) may not be  
20 combined with any health care coverage plan under subch. IV.

21 (b) The health care coverage plan shall require that all insurance rates under  
22 the plan be published annually in a single publication that is made available to  
23 employers and employes. The rates shall be listed by county and by any other factor  
24 that the department considers appropriate.

1 (c) The health care coverage plan shall have an enrollment period that is  
2 established by the board.

3 (d) The department shall charge employers who participate in the health care  
4 coverage plan a fee to cover the department's cost in designing, establishing and  
5 administering the health care coverage plan. All moneys received under this  
6 paragraph shall be credited to the appropriation account under s. 20.515 (2) (g).

7 (e) The department may not sell any health care coverage plan to an employer  
8 or enroll any employe in the health care coverage plan, but the department may  
9 publicize the availability of the health care coverage plan for employers.

10 (f) The department may enter into a contract with any person to provide  
11 services relating to the administration of the health care coverage plan.

12 **(3)** Any employer who participates in the health care coverage plan shall do all  
13 of the following:

14 (a) Offer health care coverage under the plan to all of its permanent employes  
15 who have a normal work week of 30 or more hours and may offer health care coverage  
16 under the plan to any of its other employes.

17 (b) Provide health care coverage under the plan to the greater of 50% of its  
18 permanent employes who have a normal work week of 30 or more hours and who do  
19 not otherwise receive health care coverage as a dependent under any other plan that  
20 is not offered by the employer or a percentage of such employes specified by the board.

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

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



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

4           **(5)** Any insurer that offers the health care coverage plan shall provide coverage  
5 under the plan to any employer that applies for coverage, and to all of the employer's  
6 employes who elect coverage under the health care coverage plan, without regard to  
7 the health condition or claims experience of any individual who would be covered  
8 under the health care coverage plan if all of the following apply:

9           **(a)** The employer agrees to pay the premium required for coverage under the  
10 health care coverage plan.

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

14           **(6)** **(a)** The health care coverage plan may only be sold by insurance agents  
15 licensed under ch. 628.

16           **(b)** An insurance agent may not sell any health care coverage under the health  
17 care coverage plan on behalf of an insurer unless he or she is employed by the insurer  
18 or has a contract with the insurer to sell the health care coverage on behalf of the  
19 insurer.

20           **(c)** The board shall set, and may adjust as often as semiannually, the  
21 commission rate for the sale of a policy under the health care coverage plan. The rate  
22 shall be based on the average commission rate that insurance agents are paid in the  
23 state for the sale of comparable health insurance policies at the time that the rate  
24 is set or adjusted.

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

3 (7) (a) Annually, on or before December 31, the board shall submit a report to  
4 the appropriate standing committees under s. 13.172 (3) and to the governor on the  
5 operation of the health care coverage plan. The report shall specify the number of  
6 employers participating in the health care coverage plan, calculate the costs of the  
7 health care coverage plan to employers and their employees and include  
8 recommendations for improving the health care coverage plan.

9 (b) No later than January 1, 2003, the board shall submit a report to the  
10 appropriate standing committees under s. 13.172 (3) and to the governor that offers  
11 recommendations as to whether the department should continue to administer the  
12 health care coverage plan, whether a different state agency should administer the  
13 health care coverage plan or whether the health care coverage plan should be  
14 administered by a private nonprofit organization. If the board recommends that a  
15 different state agency administer the health care coverage plan or that the health  
16 care coverage plan be administered by a private nonprofit organization, the board  
17 shall submit proposed legislation to the appropriate standing committees under s.  
18 13.172 (3) at the time that the board submits its report.

19 **SECTION 19.** Subchapter X of chapter 40 [precedes 40.98] of the statutes, as  
20 created by 1997 Wisconsin Act .... (this act), is repealed.

21 **SECTION 20. Nonstatutory provisions.**

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

1 (a) The members specified under section 15.165 (5) (a) 1., 3. and 7. of the  
2 statutes, as created by this act, for terms expiring on May 1, 2000.

3 (b) The members specified under section 15.165 (5) (a) 2., 5. and 8. of the  
4 statutes, as created by this act, for terms expiring on May 1, 2001.

5 (c) The members specified under section 15.165 (5) (a) 4. and 6. of the statutes,  
6 as created by this act, for terms expiring on May 1, 2002.

7 (2) POSITION AUTHORIZATIONS FOR THE DEPARTMENT OF EMPLOYE TRUST FUNDS. The  
8 authorized FTE positions for the department of employe trust funds are increased  
9 by 3.5 GPR positions on the effective date of this subsection, to be funded from the  
10 appropriation under section 20.515 (2) (a) of the statutes, as created by this act, for  
11 the purpose of designing, establishing and administering the private employer  
12 health care coverage plan under subchapter X of chapter 40 of the statutes, as  
13 created by this act.

14 **SECTION 21. Effective dates.** This act takes effect on the day after publication,  
15 except as follows:

16 (1) The repeal of section 20.515 (2) (a) of the statutes takes effect on January  
17 1, 2000.

18 (2) The amendment of section 40.02 (26) (intro.) (by SECTION 15) and (28) (by  
19 SECTION 17) of the statutes takes effect on January 1, 2007.

20 (3) The repeal of sections 13.94 (1) (p), 15.07 (1) (b) 21., 15.165 (5) and 20.515  
21 (2) (title) and (g) and subchapter X of chapter 40 of the statutes takes effect on  
22 January 1, 2007.

23 (END)