



State of Wisconsin
2009 - 2010 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 95**

April 28, 2009 – Offered by Representatives KRAMER and VUKMIR.

1 **AN ACT** *to renumber* 111.70 (4) (cm) 8s.; *to amend* 111.70 (1) (a) and 111.70 (1)
2 (a); and *to create* 111.70 (4) (cm) 8s. b., 111.70 (4) (mc) 4., 111.70 (4) (mn), 111.70
3 (4) (n) and 601.41 (10) of the statutes; **relating to:** collective bargaining over
4 health care coverage for municipal employees, allowing municipal employers
5 to change health care coverage plan providers, preparation time as a
6 mandatory subject of collective bargaining, and requiring the exercise of
7 rule-making authority.

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

8 **SECTION 1.** 111.70 (1) (a) of the statutes is amended to read:
9 111.70 (1) (a) “Collective bargaining” means the performance of the mutual
10 obligation of a municipal employer, through its officers and agents, and the
11 representative of its municipal employees in a collective bargaining unit, to meet and
12 confer at reasonable times, in good faith, with the intention of reaching an

1 agreement, or to resolve questions arising under such an agreement, with respect to
2 wages, hours, and conditions of employment, and with respect to a requirement of
3 the municipal employer for a municipal employee to perform law enforcement and
4 fire fighting services under s. 61.66, except as provided in sub. (4) (m), (mc), and (n)
5 and s. 40.81 (3) and except that a municipal employer shall not meet and confer with
6 respect to any proposal to diminish or abridge the rights guaranteed to municipal
7 employees under ch. 164. The duty to bargain, however, does not compel either party
8 to agree to a proposal or require the making of a concession. Collective bargaining
9 includes the reduction of any agreement reached to a written and signed document.
10 The municipal employer shall not be required to bargain on subjects reserved to
11 management and direction of the governmental unit except insofar as the manner
12 of exercise of such functions affects the wages, hours, and conditions of employment
13 of the municipal employees in a collective bargaining unit. In creating this
14 subchapter the legislature recognizes that the municipal employer must exercise its
15 powers and responsibilities to act for the government and good order of the
16 jurisdiction which it serves, its commercial benefit, and the health, safety, and
17 welfare of the public to assure orderly operations and functions within its
18 jurisdiction, subject to those rights secured to municipal employees by the
19 constitutions of this state and of the United States and by this subchapter.

20 **SECTION 2.** 111.70 (1) (a) of the statutes, as affected by 2009 Wisconsin Act ...
21 (this act), is amended to read:

22 111.70 (1) (a) “Collective bargaining” means the performance of the mutual
23 obligation of a municipal employer, through its officers and agents, and the
24 representative of its municipal employees in a collective bargaining unit, to meet and
25 confer at reasonable times, in good faith, with the intention of reaching an

1 agreement, or to resolve questions arising under such an agreement, with respect to
2 wages, hours, and conditions of employment, and with respect to a requirement of
3 the municipal employer for a municipal employee to perform law enforcement and
4 fire fighting services under s. 61.66, and for a school district with respect to any
5 matter under sub. (4) (mn), except as provided in sub. (4) (m), (mc), and (n) and s.
6 40.81 (3) and except that a municipal employer shall not meet and confer with respect
7 to any proposal to diminish or abridge the rights guaranteed to municipal employees
8 under ch. 164. The duty to bargain, however, does not compel either party to agree
9 to a proposal or require the making of a concession. Collective bargaining includes
10 the reduction of any agreement reached to a written and signed document. The
11 municipal employer shall not be required to bargain on subjects reserved to
12 management and direction of the governmental unit except insofar as the manner
13 of exercise of such functions affects the wages, hours, and conditions of employment
14 of the municipal employees in a collective bargaining unit. In creating this
15 subchapter the legislature recognizes that the municipal employer must exercise its
16 powers and responsibilities to act for the government and good order of the
17 jurisdiction which it serves, its commercial benefit and the health, safety, and
18 welfare of the public to assure orderly operations and functions within its
19 jurisdiction, subject to those rights secured to municipal employees by the
20 constitutions of this state and of the United States and by this subchapter.

