

**State of Wisconsin  
DEPARTMENT OF EMPLOYEE TRUST FUNDS — OFFICE OF THE SECRETARY  
and  
GROUP INSURANCE BOARD**

PROPOSED RULE to amend ETF 40.10 (1) and (2), and create ETF 40.10 (2) (d) regarding the contributions towards employee health insurance premiums by local units of government that participate in the group health insurance plans established by the state of Wisconsin, group insurance board.

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**NOTICE OF HEARING AND PROPOSED RULE**

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**NOTICE OF PUBLIC HEARING**

The Wisconsin Department of Employee Trust Funds (ETF) a public hearing to review this proposed rule, which amends ETF 40.10 (1) and (2), and creates ETF 40.10 (2) (d) regarding the contributions towards employee health insurance premiums by local units of government that participate in the group health insurance plans in accordance with the provisions of s. 227.16 (1), Stat. The public hearing will be held on August 17, 2004, at 1:00 PM in the downstairs Conference Room GB at the offices of the Department of Employee Trust Funds, 801 West Badger Road, Madison, Wisconsin.

The public record on this proposed rule making will be held open until 4:30 p.m. on Friday, August 18, 2004, to permit persons who are unable to attend the public hearing in person to submit written comments on the proposed rule. Any such written comments should be addressed to Arlene Larson, Department of Employee Trust Funds, 801 W. Badger Road, P.O. Box 7931, Madison, WI 53707-7931.

**Statute interpreted:**

None.

**Statutory authority:**

This proposed rule will be promulgated under the authority granted to the department of employee trust funds and the group insurance board under ss. 40.03 (2) (ig) and (6) (d) and 40.51 (1) and (7), Stat.

**Explanation of agency authority:**

The ETF is authorized by s. 40.51 (7), Stat., to vary some aspects of the group health insurance plan for local employers, expressly including establishing employer contribution provisions that differ from those for the state. The ETF secretary is charged by s. 40.03 (2) (ig) with promulgating, with the approval of the group insurance board, all rules necessary to administer the group health insurance programs. The group insurance board has broad authority under s. 40.03 (6) (d) to take actions, as trustees, that the board deems advisable. The board has authority under s. 40.51 (1) to set premium provisions by rule.

**Related statute or rule:**

Sections 40.05 (4) (ag) and 40.51 (6) as affected by 2003 Wis. Act 33.

**Plain language analysis:**

The state of Wisconsin group insurance board offers a group health insurance program to local government employers, including the same alternate plans (such as HMOs) available to state employees in the area. The proposed rule authorizes an alternative method for making employer contributions. The proposed rule will allow Wisconsin public employers offering their employees group health insurance under s. 40.51 (7) the option of adopting a tiered premium strategy as a means of containing health insurance costs.

At present, local government employers are required to contribute an amount between 50% and 105% of the lowest cost qualified plan towards the health insurance premiums of their insured employees. A lesser contribution is required for part-time employees and no minimum contribution is required for insured retirees. The existing s. ETF 40.10 was loosely based on former s. 40.05 (4) (ag) 2., Stat., which set the state's premium contribution for its employees at the lesser of 90% of the standard plan premium or 105% of the least costly qualifying plan within the county, but not more than the total amount of the premium. The state's contribution could be modified through collective bargaining.

Effective January 1, 2004, s. 40.05 (4) (ag) was repealed and recreated by 2003 Wis. Act 33 to alter state contributions towards employee health insurance. The same legislation also amended s. 40.51 (6), Stat., to require the group insurance board to place each of the health plans offered to state employees into one of three tiers. The tiers are separated according to the employee's share of premium costs.

Local government employees have access to the same HMOs and essentially the same health plans as offered to state employees in their area. The proposed rule will allow the group insurance board to establish tiers for the health plans as offered to local government employers. The tier into which a plan is placed may be the same as for state employees or may be different if the board and its actuary determine that the plan as offered to local employees, and its premium, warrants a different placement. Under the proposed rule, local government employers could use the tiers established by the board as a basis for their premium contribution arrangement. Under the new law enacted by 2003 Wis. Act 33, the state of Wisconsin's minimum premium contribution for its insured full-time employees is 80% of the average premium cost of plans offered in the tier with the lowest employee premium cost. Under the proposed rule, the local government employer's required minimum contribution will remain unchanged at the present 50% of the lowest cost plan (25% for part-time employees). If the local government employer adopts a tiered plan based on the Group Insurance Board's tiers, and provides that the employee's portion of the monthly premium will increase for plans in higher tiers by at least \$20 for single coverage and \$50 for family coverage for each successively higher tier, then the employer will not be limited to contributions of 105% of the premium for the lowest cost plan.

The proposed rule does not alter local government premium contributions. However, the rule change would allow local government employers more options in setting their future share of premiums.

Many local government employers base premium contributions on collectively bargained agreements. The proposed rule cannot impair existing contracts and so could have no effect on premium contributions being made under existing collective bargaining agreements until the existing agreements expire or are amended or otherwise renegotiated.

