

HOUSE No. 02950

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to municipal health care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Brian Ashe</i>	<i>2nd Hampden</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

HOUSE No. 02950

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 2950) of Walsh and others relative to health insurance for municipal employees and retirees Joint Committee on Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to municipal health care.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 18 of chapter 32B of the General Laws, as appearing in the 2008 Official
2 Edition, is hereby repealed.

3 SECTION 2. Said chapter 32B of the General Laws, is hereby amended by striking out section
4 18A and inserting in place thereof the following section:-

5 Section 18A. (a) All retirees, their spouses and dependents insured or eligible to be insured under
6 this chapter, if enrolled in Medicare Part A at no cost to the retiree, spouse or dependents or
7 eligible for coverage there under at no cost to the retiree, spouse or dependents, shall be required
8 to transfer to a Medicare health plan offered by the governmental unit under section 11C or
9 section 16, if the benefits under the plan and Medicare Part A and Part B together shall be of
10 comparable actuarial value to those under the retiree's existing coverage, but a retiree or spouse
11 who has a dependent who is not enrolled or eligible to be enrolled in Medicare Part A at no cost

12 shall not be required to transfer to a Medicare health plan if a transfer requires the retiree or
13 spouse to continue the existing family coverage for the dependent in a plan other than a Medicare
14 health plan offered by the governmental unit.

15 (b) Each retiree shall provide the governmental unit, in such form as the governmental unit shall
16 prescribe such information as is necessary to transfer to a Medicare health plan. If a retiree does
17 not submit the information required, he shall no longer be eligible for his existing health
18 coverage. The governmental unit may from time to time request from a retiree, a retiree's spouse
19 or a retiree's dependent, proof, certified by the federal government, of eligibility or ineligibility
20 for Medicare Part A and Part B coverage.

21 (c) The governmental unit shall pay any Medicare Part B premium penalty assessed by the
22 federal government on the retiree, spouse or dependent as a result of enrollment in Medicare Part
23 B at the time of transfer.

24 SECTION 3. Chapter 32B is hereby amended by inserting at the end thereof the following new
25 section:-

26

27 Section X: Notwithstanding any other provisions of this chapter, a political subdivision which
28 transfers its subscribers to the commission under Section 19 subsection (e) may provide health
29 reimbursement accounts to reimburse certain subscribers for qualified medical expenses.
30 Qualified medical expenses may include, but not be limited to, out-of-pocket costs such as
31 inpatient/outpatient copayments, calendar year deductibles, office visit copayments, and
32 prescription drug copayments. The commission shall issue rules and regulations consistent with

33 this section related to determining the eligibility of subscribers and the medical expenses that
34 may be reimbursed.

35 SECTION 4. Section 2 of chapter 32B is hereby amended by inserting after subsection (j) the
36 following subsection:-

37 (k) “Health Reimbursement Account”, a federally-recognized tax-exempt health benefit program
38 that allows an employer to reimburse qualified medical expenses paid by employees.

39 SECTION 5. Chapter 32B of the General Laws is hereby amended by inserting after section 20
40 of said chapter 32B the following section -

41 Section 21. (a) Notwithstanding any other provision of this chapter, the appropriate public
42 authority of a political subdivision which has undertaken to provide health insurance coverage to
43 its subscribers by acceptance of any other section of this chapter may elect to provide health
44 insurance coverage to all its subscribers pursuant to this section by transferring its subscribers to
45 the group insurance commission For the purposes of this section, the term “subscribers” shall
46 mean employees, retirees, surviving spouses and dependents of the political subdivision and may
47 include employees, retirees, surviving spouses and dependents of a district who previously
48 received health insurance benefits through the political subdivision accepting this section. This
49 section shall take effect in a political subdivision upon its acceptance in the following manner: in
50 a county, except Worcester county, by a vote of the county commissioners; in a city having Plan
51 D or a Plan E charter, by the manager; in any other city, by the mayor; in a town, by vote of the
52 board of selectmen; in a regional school district, by vote of the regional district school
53 committee; and in all other districts, by the prudential committee. The decision to transfer

54 subscribers to the commission under this section shall not be subject to bargaining under Chapter
55 150E or any other subsection herein.

56 (b) The appropriate public authority of a political subdivision which has transferred its
57 subscribers to the commission shall maintain existing contribution ratios, unless the appropriate
58 public authority enters into a written agreement with the public employee unions pursuant to
59 section 19 of chapter 32B stating otherwise.

60 (c) Notwithstanding subsection (c) of section 4B of chapter 4, the decision to transfer subscribers
61 under this section may be revoked in the same manner it was accepted in accordance with all
62 other subsections of section 4B of said chapter 4.

63 (d) Nothing in this section shall relieve a political subdivision from providing health insurance
64 coverage to an employee, retiree, surviving spouse or dependent to whom it has an obligation to
65 provide coverage under any other provision of this chapter.

