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By: **Delegates Healey, Barkley, Benson, Bobo, Boschert, Bronrott, Cane, Carter, G. Clagett, V. Clagett, Conroy, Cryor, C. Davis, Donoghue, Doory, Dumais, Feldman, Franchot, Frush, Gaines, Gilleland, Goldwater, Goodwin, Gutierrez, Haynes, Heller, Hixson, Holmes, Hubbard, Kaiser, Kelley, King, Kirk, Krysiak, Lee, Love, Madaleno, Malone, Mandel, Marriott, McHale, McIntosh, Menes, Moe, Murray, Nathan-Pulliam, Niemann, Oaks, Paige, Parker, Patterson, Pendergrass, Quinter, Ramirez, Rosenberg, Ross, Rudolph, Taylor, V. Turner, and Vaughn**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

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**Fair Share Health Care Fund Act**

3 FOR the purpose of establishing the Fair Share Health Care Fund; establishing the  
 4 purpose of the Fund; providing that the Fund consists of certain payments made  
 5 by employers in connection with a certain health care payroll assessment;  
 6 providing that the Fund is a special, nonlapsing fund; requiring the State  
 7 Treasurer to hold the Fund and the Comptroller to account for the Fund;  
 8 requiring that investment earnings of the Fund be retained in the Fund;  
 9 requiring the interest on and other income from the Fund be separately  
 10 accounted for; requiring the Fund to be used to support the operations of the  
 11 Maryland Medical Assistance Program; providing that certain provisions of this  
 12 Act apply to certain employers; requiring certain employers to submit certain  
 13 information to the Secretary of Labor, Licensing, and Regulation; requiring the  
 14 Secretary to adopt certain regulations that provide for the submission of a  
 15 certain designation and affidavit; providing that a certain employer may exempt  
 16 certain wages when calculating a certain percentage; requiring a certain  
 17 employer to make a certain payment to the Secretary under certain  
 18 circumstances and in a certain manner; prohibiting a certain employer from  
 19 making a certain deduction; providing for a certain penalty; requiring the  
 20 Secretary to make a certain verification, adopt certain regulations, and make a  
 21 certain payment to a certain fund; defining certain terms; and generally relating  
 22 to requiring certain employers to pay a certain assessment for employee health  
 23 insurance costs.

24 BY adding to

25 Article - Health - General

26 Section 15-142

27 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

2 BY adding to

3 Article - Labor and Employment

4 Section 8.5-101 through 8.5-106, inclusive, to be under the new title "Title 8.5.

5 Health Care Payroll Assessment"

6 Annotated Code of Maryland

7 (1999 Replacement Volume and 2004 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Health - General**

11 15-142.

12 (A) IN THIS SECTION, "FUND" MEANS THE FAIR SHARE HEALTH CARE FUND.

13 (B) THERE IS A FAIR SHARE HEALTH CARE FUND.

14 (C) THE PURPOSE OF THE FUND IS TO SUPPORT THE OPERATIONS OF THE  
15 PROGRAM.

16 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT  
17 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

18 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE  
19 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

20 (E) THE FUND CONSISTS OF:

21 (1) ANY REVENUE RECEIVED FROM PAYMENTS MADE BY EMPLOYERS  
22 UNDER TITLE 8.5 OF THE LABOR AND EMPLOYMENT ARTICLE; AND

23 (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE  
24 BENEFIT OF THE FUND.

25 (F) THE FUND MAY BE USED ONLY TO SUPPORT THE OPERATIONS OF THE  
26 PROGRAM.

27 (G) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE  
28 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

29 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE RETAINED TO  
30 THE CREDIT OF THE FUND.

31 (H) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF  
32 LEGISLATIVE AUDITS AS PROVIDED FOR IN § 2-1220 OF THE STATE GOVERNMENT  
33 ARTICLE.

1 **Article - Labor and Employment**

## 2 TITLE 8.5. HEALTH CARE PAYROLL ASSESSMENT.

3 8.5-101.

4 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

5 (B) "EMPLOYEE" MEANS ALL INDIVIDUALS EMPLOYED FULL TIME OR PART  
6 TIME DIRECTLY BY AN EMPLOYER.7 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
8 "EMPLOYER" HAS THE MEANING STATED IN § 10-905 OF THE TAX - GENERAL ARTICLE.9 (2) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE  
10 STATE, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF THE STATE OR ANOTHER  
11 STATE.12 (D) "HEALTH INSURANCE COSTS" MEANS THE AMOUNT PAID BY AN  
13 EMPLOYER TO PROVIDE HEALTH CARE OR HEALTH INSURANCE TO EMPLOYEES IN  
14 THE STATE TO THE EXTENT DEDUCTIBLE BY THE EMPLOYER UNDER FEDERAL TAX  
15 LAW.16 (E) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND  
17 REGULATION.18 (F) "WAGES" HAS THE MEANING STATED IN § 10-905 OF THE TAX - GENERAL  
19 ARTICLE.

20 8.5-102.

21 THIS TITLE APPLIES TO AN EMPLOYER WITH 10,000 OR MORE EMPLOYEES IN  
22 THE STATE.

23 8.5-103.

