



House of Representatives

File No. 681

General Assembly

February Session, 2010

(Reprint of File No. 327)

House Bill No. 5424
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 30, 2010

**AN ACT CONCERNING AGREEMENTS BETWEEN MUNICIPALITIES
AND BOARDS OF EDUCATION FOR THE JOINT PURCHASE OF
EMPLOYEE HEALTH INSURANCE AND THE DISCLOSURE OF
CERTAIN INFORMATION REGARDING COMPENSATION FOR
SERVICES PROVIDED BY INSURANCE PRODUCERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) Subject to the
2 provisions of subsection (b) of this section, and the provisions of any
3 collective bargaining agreement, a municipality or a local or regional
4 board of education may join together with any combination of other
5 municipalities and local or regional boards of education by written
6 agreement as a single entity for the purpose of providing medical or
7 health care benefits for their employees. Such written agreement shall
8 establish the membership of such group, the duration of such benefits
9 plan, requirements regarding payment for such benefits plan and the
10 procedures for a municipality or local or regional board of education to
11 withdraw from such group and terminate such benefits plan. Such
12 agreement shall not constitute a multiple employer welfare
13 arrangement, as defined in Section 3 of the Employee Retirement

14 Income Security Act of 1974, as amended from time to time. Any group
15 established pursuant to this section shall not be deemed a fictitious
16 group. As used in this section, "municipality" means any town, city or
17 borough, consolidated town and city or consolidated town and
18 borough.

19 (b) Before a municipality or a local or regional board of education
20 may enter into an agreement described in subsection (a) of this section,
21 the legislative body of a municipality shall approve such an agreement
22 in cases where: (1) There is an existing arrangement between a
23 municipality and the board of education serving such municipality for
24 the provision of medical or health care benefits to the employees of
25 both the municipality and the board of education serving such
26 municipality; or (2) a municipality and the board of education serving
27 such municipality have separate medical or health care benefits plans
28 for their respective employees and both such benefits plans are paid
29 for by the general fund of the municipality.

30 Sec. 2. (NEW) (*Effective October 1, 2010*) (a) For purposes of this
31 section, "insurance", "insurance producer" and "insurer" have the same
32 meanings as provided in section 38a-702a of the general statutes, and
33 "municipality" means any town, city or borough, consolidated town
34 and city or consolidated town and borough.

35 (b) Any insurance producer who sells, solicits or negotiates
36 insurance on behalf of an insurer to a municipality or local or regional
37 board of education shall, upon request from the municipality or local
38 or regional board of education, fully disclose, in writing, the amount of
39 any fees or compensation such insurance producer receives from the
40 insurer for such services pursuant to the written memorandum
41 required under section 38a-707 of the general statutes or the
42 Investment Advisers Act of 1940, 15 USC 80b-1, et. seq., as amended
43 from time to time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Revenue Services	GF - Revenue Loss	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
Various Municipalities	Savings	Potential	Potential

Explanation

Municipalities are expected to achieve savings to the extent that they jointly provide medical or health care benefits as clarified by the bill.¹ Participation of municipalities would be voluntary. It is anticipated that certain municipalities (particularly smaller towns) will achieve savings from larger-group purchasing power and pooled administrative efficiencies. In order for cities and towns to determine whether they can achieve a savings, employers must examine not only the rates and plan design but also 2 to 3 years of its own utilization data.

Municipalities, boards of education, quasi-public agencies and public libraries currently offering health coverage through private health insurers are required to pay an Insurance Premiums Tax to the state of Connecticut. To the degree that the bill results in municipalities shifting their participation from fully-insured health

¹ In 1990 the Department of Insurance issued a letter ruling (HC-43) which forbids multiple employer welfare associations in Connecticut. CGS 7-148cc allows municipalities to perform any function jointly that they can do separately.

plans to procure self-insured coverage the state would experience a revenue loss to the Insurance Premiums Tax.

The bill also extends to local or regional boards of education to join together to procure medical or health care benefits. This is already allowed under current law and therefore does not result in a fiscal impact.