66 (e) Upon accepting this section, the appropriate public authority shall notify the commission that
67 it will transfer all subscribers for whom it provides health insurance coverage to the commission.
68 The notice shall be provided to the commission by the appropriate public authority not later than
69 December 1 of each year and the transfer of subscribers to the commission shall take effect on
70 the following July 1. On the effective date of the transfer, the health insurance of all subscribers,
71 including elderly governmental retirees previously governed by section 10B of chapter 32A and
72 retired municipal teachers previously governed by section 12 of chapter 32A, shall be provided
73 through the commission for all purposes and governed under this section. As of the effective date
74 and for the duration of this transfer, subscribers transferred to the commission's health insurance
75 coverage shall receive group health insurance benefits determined exclusively by the

76 commission and the coverage shall not be subject to collective bargaining, except for
77 contribution ratios which shall be determined by the written agreement in subsection (b).

78 Subscribers transferred to the commission who are eligible or become eligible for Medicare
79 coverage shall transfer to Medicare coverage, as prescribed by the commission. In the event of
80 transfer to Medicare, the political subdivision shall pay any Medicare part B premium penalty
81 assessed by the federal government on retirees, spouses and dependents as a result of enrollment
82 in Medicare part B at the time of transfer into the Medicare health benefits supplement plan. For
83 each subscriber's premium and the political subdivision's share of that premium, the subscriber
84 and the political subdivision shall furnish to the commission, in such form and content as the
85 commission shall prescribe, all information the commission deems necessary to maintain
86 subscribers' and covered dependents' health insurance coverage. The appropriate public
87 authority of the political subdivision shall perform such administrative functions and process
88 such information as the commission deems necessary to maintain those subscribers' health
89 insurance coverage including, but not limited to, family and personnel status changes, and shall
90 report all changes monthly to the commission.

91 (f) To the extent authorized under chapter 32A, the commission shall provide group coverage of
92 subscribers' health claims incurred after transfer to the commission. The claim experience of
93 those subscribers shall be maintained by the commission in a single pool and combined with the
94 claim experience of all covered state employees and retirees and their covered dependents,
95 including those subscribers who previously received coverage under sections 10B and 12 of
96 chapter 32A.

97 Notwithstanding any general or special law to the contrary, a political subdivision that self-
98 insures its group health insurance plan under section 3A and has a deficit in its claims trust fund
99 at the time of transferring its subscribers to the commission and the deficit is attributable to a
100 failure to accrue claims which had been incurred but not paid may capitalize the deficit and
101 amortize the amount over 10 fiscal years in 10 equal amounts, or on a schedule providing for a
102 more rapid amortization. Except as provided otherwise herein, subscribers eligible for health
103 insurance coverage under subsection (e) shall be subject to all of the terms, conditions, schedule
104 of benefits and health insurance carriers as employees and dependents as defined by section 2
105 and commission regulations. The commission shall determine all matters relating to subscribers'
106 group health insurance rights, responsibilities, costs and payments, excluding contribution ratios,
107 and obligations, including but not limited to, the manner and method of payment, schedule of
108 benefits, eligibility requirements and choice of health insurance carriers and these matters shall
109 be determined exclusively by the commission and shall not be subject to collective bargaining,
110 the written agreement under subsection (a) or to any arbitration clause under the agreement. The
111 commission may issue rules and regulations consistent with this section and shall provide public
112 notice of any proposed rules and regulations and notice of thereof at the request of interested
113 parties, together with an opportunity to review those rules and regulations and an opportunity to
114 comment on those proposed rules and regulations in writing and at a public hearing, but the
115 commission shall not be subject to chapter 30A.

116 The commission shall negotiate and purchase health insurance coverage for subscribers
117 transferred under subsection (e) and shall promulgate regulations, policies and procedures for
118 coverage of the transferred subscribers. The schedule of benefits available to transferred
119 subscribers shall be determined by the commission pursuant to chapter 32A. The commission

120 shall offer those subscribers the same choice as to health insurance carriers and benefits as those
121 provided to state employees and retirees. The political subdivision's contribution to the cost of
122 health insurance coverage for transferred subscribers shall be as determined under the written
123 agreement entered into pursuant to this section, and shall not be subject to the provisions on
124 contributions in said chapter 32A. Any change to the premium contribution ratios shall become
125 effective on July 1 of each year, with notice to the commission of such change not later than
126 January 15 of the same year.

