

House Research Act Summary

CHAPTER: 33 (S.F.1904/H.F.2138)

SESSION: 2009 Regular Session

TOPIC: Mini-COBRA health insurance continuation coverage change to match federal law

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Background

The effect of this act is relatively simple, but it is hard to explain concisely. This act involves an existing Minnesota law referred to as a “mini-COBRA” law. Federal law has a provision enacted in the 1986 Consolidated Omnibus Budget Reconciliation Act (source of the acronym “COBRA”) which requires employers and insurers to allow former employees to continue in the employer’s group health insurance plan at the employee’s expense. This is called COBRA continuation coverage. Federal COBRA applies only to employees who worked for a firm that has more than 20 employees. Minnesota had previously enacted, in 1974, a “mini-COBRA” law that applied to employers of all sizes, including those with 20 or fewer employees. About 40 other states now have mini-COBRA laws that cover the employers with 20 or fewer employees.

A few months ago, Congress enacted the federal stimulus package named the American Recovery and Reinvestment Act of 2009 (ARRA). It amends federal COBRA to provide a 65 percent federal subsidy for COBRA premiums for up to nine months of coverage, thereby reducing the enrollee’s share of the premium to 35 percent. It applies only to employees who were involuntarily terminated for reasons other than misconduct. That subsidy is available for people eligible under either federal COBRA or a state mini-COBRA law, so it is available for Minnesotans involuntarily terminated by employers who have 20 or fewer employees.

ARRA has an additional feature that allows people terminated between September 1, 2008, and February 16, 2009, who originally declined COBRA coverage or accepted it but disenrolled by February 16, to have a second chance to accept COBRA coverage now that the federal subsidy is available. The coverage cannot

be retroactive and cannot extend COBRA coverage beyond the time it would have ended (18 months from date of termination) if the employee had originally accepted the continuation coverage. On this “second chance” feature, ARRA applies only to federal COBRA, perhaps because Congress did not think it appropriate to in effect amend the state mini-COBRA laws to require this “second election period” provided under federal COBRA. So, the states are on their own to amend their own laws to require the second election period. This bill would do that for Minnesota. If a state does that, the federal law will provide these “second election” enrollees in continuation coverage the same 65 percent federal subsidy.

Section

- 1 Limited extension of continuation election period.** Would permit involuntarily terminated employees of firms with 20 or fewer employees who originally turned down continuation coverage to have the same second election period provided under federal law to terminated employees of larger employers.

Effective and expiration dates: Day following final enactment and expires June 30, 2010.