



# SPECIAL Alert

Volume Seven, Issue Four

July 2011

## In This Issue

*In this fourth McGrawWentworth Special Alert for 2011, we review a recent amendment to Michigan's Public Act 336. This amendment only impacts public employers in the state of Michigan with collective bargaining agreements.*

*The amendment allows Michigan employers to pass along any cost increases associated with maintaining certain collectively bargained benefits if the bargaining agreement expires before a successor contract is in place.*

*We welcome your comments and suggestions regarding this issue of our Special Alert. For more information on this article, please contact your Account Manager or visit the McGrawWentworth web site at [www.mcgrawwentworth.com](http://www.mcgrawwentworth.com).*

## “Public Employers in Michigan - Union Agreements”

Michigan public employers with collective bargaining agreements need to be aware of an amendment recently made to Public Act 336, which was originally passed in 1947. The Act covers a number of issues related to Michigan public employers and their collectively bargained employees, including strikes by certain public employees, reviews for certain disciplinary actions, the mediation of grievances, and the protection of rights granted to collectively bargained public employees.



Governor Synder recently signed Public Act 54, which amended part of Public Act 336 as of June 8, 2011. This amendment details the rights of public employers and their employees if a collective bargaining agreement expires before the next agreement is in place. Public employers are allowed to pass on to employees the “increased cost” of maintaining health, dental, vision, prescription or other insurance benefits under the collective bargaining agreement until a successor agreement is in place.

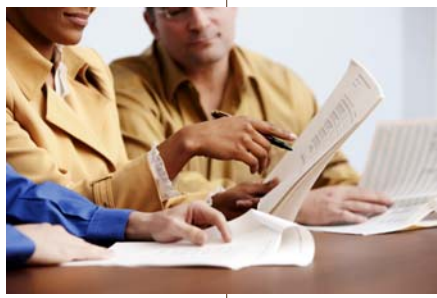
“Increased cost” refers to the difference in premiums or illustrated rates between the prior year and the current coverage year, and is calculated by coverage tier (for example, single, two-person or family). This amendment authorizes employers to make any necessary payroll deductions to cover the increased cost of maintaining these benefits.

Suppose a public employer does not currently charge an employee contribution for medical coverage, and then one of their union agreements expires on August 1, 2011. A new contract is not in place by August 1, which is also the date when the health plan renews. The rates for these union employees’ health plan increase by 10% as of August 1. The employer can monetize the 10% increase and charge the employees the rate increase until the successor agreement is in place.

Public employers that increase contributions because a union agreement expires without a successor agreement in place, should let employees know that their contributions will increase. While there is no notification requirement in PA 54, Section 125 requires employers to notify employees about changes in pre-tax deductions.

Public employers are wondering if they need to allow for enrollment changes when contributions increase. If the cost increase corresponds with the plan's normal open enrollment, certainly employees can make changes just as they would for any open enrollment.

If the cost change does not correspond with normal open enrollment, the situation is a bit more difficult. While Section 125 recognizes a change in cost as a permitted reason to make a midyear election change, many health plans do not allow a midyear enrollment due to a change in cost. Your organization should request your carrier grant



your plan a special open enrollment to correspond with the change in cost. This will allow union employees to make midyear election changes in response to the cost increase. For example, union employees in the most expensive plan may want to switch to a less expensive option when the full cost of the increase is passed to the employee.

The ability to pass on the total cost increase to the union applies only to **public** employers who have an **expired** collective bargaining agreement. This provision applies even if the employer and union have agreed to an extension of the current agreement.

Public employers should keep this key change in mind when they have expiring collective bargaining agreements. The change will certainly encourage unions to bargain in good faith, and may be an incentive to settle successor contracts in a timely manner.

Please contact your McGraw Wentworth Account Director with any questions. **MW**

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