

Adding Clarity to the Elimination of Domestic Partner Benefits for Local Government Employers

Oct 10 2017

Posted By: Ryan P. Heiden

Practice Area: School Law & County and Municipal Governance & Government Law

The response to our October 4 *Legal Update* has been overwhelming. Many of our clients and friends have responded with a variety of questions, and some misunderstandings, about this new law and the applicable effective dates. This *Legal Update* seeks to add clarity to the Wisconsin Legislature's recent decision to prohibit domestic partner benefits from being offered through school district, county, and municipal insurance plans and more specifically answer questions we have received regarding the new law.

As indicated in the October 4, 2017 *Legal Update*, as of January 1, 2018, the following prohibitions become effective:

1. All state group insurance plans offered by the group insurance board will no longer be available to the domestic partners of state or local government employees.
2. Domestic partners of deceased protective occupation employees will remain eligible to receive duty disability survivorship benefits until they remarry as long as: (a) the domestic partner was in a domestic partnership with the deceased protective occupation employee as of the date the employee became disabled; and (b) the disability occurred before January 1, 2018.

Additionally, as of **April 1, 2018**, the following prohibitions become effective:

1. Domestic partner benefits will no longer be available to employees of school districts, counties, and municipalities through private insurance plans offered by such employers.
2. Employees that have not formally entered into a domestic partnership by April 1, 2018, will be prohibited from utilizing leave associated with domestic partners under the Wisconsin Family Medical Leave Act.

The prohibition against offering domestic partner benefits via insurance plans is not limited to only those employers under the State Plan. If the employer is under the State Plan, the prohibition begins on January 1, 2018. If the employer is under a non-state plan, the prohibition begins on April 1, 2018.

The prohibitions against offering domestic partner benefits through insurance plans do not apply to any school district, county, or municipality that is subject to an existing collective bargaining agreement or other contract that contains language incompatible with the new law. Because "plan design" is a prohibited subject of bargaining in most cases, this situation will be rare. In such a situation, the current agreement or contract will govern the benefits provided to employees until the agreement or contract is modified, expires, terminates or renews—whichever occurs first.

von Briesen & Roper Legal Update is a periodic publication of von Briesen & Roper, s.c. It is intended for general information purposes for the community and highlights recent changes and developments in the legal area. This publication does not constitute legal advice, and the reader should consult legal counsel to determine how this information applies to any specific situation.