The proposed rule also amends the current language of s. ETF 40.10 in conformity with 1999 Act 185, section 193, which provided that wherever “employee,” “employees,” “employee’s” or “employees’ “ appear in the statutes, “employee,” “employees,” “employee’s” or “employees’ “ are substituted.

**Summary of, and comparison with, existing or proposed federal regulation:**

There are no existing or proposed federal regulations applicable to the subject matter of this rule.

**Comparison with rules in adjacent states:**

A search of legal databases on state administrative regulations has located no similar rules in adjacent states.

**Summary of factual data and analytical methodologies and how the related findings support the approach chosen:**

The legislature required a change with respect to state contributions towards health insurance for state employees. One reason for the change was because the previous contribution strategy, the so-called “105% formula,” was perceived as no longer being as effective as possible in holding down increases in health insurance premiums by health plans. The tiered approach is believed to better encourage health plans to become more cost efficient, thereby holding down the cost of health insurance. The board and ETF have decided that local units of government should be provided with access to the same tool to encourage cost efficiency in order to contain health care costs.

Under the proposed rule, participating Wisconsin public employers may continue to base their employer contribution solely on the so-called “105% formula,” or alternatively, on the health plan tiers.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

Section 40.02 (28), Stat. “Employer” as defined for purposes of ch. 40 does not include small businesses.

**Anticipated costs incurred by private sector:**

None.

**Effect on small business:**

No effect.

**Agency contact person name and title: (Include e-mail and telephone)**

For questions about the proposed rule, please write or call Arlene Larson, Manager, Self-Insured Health Plans, Division of Insurance Services, Department of Employee Trust Funds, P.O. Box 7931, Madison WI 53707. Telephone: (608) 264-6624. Fax: (608) 267-0633. E-mail: arlene.larson@etf.state.wi.us

**Place where comments are to be submitted and deadline for submission:**

Written comments on the proposed rule may be submitted to Arlene Larson, Department of Employee Trust Funds, 801 W. Badger Road, P.O. Box 7931, Madison, WI 53707-7931. Written comments must be received at the Department of Employee Trust Funds no later than 4:30 PM on Wednesday, August 18, 2004.

**Initial regulatory flexibility analysis:**

The proposed rule has no effect on small businesses because only governmental employers may participate in the group health insurance programs under ch. 40 of the statutes.

**Fiscal estimate:**

The proposed rule has no direct fiscal impact. The proposed rule generates no revenues for any employer because it has no effect on the fiscal liabilities of any county, city, village, town, school district, technical college district or sewerage. The proposed rule only applies to the local government units electing to participate in the Group Insurance Board's group health program. The intended effect of the rule is to allow these employers an option that may reduce increases in future health care costs. Nothing in the rule, however, requires any employer to change its present contribution arrangement.

**Free copies of proposed rule:**

Copies of this rule are available without cost by making a request to the Department of Employee Trust Funds, Office of the Secretary, P.O. Box 7931, Madison, Wisconsin 53707-7931, telephone (608) 266-1071.

**Text of Proposed Rule**

SECTION 1. ETF 40.10 (1) and (2) are amended to read:

ETF 40.10 (1) An ~~employee~~ employee of an employer, other than the state, shall be eligible for health insurance under s. 40.51 (7), Stat., if the requirements of ss. 40.02 (46) and 40.22 or of s. 40.19 (4) (a), Stat., are satisfied.

(2) The employer shall pay an employer contribution toward the gross health insurance premium based on the lowest cost qualified plan in the service area of the employer, as follows:

(a) For insured part-time ~~employees~~ employees who are appointed to work less than 1,044 hours per year, an amount not less than 25% of the lowest cost qualified plan.

(b) For eligible ~~employees~~ employees not specified in par. (a) or (c), an amount between 50% and, except as provided in par. (d), 105% of the lowest cost qualified plan.

(c) For a retiree, surviving dependent or an eligible ~~employee~~ employee on leave of absence or layoff, an employer contribution is optional.

SECTION 2. ETF 40.10 (2) (d) is created to read:

ETF 40.10 (2) (d) If the employer establishes an arrangement under which employer contributions towards premiums are based on the tier into which each health plan is placed by the group insurance board and the employee's share of the monthly premium is increased from tier to tier by at least \$20 for single coverage and \$50 for family coverage, then the employer contribution may exceed the 105% limitation in par. (b). The group insurance board, with the advice of the actuary, may place a health plan offered to local government employees in a tier different than that of the health plan of the same name as offered to state employees.

(end of rule text)

**Proposed effective date:**

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2), Stat.

**Approved for publication:**

This proposed rule is approved for publication in the Administrative Register.

Signed at Madison, Wisconsin, this 7<sup>th</sup> day of July 2004

WISCONSIN DEPARTMENT OF EMPLOYEE TRUST FUNDS

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Eric O. Stanchfield, Secretary