

HOUSE BILL 1284

AN ACT concerning

Fair Share Health Care Fund Act

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

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

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

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

Article - Health - General

15-142.

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

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

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

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE. (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) **THE FUND CONSISTS OF: (1) ANY REVENUE RECEIVED FROM PAYMENTS MADE BY EMPLOYERS UNDER TITLE 8.5 OF THE LABOR AND EMPLOYMENT ARTICLE; AND (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.**

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

(G) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED. (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE RETAINED TO THE CREDIT OF THE FUND.

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

Article - Labor and Employment

TITLE 8.5. HEALTH CARE PAYROLL ASSESSMENT.

8.5-101.

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

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

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, "EMPLOYER" HAS THE MEANING STATED IN § 10-905 OF THE TAX - GENERAL ARTICLE. (2) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE STATE, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF THE STATE OR ANOTHER STATE.

(D) (1) "HEALTH INSURANCE COSTS" MEANS THE AMOUNT PAID BY AN EMPLOYER TO PROVIDE HEALTH CARE OR HEALTH INSURANCE TO EMPLOYEES IN THE STATE TO THE EXTENT DEDUCTIBLE BY THE EMPLOYER UNDER FEDERAL TAX LAW. (2) "HEALTH INSURANCE COSTS" INCLUDES PAYMENTS FOR MEDICAL CARE, PRESCRIPTION DRUGS, VISION CARE, MEDICAL SAVINGS ACCOUNTS, AND ANY OTHER COSTS TO PROVIDE HEALTH BENEFITS AS DEFINED IN § 213(D) OF THE INTERNAL REVENUE CODE.

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

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

8.5-102.

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

8.5-103.

(A) (1) ON JANUARY 1, 2006, AND ANNUALLY THEREAFTER, **AN EMPLOYER SHALL SUBMIT ON A FORM AND IN A MANNER APPROVED BY THE SECRETARY: (I) THE AMOUNT SPENT BY THE EMPLOYER IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE COSTS IN THE STATE; AND (II) THE PERCENTAGE OF PAYROLL THAT WAS SPENT BY THE EMPLOYER IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE COSTS IN THE STATE.** (2) THE SECRETARY SHALL ADOPT REGULATIONS THAT SPECIFY THE INFORMATION THAT AN EMPLOYER SHALL SUBMIT UNDER PARAGRAPH (1) OF THIS SUBSECTION. (3) THE INFORMATION REQUIRED SHALL: (I) BE DESIGNATED IN A REPORT SIGNED BY THE PRINCIPAL EXECUTIVE OFFICER OR AN INDIVIDUAL PERFORMING A SIMILAR FUNCTION; AND (II) INCLUDE AN AFFIDAVIT UNDER PENALTY OF PERJURY THAT THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION: 1. WAS REVIEWED BY THE SIGNING OFFICER; AND 2. IS TRUE TO THE BEST OF THE SIGNING OFFICER'S KNOWLEDGE, INFORMATION, AND BELIEF.

(B) WHEN CALCULATING THE PERCENTAGE OF PAYROLL UNDER SUBSECTION (A)(1)(II) OF THIS SECTION, AN EMPLOYER MAY EXEMPT: (1) WAGES PAID TO ANY EMPLOYEE BEYOND THE AMOUNT TAXABLE FOR FEDERAL SOCIAL SECURITY (FICA) PURPOSES; AND (2) WAGES PAID TO AN EMPLOYEE WHO IS ENROLLED IN OR ELIGIBLE FOR MEDICARE.

8.5-104.

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

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

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

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

8.5-105.

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

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

8.5-106.

THE SECRETARY SHALL:

(1) ON AN ANNUAL BASIS: (I) VERIFY WHICH EMPLOYERS IN THE STATE HAVE 10,000 OR MORE EMPLOYEES; AND (II) **ENSURE THAT ALL EMPLOYERS IN THE STATE WITH 10,000 OR MORE EMPLOYEES HAVE MADE THE REPORT** REQUIRED UNDER § 8.5-103 OF THIS TITLE;

(2) ADOPT REGULATIONS TO IMPLEMENT THIS TITLE; AND

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

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

