Governmental Entities Now Prohibited From Offering Benefits to Domestic Partners of Employees

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One of the many significant changes resulting from the official passage of the 2017-2019 biennial budget is the creation of Wis. Stat. § 66.0510, which prohibits all municipalities, counties, and school districts from offering employee benefit plan coverage to domestic partners of employees as of January 1, 2018.

During the debates surrounding the enactment of Wis. Stat. § 66.0510, the Legislature pointed to the State's recent legalization of same-sex marriage as eliminating the need for government employers to offer benefit plans which cover domestic partners.

The following list of benefit plans represents those offered to domestic partners under the old law: the state group health insurance program; the state group life insurance program; duty disability benefits; and the deferred compensation program. Under the new law, as of January 1, 2018, municipalities, counties, and school districts are only permitted to offer such employee benefit plans to their employees, and the spouses and dependent children of such employees.

Another significant effect of the new law is that it precludes survivors whose domestic partner died while employed by a municipality, county, or school district from collecting survivor benefits, except that the law includes a carve out for all surviving domestic partners of protective occupation employees receiving duty disability benefits such that those domestic partners may continue to collect the duty disability benefits until they remarry as long as: (1) the domestic partner was in a domestic partnership with the deceased protective occupation employee as of the date the employee became disabled; and (2) the disability occurred before January 1, 2018.

The new law goes into effect on January 1, 2018, but will not apply to employees who are subject to an existing collective bargaining agreement or another type of contract containing language incompatible with the new law until the current agreement or contract is modified, expires, terminates, or renews—whichever occurs first.

In light of these changes in the law, municipalities, counties, and school districts should reevaluate their employee benefit plans to ensure they are or will be in compliance come January 1, 2018. This reevaluation may require discussions with insurance providers to reassess health insurance costs and any contractual obligations that the municipality, county, or school district may be under for the foreseeable future. Likewise, municipalities, counties, and school districts should determine which of their employees, if any, are subject to a collective bargaining agreement or contract that contains incompatible language with the new law to determine which employees are subject to the law's narrow exception. Further, as with any significant change in the workplace, municipalities, counties, and school districts would benefit from having an open dialogue with employees as to why a change in the employee benefit plan is coming, and how the organization is going to work with the employees through the transition.

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