



State of Wisconsin
2011 – 2012 LEGISLATURE



LRB-3495/3
TJD:jld:jf

2011 BILL

1 **AN ACT** *to amend* 49.45 (2m) (c) (intro.); and *to create* 49.45 (2m) (dm) and
2 146.965 of the statutes; **relating to:** requiring legislation for agencies to take
3 an action to, request federal moneys to, and use state moneys to assist the
4 federal government to implement federal health reform.

Analysis by the Legislative Reference Bureau

On March 23, 2010, the federal government enacted the Patient Protection and Affordable Care Act (PPACA), which, among other things, imposes requirements and limitations on health insurance policies and health plans, requires the creation of state-based health insurance exchanges through which individuals and small employers can purchase insurance, changes the income eligibility criteria for Medicaid (known as Medical Assistance in this state), and creates incentives for improving access to health care. This bill requires that, before a state agency takes any action to implement PPACA for which the agency would typically promulgate a rule, the agency must request the Legislative Reference Bureau to prepare legislation that allows the agency to take the action. The agency must then submit the proposed legislation to each standing committee of each house of the legislature that has jurisdiction over health or insurance matters. The bill prohibits the agency from taking the action to implement PPACA until the legislation allowing the agency to take the action takes effect. The bill also prohibits an agency from requesting a grant or other moneys from the federal government to implement PPACA and from expending any state moneys, or federal moneys passing through the state treasury, to assist the federal government in implementing PPACA.

BILL

For further information see the *state* 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.** 49.45 (2m) (c) (intro.) of the statutes, as affected by 2011 Wisconsin
2 Act 32, section 1423k, is amended to read:

3 49.45 **(2m)** (c) (intro.) Subject to ~~par.~~ pars. (d) and (dm), if the department
4 determines, as a result of the study under par. (b), that revision of existing statutes
5 or rules would be necessary to advance a purpose described in par. (b) 1. to 7., the
6 department may propose a policy that makes any of the following changes related to
7 Medical Assistance programs:

8 **SECTION 2.** 49.45 (2m) (dm) of the statutes is created to read:

9 49.45 **(2m)** (dm) The department may not follow the procedures under this
10 section to implement a policy that involves an action to implement the Patient
11 Protection and Affordable Care Act, as defined in s. 146.965 (1) (b). If the department
12 proposes a policy under par. (c) that involves an action to implement the Patient
13 Protection and Affordable Care Act, the department shall comply with the procedure
14 under s. 146.965 (2) before taking the action.

15 **SECTION 3.** 146.965 of the statutes is created to read:

16 **146.965 Implementation of federal health reform. (1) DEFINITIONS.** In
17 this section:

18 (a) “Agency” means a board, commission, committee, department, or officer in
19 the state government, except the governor, a district attorney, or a military or judicial
20 officer.

BILL

1 (b) “Patient Protection and Affordable Care Act” means the federal Patient
2 Protection and Affordable Care Act, P.L. 111–148, as amended by the federal Health
3 Care and Education Reconciliation Act of 2010, P.L. 111–152.

4 **(2) LEGISLATION REQUIRED.** (a) Notwithstanding s. 227.11 (2), before an agency
5 takes any action to implement any portion of the Patient Protection and Affordable
6 Care Act for which the agency would typically promulgate a rule, the agency shall
7 request that the legislative reference bureau prepare legislation that allows the
8 agency to take the action. The agency shall submit the proposed legislation to each
9 standing committee of each house of the legislature that has jurisdiction over health
10 or insurance matters under s. 13.172 (3). The agency may not take the action until
11 the legislation allowing the agency to take the action takes effect.

12 (b) No agency may request a grant or other moneys from the federal
13 government to implement the Patient Protection and Affordable Care Act, unless the
14 state legislature has enacted legislation to allow the request for the grant or other
15 moneys and the legislation is in effect.

16 (c) No agency may expend any moneys of this state, or of any subdivision or
17 agency of this state, or any federal moneys passing through the state treasury to
18 assist the federal government in implementing any portion of the Patient Protection
19 and Affordable Care Act unless the state legislature has enacted legislation to allow
20 the agency to expend those moneys and the legislation is in effect.

21 (END)