CHAPTER_____

1 AN ACT concerning

Fair Share Health Care Fund Act

2 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 certain information and 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 penalty; requiring the Secretary to make a certain verification, adopt certain regulations, and make a certain payment to a certain fund; requiring the Secretary to report certain information to the Governor and the General Assembly on or before a certain date each year; defining certain terms; providing for a delayed effective date; and generally relating to requiring certain employers to pay a certain assessment for employee health insurance costs.
1 BY adding to
2 Article - Health - General
3 Section 15-142
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2004 Supplement)

6 BY adding to
7 Article - Labor and Employment
8 Section 8.5-101 through 8.5-106 8.5-107, inclusive, to be under the new title
9 "Title 8.5. Health Care Payroll Assessment"
10 Annotated Code of Maryland
11 (1999 Replacement Volume and 2004 Supplement)

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

14 Article - Health - General

15 15-142.

16 (A) IN THIS SECTION, "FUND" MEANS THE FAIR SHARE HEALTH CARE FUND.
17 (B) THERE IS A FAIR SHARE HEALTH CARE FUND.
18 (C) THE PURPOSE OF THE FUND IS TO SUPPORT THE OPERATIONS OF THE
19 PROGRAM.

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

22 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
23 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

24 (E) THE FUND CONSISTS OF:

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

27 (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
28 BENEFIT OF THE FUND.

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

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

33 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE RETAINED TO
34 THE CREDIT OF THE FUND.
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 THE COSTS MAY BE DEDUCTIBLE BY THE AN 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 2007, AND ANNUALLY THEREAFTER, AN EMPLOYER SHALL SUBMIT ON A FORM AND IN A MANNER APPROVED BY THE SECRETARY:
THE NUMBER OF EMPLOYEES OF THE EMPLOYER IN THE STATE AS OF 1 DAY IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR AS DETERMINED BY THE EMPLOYER ON AN ANNUAL BASIS;

THE AMOUNT SPENT BY THE EMPLOYER IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE COSTS IN THE STATE; AND

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.

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

THE INFORMATION REQUIRED SHALL:

BE DESIGNATED IN A REPORT SIGNED BY THE PRINCIPAL EXECUTIVE OFFICER OR AN INDIVIDUAL PERFORMING A SIMILAR FUNCTION; AND

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

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

WAGES PAID TO ANY EMPLOYEE BEYOND THE AMOUNT TAXABLE FOR FEDERAL SOCIAL SECURITY (FICA) PURPOSES IN EXCESS OF THE MEDIAN HOUSEHOLD INCOME IN THE STATE AS PUBLISHED BY THE UNITED STATES CENSUS BUREAU; AND

WAGES PAID TO AN EMPLOYEE WHO IS ENROLLED IN OR ELIGIBLE FOR MEDICARE.

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.

(A) IN THIS SECTION, "HEALTH INSURANCE BENEFITS" 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.

(B) ON OR BEFORE MARCH 15 OF EACH YEAR, THE SECRETARY SHALL REPORT
TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:

(1) THE NAME OF EACH NONPROFIT AND FOR PROFIT EMPLOYER WITH
10,000 OR MORE EMPLOYEES IN THE STATE;

(2) THE EMPLOYER'S DEFINITION OF FULL-TIME EMPLOYEE AND
PART-TIME EMPLOYEE;

(3) THE NUMBER OF FULL-TIME EMPLOYEES;

(4) THE NUMBER OF FULL-TIME EMPLOYEES ELIGIBLE TO RECEIVE
HEALTH INSURANCE BENEFITS;

(5) THE NUMBER OF FULL-TIME EMPLOYEES RECEIVING HEALTH
INSURANCE BENEFITS FROM THE EMPLOYER;
THE SOURCE OF HEALTH INSURANCE BENEFITS FOR THOSE
ELIGIBLE FULL-TIME EMPLOYEES NOT RECEIVING HEALTH INSURANCE BENEFITS
THROUGH AN EMPLOYER SUBJECT TO REPORTING UNDER THIS TITLE;

THE NUMBER OF PART-TIME EMPLOYEES;

THE NUMBER OF PART-TIME EMPLOYEES ELIGIBLE TO RECEIVE
HEALTH INSURANCE BENEFITS;

THE NUMBER OF PART-TIME EMPLOYEES RECEIVING HEALTH
INSURANCE BENEFITS FROM THE EMPLOYER; AND

THE SOURCE OF HEALTH INSURANCE BENEFITS FOR THOSE
ELIGIBLE PART-TIME EMPLOYEES NOT RECEIVING HEALTH INSURANCE BENEFITS
THROUGH AN EMPLOYER SUBJECT TO REPORTING UNDER THIS TITLE.

THE INFORMATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION
SHALL BE REPORTED AS OF THE INFORMATION REPORTING DATE DETERMINED BY
THE EMPLOYER UNDER § 8.5-103(A)(1)(I) OF THIS TITLE.

THE SECRETARY SHALL:

ON AN ANNUAL BASIS, BASED ON THE INFORMATION REPORTED
UNDER § 8.5-103(A)(1)(I) OF THIS TITLE:

VERIFY WHICH EMPLOYERS IN THE STATE HAVE 10,000 OR
MORE EMPLOYEES IN THE STATE; AND

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

ADOPT REGULATIONS TO IMPLEMENT THIS TITLE; AND

PAY THE REVENUE FROM THE PAYROLL ASSESSMENT INTO THE
FUND CREATED UNDER § 15-141 § 15-142 OF THE HEALTH - GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
JULY 1, 2005 JANUARY 1, 2007.