

HOUSE No. 2950

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 adoption of the accompanying bill:

An Act relative to municipal health care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>1/21/2011</i>
<i>William N. Brownsberger</i>		<i>2/3/2011</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>	<i>2/3/2011</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>2/4/2011</i>
<i>Bruce E. Tarr</i>		<i>2/4/2011</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/4/2011</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/4/2011</i>

HOUSE No. 2950

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 2950) of Carolyn C. Dykema and others relative to health insurance for municipal employees and retirees. 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
2 Official Edition, is hereby repealed.

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

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

13 retiree or spouse to continue the existing family coverage for the dependent in a plan other than a
14 Medicare health plan offered by the governmental unit.

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

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

24 SECTION 3. Chapter 32B is hereby amended by inserting at the end thereof the
25 following new section:-
26

27 Section X: Notwithstanding any other provisions of this chapter, a political subdivision
28 which transfers its subscribers to the commission under Section 19 subsection (e) may provide
29 health 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
36 (j) the following subsection:-

37 (k) “Health Reimbursement Account”, a federally-recognized tax-exempt health benefit
38 program 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
40 section 20 of said chapter 32B the following section -

41 Section 21. (a) Notwithstanding any other provision of this chapter, the appropriate
42 public authority of a political subdivision which has undertaken to provide health insurance
43 coverage to its subscribers by acceptance of any other section of this chapter may elect to
44 provide health insurance coverage to all its subscribers pursuant to this section by transferring its
45 subscribers to the group insurance commission For the purposes of this section, the term
46 “subscribers” shall mean employees, retirees, surviving spouses and dependents of the political
47 subdivision and may include employees, retirees, surviving spouses and dependents of a district
48 who previously received health insurance benefits through the political subdivision accepting
49 this section. This section shall take effect in a political subdivision upon its acceptance in the
50 following manner: in a county, except Worcester county, by a vote of the county commissioners;
51 in a city having Plan D or a Plan E charter, by the manager; in any other city, by the mayor; in a
52 town, by vote of the board of selectmen; in a regional school district, by vote of the regional
53 district school committee; and in all other districts, by the prudential committee. The decision to
54 transfer subscribers to the commission under this section shall not be subject to bargaining under
55 Chapter 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
61 subscribers under this section may be revoked in the same manner it was accepted in accordance
62 with all other subsections of section 4B of said chapter 4.

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

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

77 bargaining, except for contribution ratios which shall be determined by the written agreement in
78 subsection (b).

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

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

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

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

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

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

144 preceding year until there is an agreement with the public employee committee providing for
145 replacement coverage.

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

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

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

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

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

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

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

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

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