

Howard Marklein: Senate Passes COVID Compromise

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On Tuesday, January 12, 2021, the Wisconsin State Senate amended and passed Assembly Bill (AB) 1, which is a COVID-19 Compromise bill. This legislation provides liability protections for schools, churches and employers, creates an Essential Visitor option for residents of nursing homes, directs improvements in the Unemployment Compensation program, creates flexibilities for hospitals to provide care and extends a number of waivers and other provisions we passed in an earlier COVID-19 relief bill.

While the Senate made changes to the original Assembly bill, we did so with the goal of crafting a bill that Governor Tony Evers would sign. The original Assembly bill contained a number of items that the Governor said he would not support and therefore would veto if placed on his desk. We amended the bill to remove these items in order try to pass a compromise bill so that we could provide some relief for the people we serve.

It is very important to note that AB 1 as amended DOES NOT mandate vaccines or expand the role of public health departments. Rumors about these topics have been spreading like wildfire.

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In fact, three of the provisions we removed are already drafted as separate legislation and are in process. These include a bill to prohibit local health departments from mandating a COVID-19 vaccine, prohibiting the Department of Health Services (DHS) and local public health departments from closing places of

worship related to COVID-19 and prohibiting an employer's ability to require a COVID-19 vaccine as a condition of employment.

I have co-authored the bills to prohibit mandatory vaccines for the general public and to prohibit closing places of worship. I did not, however, co-author the bill to prohibit employers from mandating vaccines. It is a difficult conundrum. Do we tell an employer what to do in their own private business? Or do we side with employees who choose to work in a particular business? I look forward to a robust discussion on this topic.

AB 1 as amended still contains the following provisions:

- Protections for schools, churches and employers from frivolous lawsuits related to COVID-19.
- Essential Visitors for nursing homes and assisted living facilities – allows a facility to designate an essential visitor for a resident to visit and provide support for compassionate care situations.
- Allows college students to receive credit for helping with COVID-19 response activities.
- School board reports on virtual instruction – requires school board reports on virtual instruction 30 days after the end of each semester in 2020-21 and 2021-22.
- UI Claims Backlog – requires a plan within 30 days to address backlog for unemployment claims that are in process, adjudication and appeal.
- UI Call Center – requires the call center to operate 12 hours per day, 7 days per week until the backlog is gone.
- UI Waiting Period – suspends one-week waiting period requirement until March 14, 2021.
- UI Benefit Charging – if charges are related to COVID-19, UI is not charged to employers account, but instead charged to other accounts through March 13, 2021. Also extends assumption that claims filed between 3/15/20 and 3/13/21 are COVID-19 related.
- Work-share Programs – extends applicability of modifications until the end of the national emergency or 7/4/21.
- Medical Assistance (MA) for hospitals for nursing facility care – reimburses hospitals under MA for providing care that would otherwise be provided in a nursing home.
- Payment for outpatient services provided by hospitals – reimburses hospitals through MA for services provided on an outpatient basis that would usually be

- reimbursed when provided in an inpatient facility.
- MA reimbursement for COVID-19 vaccines and tests administered by pharmacies – covers them under MA program.
 - MA coverage for hospital services provided in a home setting.
 - Coverage of vaccinations under Senior Care – requires DHS to cover vaccines under SeniorCare regardless of whether a federal waiver is received.
 - Prescription Order Extensions – allows pharmacists to extend refills.
 - Cremation permits and electronic signature of death certificates – expedites cremation permitting and death certificates for COVID-19 deaths.
 - Child Care and Development Fund Block grant funding – passive review by JFC.
 - Civil liability Immunity for health care providers during COVID-19 response – only for COVID-19.
 - Coverage limits on certain prescription drugs – extends Act 185.
 - Liability insurance for physicians and nurse anesthetists.
 - Out-of-network costs related to health coverage – requires coverage of healthcare that is “out of network” during national health emergency.
 - Coverage of COVID-19 testing without cost sharing – requires coverage.
 - \$100 million from sum sufficient appropriations – JFC.
 - Loans to assist municipal utilities in maintaining liquidity.
 - WRS Annuities for critical workers – allows limited double-dipping during emergency.
 - Optional licensure of third-party logistics providers – Pfizer drug shipping.
 - Practice by health care providers from other states – allows providers to practice in WI if they are licensed in another state – during emergency. Temporary credential.
 - 1st and 2nd year pharmacy students can administer COVID-19 vaccines.
 - Transfer of employees between executive branch agencies – allows DOA to do this.
 - Medicaid Data for the Wisconsin Hospitals Association – directs DHS to share Medicaid data so that hospitals can assess the full picture of care and resulting outcomes to improve their delivery of services.

Overall, I am pleased with the bill we passed and I hope that the State Assembly reconsiders their position in opposition to the bill as amended. I am also encouraged by the new bills moving through the process to address additional issues related to COVID-19. We will keep working on these issues.

As always, please do not hesitate to connect with me to provide input, ideas or to



seek assistance. Send an email to sen.marklein@legis.wisconsin.gov or call 608-266-0703.

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