HB 1284

Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1284 (Delegate Healey, *et al.*)

Health and Government Operations Finance and Budget and Taxation

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Fair Share Health Care Fund Act

This bill imposes an assessment on certain employers based on the provision of health insurance coverage. Any revenues collected from the assessment must be deposited into the Fair Share Health Care Fund and used to fund the Medicaid program.

The bill takes effect January 1, 2007.

Fiscal Summary

State Effect: Special fund revenues would increase by a significant amount beginning in FY 2007 to support the Medicaid program. The Department of Labor, Licensing, and Regulation (DLLR) general fund expenditures could increase by $19,700 in FY 2007. Future year estimates reflect annualization and inflation.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	$0	-	-	-	-
GF Expenditure	0	19,700	30,000	31,800	33,700
Net Effect	$0	($19,700)	($30,000)	($31,800)	($33,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An employer with 10,000 or more employees that does not spend at least 6% of total wages (for a nonprofit employer) or 8% of total wages (for a for-profit employer) on health insurance costs must pay DLLR an amount equal to the difference between what the employer spends on health insurance and the required percentage of total wages paid. Health insurance costs are payments for medical care, prescription drugs, vision care, medical savings accounts, and any other health benefits recognized under federal tax law.

An employer, beginning January 1, 2007, must submit a report to DLLR specifying the number of its employees and the amount and the percentage of payroll that was spent on health insurance costs during the year immediately preceding the previous calendar year. DLLR must annually verify which employers have 10,000 or more employees and ensure that all employers with 10,000 or more employees have made the required report. Failure to report this information may result in a $250 civil penalty for each day the report is not timely filed. Failure to make the required payment may result in a $250,000 penalty.

The bill establishes the Fair Share Health Care Fund, funded by any revenue received from employer payments and any other source. The fund is subject to an audit by the Office of Legislative Audits (OLA). The funds may be used only to support the operations of the Medicaid program.

DLLR must report specified information to the Governor and the General Assembly by March 15 of each year.

Current Law: None applicable.

Background: Several states, facing rapidly-increasing Medicaid costs, are turning to the private sector to bear more of the costs. Wal-Mart, in particular, has been the focus of several states, who are accusing the company of providing substandard health benefits to its employees. According to the *New York Times*, Wal-Mart full-time employees earn on average $1,200 a month, or about $8 an hour.

Some states claim many Wal-Mart employees end up on public health programs such as Medicaid. A survey by Georgia officials found that more than 10,000 children of Wal-Mart employees were enrolled in the state's children's health insurance program (CHIP) at a cost of nearly $10 million annually. Similarly, a North Carolina hospital found that 31% of 1,900 patients who said they were Wal-Mart employees were enrolled in Medicaid, and an additional 16% were uninsured.

As a result, some states have turned to Wal-Mart to assume more of the financial burden of its workers' health care costs. California passed a law in 2003 that will require most employers to either provide health coverage to employees or pay into a state insurance pool that would do so. Advocates of the law say Wal-Mart employees cost California health insurance programs about $32 million annually. Washington state is exploring implementing a similar state law.

According to the *Times*, Wal-Mart says that its employees are mostly insured, citing internal surveys showing that 90% of workers have health coverage, often through Medicare or family members' policies. Wal-Mart officials say the company provides health coverage to about 537,000 people, or 45% of its total work force. As a matter of comparison, Costco Wholesale provides health insurance to 96% of eligible employees.

According to DLLR, there were three entities at the end of fiscal 2004 that employed more than 10,000 employees: Giant Food, Wal-Mart, and Johns Hopkins University (see **Exhibit 1**).

Exhibit 1
Employers with 10,000 or More Employees

Employer	Employees	Total Wages	Amount Required to Be Spent on Health Insurance
Giant Food	18,902	$536,050,814	$42,884,065
John Hopkins University	14,729	$858,997,834	$51,539,870
Wal-Mart	14,301	$270,333,508	$21,626,681

State Expenditures: DLLR general fund expenditures could increase by an estimated $19,673 in fiscal 2007, which reflects the January 1, 2007 effective date. This estimate reflects the cost of hiring a part-time accountant to collect and verify employer reports, remit any funds to the Department of Health and Mental Hygiene, and draft required reports. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	$14,003
Operating Expenses	5,670
Total FY 2007 State Expenditures	**$19,673**

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

To the extent Medicaid enrollees are working for these large employers who now begin to offer health insurance, Medicaid expenditures (50% general funds, 50% federal funds) could decrease.

OLA could audit the fund with existing budgeted resources.

State Revenues: To the extent large employers do not spend at least 6% or 8% on health insurance costs as required, Fair Share Health Care Fund special fund revenues could increase from employers' paying the difference between the required and actual amounts spent on health insurance. Since the amount an employer may be required to pay for health insurance is significant (see Exhibit 1), it may be more efficient for an employer to pay the $250,000 civil money penalty annually rather than pay the required assessment.

Additionally, special fund revenues could increase from the $250 penalty for failure to report information as required. It is assumed any penalty would be paid to the fund as well. There are insufficient data to reliably estimate any revenue increase.

Additional Information

Prior Introductions: None.

Cross File: SB 790 (Senator Lawlah, *et al.*) – Finance and Budget and Taxation.

Information Source(s): Department of Health and Mental Hygiene (Medicaid); Department of Labor, Licensing, and Regulation; Department of Legislative Services (Office of Legislative Audits)

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