



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBs0030/2  
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**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6 (this act), is repealed.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 (this act), is repealed.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:

	<b>1999-00</b>	<b>2000-01</b>
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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)**