
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 Vaughn, Hurson, and Kullen**

Introduced and read first time: February 11, 2005
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 23, 2005

CHAPTER _____

1 AN ACT concerning

2 **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~~ **penalties**; requiring
20 the Secretary to make a certain verification, adopt certain regulations, and

1 make a certain payment to a certain fund; defining certain terms; and generally
2 relating to requiring certain employers to pay a certain assessment for employee
3 health insurance costs.

4 BY adding to
5 Article - Health - General
6 Section 15-142
7 Annotated Code of Maryland
8 (2000 Replacement Volume and 2004 Supplement)

9 BY adding to
10 Article - Labor and Employment
11 Section 8.5-101 through 8.5-106, inclusive, to be under the new title "Title 8.5.
12 Health Care Payroll Assessment"
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2004 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Health - General**

18 15-142.

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

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

21 (C) THE PURPOSE OF THE FUND IS TO SUPPORT THE OPERATIONS OF THE
22 PROGRAM.

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

25 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
26 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

27 (E) THE FUND CONSISTS OF:

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

30 (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
31 BENEFIT OF THE FUND.

32 (F) THE FUND MAY BE USED ONLY TO SUPPORT THE OPERATIONS OF THE
33 PROGRAM.

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

3 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE RETAINED TO
4 THE CREDIT OF THE FUND.

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

8 **Article - Labor and Employment**

9 TITLE 8.5. HEALTH CARE PAYROLL ASSESSMENT.

10 8.5-101.

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

12 (B) "EMPLOYEE" MEANS ALL INDIVIDUALS EMPLOYED FULL TIME OR PART
13 TIME DIRECTLY BY AN EMPLOYER.

14 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
15 "EMPLOYER" HAS THE MEANING STATED IN § 10-905 OF THE TAX - GENERAL ARTICLE.

16 (2) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE
17 STATE, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF THE STATE OR ANOTHER
18 STATE.

19 (D) (1) "HEALTH INSURANCE COSTS" MEANS THE AMOUNT PAID BY AN
20 EMPLOYER TO PROVIDE HEALTH CARE OR HEALTH INSURANCE TO EMPLOYEES IN
21 THE STATE TO THE EXTENT DEDUCTIBLE BY THE EMPLOYER UNDER FEDERAL TAX
22 LAW.

23 (2) "HEALTH INSURANCE COSTS" INCLUDES PAYMENTS FOR MEDICAL
24 CARE, PRESCRIPTION DRUGS, VISION CARE, MEDICAL SAVINGS ACCOUNTS, AND ANY
25 OTHER COSTS TO PROVIDE HEALTH BENEFITS AS DEFINED IN § 213(D) OF THE
26 INTERNAL REVENUE CODE.

27 (E) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND
28 REGULATION.

29 (F) "WAGES" HAS THE MEANING STATED IN § 10-905 OF THE TAX - GENERAL
30 ARTICLE.

31 8.5-102.

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

1 8.5-103.

2 (A) (1) ON JANUARY 1, 2006, AND ANNUALLY THEREAFTER, AN EMPLOYER
3 SHALL SUBMIT ON A FORM AND IN A MANNER APPROVED BY THE SECRETARY:

4 (I) THE AMOUNT SPENT BY THE EMPLOYER IN THE YEAR
5 IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE
6 COSTS IN THE STATE; AND

7 (II) THE PERCENTAGE OF PAYROLL THAT WAS SPENT BY THE
8 EMPLOYER IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR
9 ON HEALTH INSURANCE COSTS IN THE STATE.

10 (2) THE SECRETARY SHALL ADOPT REGULATIONS THAT SPECIFY THE
11 INFORMATION THAT AN EMPLOYER SHALL SUBMIT UNDER PARAGRAPH (1) OF THIS
12 SUBSECTION.

13 (3) THE INFORMATION REQUIRED SHALL:

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

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

18 1. WAS REVIEWED BY THE SIGNING OFFICER; AND

19 2. ~~WAS BASED ON THE OFFICER'S KNOWLEDGE AND DOES~~
20 ~~NOT CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT A MATERIAL~~
21 ~~FACT NECESSARY TO MAKE THE STATEMENT MADE NOT MISLEADING IS TRUE TO~~
22 THE BEST OF THE SIGNING OFFICER'S KNOWLEDGE, INFORMATION, AND BELIEF.

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

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

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

29 8.5-104.

30 (A) AN EMPLOYER THAT IS ORGANIZED AS A NONPROFIT ORGANIZATION
31 THAT DOES NOT SPEND UP TO 6% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE
32 STATE ON HEALTH INSURANCE COSTS SHALL PAY TO THE SECRETARY AN AMOUNT
33 EQUAL TO THE DIFFERENCE BETWEEN WHAT THE EMPLOYER SPENDS FOR HEALTH
34 INSURANCE COSTS AND AN AMOUNT EQUAL TO 6% OF THE TOTAL WAGES PAID TO
35 EMPLOYEES IN THE STATE.

1 (B) AN EMPLOYER THAT IS NOT ORGANIZED AS A NONPROFIT ORGANIZATION
2 AND DOES NOT SPEND UP TO 8% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE
3 STATE ON HEALTH INSURANCE COSTS SHALL PAY TO THE SECRETARY AN AMOUNT
4 EQUAL TO THE DIFFERENCE BETWEEN WHAT THE EMPLOYER SPENDS FOR HEALTH
5 INSURANCE COSTS AND AN AMOUNT EQUAL TO 8% OF THE TOTAL WAGES PAID TO
6 EMPLOYEES IN THE STATE.

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

9 (D) AN EMPLOYER SHALL MAKE THE PAYMENT REQUIRED UNDER THIS
10 SECTION TO THE SECRETARY ON A PERIODIC BASIS AS DETERMINED BY THE
11 SECRETARY.

12 8.5-105.

13 (A) FAILURE TO REPORT IN ACCORDANCE WITH § 8.5-103 OF THIS TITLE ~~OR~~
14 SHALL RESULT IN THE IMPOSITION BY THE SECRETARY OF A CIVIL PENALTY OF \$250
15 FOR EACH DAY THAT THE REPORT IS NOT TIMELY FILED.

16 (B) FAILURE TO MAKE THE PAYMENT REQUIRED UNDER § 8.5-104 OF THIS
17 TITLE SHALL RESULT IN THE IMPOSITION BY THE SECRETARY OF A CIVIL PENALTY
18 OF \$250,000.

19 8.5-106.

20 THE SECRETARY SHALL:

21 (1) ON AN ANNUAL BASIS:

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

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

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

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

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