House "A" strikes the underlying bill and results in the fiscal impact identified above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 5424 (as amended by House "A")******AN ACT PERMITTING TWO OR MORE BOARDS OF EDUCATION TO JOINTLY PURCHASE EMPLOYEE HEALTH INSURANCE.*****SUMMARY:**

This bill permits two or more municipalities or local or regional boards of education to enter into a written agreement to act as a single entity to provide medical or health care benefits for their employees under certain conditions stated in the bill. Existing law permits municipalities to jointly perform any function that each has authority to perform separately.

The agreement is subject to the conditions of any union contract the municipality or board has with its employees. Also, the bill requires the legislative body of a municipality to approve the agreement when certain conditions exist between the municipality and board of education.

The agreement must establish:

1. the group's membership,
2. the benefits plan duration,
3. payment requirements for the benefits,
4. procedures for a municipality or board of education to withdraw from the agreement, and
5. procedures for the group to terminate the benefit plan.

The bill specifies that a group formed under its provisions is not (1) a multiple employer welfare arrangement (MEWA) as defined under the federal Employee Retirement Income Security Act of 1974 (ERISA) (see BACKGROUND) or (2) a “fictitious group.” (Insurance law prohibits a fictitious group organized for insurance rating purposes where differences in rates are based solely on membership in the group. But the prohibition does not apply to health insurance.)

The bill requires that any insurance producer who sells, solicits, or negotiates insurance on behalf of an insurer to a municipality or a board of education to, at the municipality’s or board’s request, fully disclose in writing the amount of any fees or compensation the producer receives from the insurer for services under (1) the written memorandum required by existing law or (2) the 1944 Federal Investment Advisors Act.

*House Amendment “A” (1) includes the provision regarding collective bargaining agreements; (2) removes references to “health insurance” and instead inserts “medical or health benefits plan”; (3) states the groups formed under the plan will not constitute a MEWA as defined under ERISA; (4) adds the requirement that insurers disclose fees and compensation at the request of the municipality or board; (5) deletes the requirements that the education commissioner approve the agreements and that they be fully insured; and (6) changes the effective date from upon passage to October 1, 2010.

EFFECTIVE DATE: October 1, 2010

MUNICIPAL LEGISLATIVE BODY APPROVAL

The bill requires municipal legislative body to approve an agreement before a municipality or a local or regional board of education may enter into it if:

1. there is an existing arrangement between a municipality and the board of education serving the municipality to provide medical or health care benefits to the employees of both; or

2. a municipality and the board serving the municipality have separate medical or health care benefits plans for their respective employees and both benefit plans are paid for by the municipality's general fund.

BACKGROUND

Joint Municipal Activities

By law, municipalities may jointly perform any function that each can perform separately under any law or special act, charter, or home rule ordinance (CGS § 7-148cc). Each participating municipality must approve a joint agreement in the same manner as it approves an ordinance or, if it does not approve ordinances, the budget. Any such agreement must establish a withdrawal process and require the body that approved it to review the agreement at least once every five years.

ERISA

ERISA is a federal law that sets standards, including fiduciary responsibilities, for most voluntary private-sector retirement plans and employer-sponsored health plans.

MEWA

An employer that self-insures a health benefit plan for its employees is generally not subject to state insurance laws because of federal pre-emption under ERISA. But a multiple employer plan may not have the same exemption.

ERISA defines "multiple employer welfare arrangement" as an employee welfare benefit plan, or any other arrangement that is established or maintained for the purpose of offering or providing benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that it does not include a plan or arrangement established or maintained by a collective bargaining agreement, rural electrical cooperative, or rural telephone cooperative association (29 U.S.C. § 1002(40)).

Congress amended ERISA in 1983 to provide an exception to

ERISA's preemption provisions for the regulation of MEWAs under state insurance laws (P.L. 97-473). As a result, if an ERISA-covered employee welfare benefit plan is a MEWA, states may apply and enforce state insurance laws with respect to it.

COMMITTEE ACTION

Education Committee

Joint Favorable

Yea 32 Nay 0 (03/19/2010)

Insurance and Real Estate Committee

Joint Favorable

Yea 14 Nay 0 (04/14/2010)