21 **SECTION 3.** 111.70 (4) (cm) 8s. of the statutes is renumbered 111.70 (4) (cm) 8s.

22 a.

23 **SECTION 4.** 111.70 (4) (cm) 8s. b. of the statutes is created to read:

24 111.70 (4) (cm) 8s. b. If a school district unilaterally changes its employees'
25 health care coverage plan provider under par. (n), any costs savings realized because

1 of the change may not be included when determining the fringe benefit savings under
2 subd. 8s. a.

3 **SECTION 5.** 111.70 (4) (mc) 4. of the statutes is created to read:

4 111.70 (4) (mc) 4. The employer's selection of a health care coverage plan if the
5 municipal employer offers to enroll the employees in a health care coverage plan
6 under s. 40.51 (7) or in a health care coverage plan that is substantially similar to
7 a plan offered under s. 40.51 (7). The commission shall use the criteria in rules
8 promulgated by the commissioner of insurance under s. 601.41 (10) to determine if
9 health care coverage plans are substantially similar.

10 **SECTION 6.** 111.70 (4) (mn) of the statutes is created to read:

11 111.70 (4) (mn) *Mandatory subjects of bargaining.* In a school district, in
12 addition to any subject of bargaining on which the municipal employer is required
13 to bargain under sub. (1) (a), the municipal employer is required to bargain
14 collectively with respect to time spent during the school day, separate from pupil
15 contact time, to prepare lessons, labs, or educational materials, to confer or
16 collaborate with other staff, or to complete administrative duties.

17 **SECTION 7.** 111.70 (4) (n) of the statutes is created to read:

18 111.70 (4) (n) *Municipal employer-initiated change in health care coverage*
19 *plan provider.* Notwithstanding the terms of a collective bargaining agreement, a
20 municipal employer may unilaterally change its employees' health care coverage
21 plan provider without the consent of any affected employee in the collective
22 bargaining unit if the benefits provided by the new health care coverage plan
23 provider are substantially similar, as determined by the criteria in rules
24 promulgated by the commissioner of insurance under s. 601.41 (10), to those
25 provided by the former health care coverage plan provider and if either the persons

1 who provide health care coverage under the new plan are the same as under the
2 former plan or cost savings will result from changing the health care coverage plan
3 provider. Any such unilateral change in health care coverage plan provider is not a
4 violation of a collective bargaining agreement or a prohibited practice under sub. (3)
5 (a) and, for purposes of a qualified economic offer, satisfies the requirement to
6 maintain fringe benefits under sub. (1) (nc).

7 **SECTION 8.** 601.41 (10) of the statutes is created to read:

8 601.41 (10) SUBSTANTIALLY SIMILAR HEALTH CARE COVERAGE PLAN. The
9 commissioner shall promulgate rules that set out a standardized summary of
10 benefits provided under health care coverage plans, including plans offered under
11 s. 40.51 (7), for use in determining whether a health care coverage plan is
12 substantially similar to a plan offered under s. 40.51 (7).

13 **SECTION 9. Initial applicability.**

14 (1) The treatment of section 111.70 (1) (a) (by SECTION 1) and (4) (mc) 4. and (n)
15 of the statutes first applies to collective bargaining agreements entered into,
16 extended, modified, or renewed, whichever occurs first, on the effective date of this
17 subsection.

18 (2) The treatment of section 111.70 (1) (a) (by SECTION 2) and (4) (mn) of the
19 statutes first applies to collective bargaining agreements that cover any period that
20 begins after the effective date of this subsection.

21 **SECTION 10. Effective date.**

22 (1) The treatment of section 111.70 (1) (a) (by SECTION 1) and (4) (mc) 4. and (n)
23 of the statutes and SECTION 9 (1) of this act take effect on the first day of the 13th
24 month beginning after publication.

