



State of Wisconsin
1997 - 1998 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 2,
TO 1997 SENATE BILL 332**

November 18, 1997 - Offered by Senators MOEN, ROSENZWEIG, ROESSLER and
ADELMAN.

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4 (this act), is repealed.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8 (this act), is repealed.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 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 identical to that provided to state employees who receive health care coverage under
3 s. 40.51 (6).

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

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

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

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

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

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

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

1 (d) Make premium payments for the health care coverage of its employees
2 directly to the insurer providing the health care coverage.

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

6 (5) (a) Any insurer that submits a bid to offer health care coverage under s.
7 40.51 (6) is required to submit a bid to offer the health care coverage plan established
8 under sub. (2) in those counties in which the insurer bids to provide health care
9 coverage under s. 40.51 (6).

10 (b) Any insurer that offers the health care coverage plan shall provide coverage
11 under the plan to any employer that applies for coverage, and to all of the employer's
12 employees who elect coverage under the health care coverage plan, without regard to
13 the health condition or claims experience of any individual who would be covered
14 under the health care coverage plan if all of the following apply:

15 1. The employer agrees to pay the premium required for coverage under the
16 health care coverage plan.

17 2. The employer agrees to comply with all provisions of the health care coverage
18 plan that apply generally to a policyholder or an insured without regard to health
19 condition or claims experience.

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

22 (b) An insurance agent may not sell any health care coverage under the health
23 care coverage plan on behalf of an insurer unless he or she is employed by the insurer
24 or has a contract with the insurer to sell the health care coverage on behalf of the
25 insurer.

1 (c) The board shall set, and may adjust as often as semiannually, the
2 commission rate at which an insurer shall compensate an insurance agent for the
3 sale of a policy under the health care coverage plan. The rate shall be based on the
4 average commission rate that insurance agents are paid in the state for the sale of
5 comparable health insurance policies at the time that the rate is set or adjusted.

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

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

14 (b) No later than January 1, 2003, the board shall submit a report to the
15 appropriate standing committees under s. 13.172 (3) and to the governor that offers
16 recommendations as to whether the department should continue to administer the
17 health care coverage plan, whether a different state agency should administer the
18 health care coverage plan or whether the health care coverage plan should be
19 administered by a private nonprofit organization. If the board recommends that a
20 different state agency administer the health care coverage plan or that the health
21 care coverage plan be administered by a private nonprofit organization, the board
22 shall submit proposed legislation to the appropriate standing committees under s.
23 13.172 (3) at the time that the board submits its report.

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

1 **SECTION 20. Nonstatutory provisions.**

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

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

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

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

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

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

21 (1) The repeal of section 20.515 (2) (a) of the statutes takes effect on January
22 1, 2000.

23 (2) The amendment of section 40.02 (26) (intro.) (by SECTION (14) and (28) (by
24 SECTION (16) of the statutes takes effect on January 1, 2007.