24 (A) (1) ON JANUARY 1, 2006, AND ANNUALLY THEREAFTER, AN EMPLOYER  
25 SHALL SUBMIT ON A FORM AND IN A MANNER APPROVED BY THE SECRETARY:26 (I) THE AMOUNT SPENT BY THE EMPLOYER IN THE PREVIOUS  
27 CALENDAR YEAR ON HEALTH INSURANCE COSTS IN THE STATE; AND28 (II) THE PERCENTAGE OF PAYROLL THAT WAS SPENT BY THE  
29 EMPLOYER IN THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE COSTS IN  
30 THE STATE.31 (2) THE SECRETARY SHALL ADOPT REGULATIONS THAT SPECIFY THE  
32 INFORMATION THAT AN EMPLOYER SHALL SUBMIT UNDER PARAGRAPH (1) OF THIS  
33 SUBSECTION.

34 (3) THE INFORMATION REQUIRED SHALL:

1 (I) BE DESIGNATED IN A REPORT SIGNED BY THE PRINCIPAL  
2 EXECUTIVE OFFICER OR AN INDIVIDUAL PERFORMING A SIMILAR FUNCTION; AND

3 (II) INCLUDE AN AFFIDAVIT UNDER PENALTY OF PERJURY THAT  
4 THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

5 1. WAS REVIEWED BY THE SIGNING OFFICER; AND

6 2. WAS BASED ON THE OFFICER'S KNOWLEDGE AND DOES  
7 NOT CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT A MATERIAL  
8 FACT NECESSARY TO MAKE THE STATEMENT MADE NOT MISLEADING.

9 (B) WHEN CALCULATING THE PERCENTAGE OF PAYROLL UNDER SUBSECTION  
10 (A)(1)(II) OF THIS SECTION, AN EMPLOYER MAY EXEMPT:

11 (1) WAGES PAID TO ANY EMPLOYEE BEYOND THE AMOUNT TAXABLE  
12 FOR FEDERAL SOCIAL SECURITY (FICA) PURPOSES; AND

13 (2) WAGES PAID TO AN EMPLOYEE WHO IS ENROLLED IN OR ELIGIBLE  
14 FOR MEDICARE.

15 8.5-104.

16 (A) AN EMPLOYER THAT IS ORGANIZED AS A NONPROFIT ORGANIZATION  
17 THAT DOES NOT SPEND UP TO 6% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE  
18 STATE ON HEALTH INSURANCE COSTS SHALL PAY TO THE SECRETARY AN AMOUNT  
19 EQUAL TO THE DIFFERENCE BETWEEN WHAT THE EMPLOYER SPENDS FOR HEALTH  
20 INSURANCE COSTS AND AN AMOUNT EQUAL TO 6% OF THE TOTAL WAGES PAID TO  
21 EMPLOYEES IN THE STATE.

22 (B) AN EMPLOYER THAT IS NOT ORGANIZED AS A NONPROFIT ORGANIZATION  
23 AND DOES NOT SPEND UP TO 8% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE  
24 STATE ON HEALTH INSURANCE COSTS SHALL PAY TO THE SECRETARY AN AMOUNT  
25 EQUAL TO THE DIFFERENCE BETWEEN WHAT THE EMPLOYER SPENDS FOR HEALTH  
26 INSURANCE COSTS AND AN AMOUNT EQUAL TO 8% OF THE TOTAL WAGES PAID TO  
27 EMPLOYEES IN THE STATE.

28 (C) AN EMPLOYER MAY NOT DEDUCT ANY PAYMENT MADE UNDER  
29 SUBSECTION (A) OR (B) OF THIS SECTION FROM THE WAGES OF AN EMPLOYEE.

30 (D) AN EMPLOYER SHALL MAKE THE PAYMENT REQUIRED UNDER THIS  
31 SECTION TO THE SECRETARY ON A PERIODIC BASIS AS DETERMINED BY THE  
32 SECRETARY.

33 8.5-105.

34 FAILURE TO REPORT IN ACCORDANCE WITH § 8.5-103 OF THIS TITLE OR TO  
35 MAKE THE PAYMENT REQUIRED UNDER § 8.5-104 OF THIS TITLE SHALL RESULT IN  
36 THE IMPOSITION BY THE SECRETARY OF A CIVIL PENALTY OF \$250,000.

1 8.5-106.

2 THE SECRETARY SHALL:

3 (1) ON AN ANNUAL BASIS:

4 (I) VERIFY WHICH EMPLOYERS IN THE STATE HAVE 10,000 OR  
5 MORE EMPLOYEES; AND

6 (II) ENSURE THAT ALL EMPLOYERS IN THE STATE WITH 10,000 OR  
7 MORE EMPLOYEES HAVE MADE THE REPORT REQUIRED UNDER § 8.5-103 OF THIS  
8 TITLE;

9 (2) ADOPT REGULATIONS TO IMPLEMENT THIS TITLE; AND

10 (3) PAY THE REVENUE FROM THE PAYROLL ASSESSMENT INTO THE  
11 FUND CREATED UNDER § 15-141 OF THE HEALTH - GENERAL ARTICLE.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 July 1, 2005.