



2009 SENATE BILL 430

December 16, 2009 – Introduced by Senators DARLING, GROTHMAN, LAZICH and A. LASEE, cosponsored by Representatives VUKMIR, J. OTT, KRAMER, LEMAHIEU, STRACHOTA, MURTHA, BIES, ZIPPERER, VOS, TOWNSEND, KAUFERT, GUNDERSON and HONADEL. Referred to Committee on Labor, Elections and Urban Affairs.

1 **AN ACT** *to amend* 111.70 (1) (a); and *to create* 111.70 (4) (mc) 4., 111.70 (4) (n)
2 and 601.41 (10) of the statutes; **relating to:** collective bargaining over health
3 care coverage for municipal employees, allowing municipal employers to
4 change health care coverage plan providers, and requiring the exercise of
5 rule-making authority.

Analysis by the Legislative Reference Bureau

Under the Municipal Employment Relations Act (MERA), all matters relating to wages, hours, and conditions of employment are subject to collective bargaining. This bill prohibits bargaining over the selection of a health care coverage plan if the employer offers to enroll its employees in a plan provided to local government employers by the Group Insurance Board or in a plan that is substantially similar to the plan offered by the Group Insurance Board. Under the bill, the Office of the Commissioner of Insurance must promulgate rules that set out standardized benefits under health care coverage plans and that may be used for determining whether any health care coverage plan is similar to the plan offered by the Group Insurance Board.

In addition, the bill provides that under MERA any employer may unilaterally change its employees' health care coverage plan provider if the benefits remain substantially the same and if either the actual providers of the health care are the same or cost savings will result from changing the health care coverage plan provider.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 111.70 (1) (a) of the statutes is amended to read:

2 111.70 (1) (a) “Collective bargaining” means the performance of the mutual
3 obligation of a municipal employer, through its officers and agents, and the
4 representative of its municipal employees in a collective bargaining unit, to meet and
5 confer at reasonable times, in good faith, with the intention of reaching an
6 agreement, or to resolve questions arising under such an agreement, with respect to
7 wages, hours, and conditions of employment, and with respect to a requirement of
8 the municipal employer for a municipal employee to perform law enforcement and
9 fire fighting services under s. 61.66, except as provided in sub. (4) (m), (mc), and (n)
10 and s. 40.81 (3) and except that a municipal employer shall not meet and confer with
11 respect to any proposal to diminish or abridge the rights guaranteed to municipal
12 employees under ch. 164. The duty to bargain, however, does not compel either party
13 to agree to a proposal or require the making of a concession. Collective bargaining
14 includes the reduction of any agreement reached to a written and signed document.
15 The municipal employer shall not be required to bargain on subjects reserved to
16 management and direction of the governmental unit except insofar as the manner
17 of exercise of such functions affects the wages, hours, and conditions of employment
18 of the municipal employees in a collective bargaining unit. In creating this
19 subchapter the legislature recognizes that the municipal employer must exercise its
20 powers and responsibilities to act for the government and good order of the
21 jurisdiction which it serves, its commercial benefit, and the health, safety, and

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1 welfare of the public to assure orderly operations and functions within its
2 jurisdiction, subject to those rights secured to municipal employees by the
3 constitutions of this state and of the United States and by this subchapter.

4 **SECTION 2.** 111.70 (4) (mc) 4. of the statutes is created to read:

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

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

12 111.70 (4) (n) *Municipal employer-initiated change in health care coverage*
13 *plan provider.* Notwithstanding the terms of a collective bargaining agreement, a
14 municipal employer may unilaterally change its employees' health care coverage
15 plan provider without the consent of any affected employee in the collective
16 bargaining unit if the benefits provided by the new health care coverage plan
17 provider are substantially similar to those provided by the former health care
18 coverage plan provider and if either the persons who provide health care coverage
19 under the new plan are the same as under the former plan or cost savings will result
20 from changing the health care coverage plan provider. Any such unilateral change
21 in health care coverage plan provider is not a violation of a collective bargaining
22 agreement or a prohibited practice under sub. (3) (a) and, for purposes of a qualified
23 economic offer, satisfies the requirement to maintain fringe benefits under sub. (1)
24 (nc).

25 **SECTION 4.** 601.41 (10) of the statutes is created to read:

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1 601.41 **(10)** SUBSTANTIALLY SIMILAR HEALTH CARE COVERAGE PLAN. The
2 commissioner shall promulgate rules that set out a standardized summary of
3 benefits provided under health care coverage plans, including plans offered under
4 s. 40.51 (7), for use in determining whether a health care coverage plan is
5 substantially similar to a plan offered under s. 40.51 (7).

6 **SECTION 5. Initial applicability.**

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

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(END)