127 A political subdivision that transfers subscribers to the commission shall pay the commission for
128 all costs of its subscribers' coverage, including administrative expenses, and the governmental
129 unit's cost of subscribers' premium. The commission shall determine on a periodic basis the
130 amount of premium which the political subdivision shall pay to the commission. If the political
131 subdivision unit fails to pay all or a portion of these costs according to the timetable determined
132 by the commission, the commission may inform the state treasurer who shall issue a warrant in
133 the manner provided by section 20 of chapter 59 requiring the respective political subdivision to
134 pay into the treasury of the commonwealth as prescribed by the commission the amount of the
135 premium and administrative expenses attributable to the political subdivision. The state treasurer
136 shall recoup any past due costs from the political subdivision's cherry sheet under section 20A of
137 chapter 58 and transfer that money to the commission. If a governmental unit fails to pay to the
138 commission the costs of coverage for more than 90 days and the cherry sheet provides an
139 inadequate source of payment, the commission may, at its discretion, cancel the coverage of
140 subscribers of the political subdivision. If the cancellation of coverage is for nonpayment, the
141 political subdivision shall provide all subscribers health insurance coverage under plans which

142 are the actuarial equivalent of plans offered by the commission in the preceding year until there
143 is an agreement with the public employee committee providing for replacement coverage.

144 The commission may charge the political subdivision an administrative fee, which shall not be
145 more than 1 per cent of the cost of total premiums for the political subdivision, to be determined
146 by the commission which shall be considered as part of the cost of coverage for purposes of
147 determining the contributions of the political subdivision and its employees to the cost of health
148 insurance coverage by the commission.

149 (g) Any political subdivision that elects to transfer its subscribers to the commission shall
150 establish a contribution to the premium or cost of health insurance coverage that provides for at
151 least 50 per cent but not more than 99 per cent, except that, the contribution to the premium or
152 cost of health insurance coverage provided by a health maintenance organization shall not be
153 more than 90 per cent. Notwithstanding this subsection, subscribers whose coverage was
154 governed by section 10B or 12 of chapter 32A before the date that the decision to transfer
155 subscribers was made, shall not be required to contribute more than 25 per cent of their health
156 insurance premiums, but the political subdivision may provide for a premium contribution paid
157 by these subscribers of less than 25 per cent.

158 (h) In the absence of a public collective bargaining unit, the chief executive officer of a
159 municipality may authorize the transfer of subscribers to the commission and determine any and
160 all contribution ratios for its subscribers.

161 Section 6. Chapter 32B of the General Laws is hereby further amended by inserting after section
162 21 the following section -

163 Section 22. (a) Notwithstanding any other provision of this chapter, the appropriate public
164 authority of a municipality which has undertaken to provide health insurance coverage to its
165 subscribers by acceptance of any other section of this chapter may elect to provide health
166 insurance coverage to all its subscribers pursuant to this section by entering into contracts with
167 health insurance carriers under subsection (b). For the purposes of this section, the term
168 “subscribers” shall mean employees, retirees, surviving spouses and dependents of the
169 municipality and may include employees, retirees, surviving spouses and dependents of a district
170 who previously received health insurance benefits through the municipality accepting this
171 section. This section shall take effect in a municipality upon its acceptance by its appropriate
172 public authority in the following manner: in a city having Plan D or a Plan E charter, with
173 approval by the manager; in any other city, with approval by the mayor; and in a town, by vote
174 of the board of selectmen. The decision to accept this section shall not be subject to bargaining
175 pursuant to chapter 150E or section 19 or chapter 32B.

176 (b) A municipality is authorized to provide to its subscribers health insurance plans with an
177 actuarial value that is equal to, but no lesser than, the actuarial value of the health insurance
178 plans provided in any of the same class of health insurance plans purchased under authority of
179 section 4 of chapter 32A and made available to persons in the service of the commonwealth
180 pursuant to section 5 of such chapter. For purposes of this section, a “Point of Service” plan
181 offered by a municipality shall be considered to fall within the PPO class. The appropriate public
182 authority shall have the authority to achieve the authorized actuarial value by adjusting co-
183 payments, deductibles and tiered provider network co-payments or other plan design features
184 without bargaining pursuant to chapter 150E or section 19 or chapter 32B.

185 For purposes of this section, the actuarial value of such health insurance plans shall be
186 determined by the secretary of administration and finance and shall be determined by reference
187 to the health insurance plan purchased pursuant to section 4 of chapter 32A with the largest
188 subscriber enrollment and by using the applicable standards of practice established by the
189 American Academy of Actuaries in issuing an actuarial opinion. The authorized actuarial value
190 for health insurance plans shall be adjusted whenever the group insurance commission adjusts
191 the co-payments, deductibles, tiered provider network copayments or other plan design features
192 of any of the health insurance plans purchased under its authority of section 4 of chapter 32A.
193 For purposes of this section, actuarial value shall mean the measure of medical expenses
194 estimated to be paid in a certain health insurance plan for a standard population.

195 Nothing herein shall prohibit a municipality from providing health insurance plans with an
196 actuarial value that is lesser than those authorized in this section. Such health insurance plans
197 may be offered only after the appropriate public authority has satisfied any bargaining
198 obligations pursuant to chapter 150E.

199 SECTION 7. Notwithstanding any special or general law to the contrary, changes made to
200 health insurance benefits under sections 21 or 22 of Chapter 32B for any group of employees
201 covered by a collective bargaining agreement in effect as of July 1, 2011 shall not be inconsistent
202 with the provisions of such agreement.