

1 the controller by the director of human services.

2 (f) The fund shall be subject to audit by the state auditor general.

3 **42-140-2. Purpose and administration of fund.** -- (a) The purpose of the fund is to
4 support public and private programs that: (1) provide health care services to working persons
5 lacking health care coverage; (2) promote access to health care coverage for the uninsured; or (3)
6 other state health care programs including, but not limited to, reinsurance.

7 (b) The fund shall be administered by the director of the department of human services
8 who shall, in consultation with the directors of the departments of health; mental health
9 retardation and hospitals; children, youth and families; elderly affairs; secretary of the executive
10 office of health and human services and the health insurance commissioner, establish criteria for
11 expending the funds.

12 (c) The director of the department of human services shall also seek community input in
13 establishing criteria for the expenditure of the funds and annually report to the joint committee on
14 health care oversight on the status of the fund and programs funded.

15 **42-140-3. Definitions.** -- (a) For purposes of this chapter, the following terms shall have
16 the following meaning:

17 (1) "Director" means the director of the department of labor and training as established
18 under chapter 42-16.1-1.

19 (2) "Employee" means all individuals employed full-time or part-time directly by an
20 employer.

21 (3) "Employer" means a person, business, partnership, association, corporation, including
22 a municipal corporation, trust or non-profit entity that employs the services of one or more
23 individual persons.

24 "Employer" shall not include the federal government, the state, another state, or a
25 political subdivision of the state or another state.

26 (4) "Health insurance costs" means the amount paid by an employer to provide health
27 care or health insurance to employees in the state to the extent the costs may be deductible by an
28 employer under federal tax law.

29 (5) "Health insurance costs" includes payments for medical care, prescription drugs,
30 vision care, medical savings accounts, and any other costs to provide health benefits as defined in
31 section 213(d) of the Internal Revenue Code.

32 (6) "Payroll" means the total amount of all wages paid by the employer to his or her
33 employees for employment.

34 (7) "Wages" means salary, wages or compensation for personal services of any kind as

1 defined in sections 3401 and 3402 (o)(2)(A) of the Internal Revenue Code, except "Wages" shall
2 include remuneration paid for services described in section 3401 (a)(5) and (6) of the Internal
3 Revenue Code.

4 **42-140-4. Applicability.** -- The provisions of this chapter shall apply to those employers
5 with one thousand (1,000) or more employees.

6 **42-140-5. Reports required.** -- (a) On January 2, 2007, and annually thereafter, an
7 employer shall submit on a form and in a manner approved by the director:

8 (1) The total number of employees of the employer in the state as the last date of the third
9 quarter in the year immediately preceding the previous calendar year as determined by the
10 employer on an annual basis;

11 (2) The employer's definition of full and part-time employee;

12 (3) The number of employees that are full-time and the number of full-time employees
13 eligible to receive health insurance benefits;

14 (4) The number of part-time employees and number of part-time employees eligible to
15 receive health insurance benefits;

16 (5) The amount spent by the employer in the year immediately preceding the previous
17 calendar year on health insurance costs in the state; and

18 (6) The percentage of payroll that was spent by the employer in the year immediately
19 preceding the previous calendar year on health insurance costs in the state.

20 (b) The director shall adopt regulations that specify the information that an employer
21 shall submit under subsection (a) of this section. The information required shall:

22 (1) Be designated in a report signed by the principal executive officer or an individual
23 designated by the principal executive officer to perform this function; and

24 (2) Include an affidavit under penalty or perjury that the information required under
25 paragraph (a) of this subsection was reviewed by the signing officer; and was based on the
26 officer's knowledge and does not contain any untrue statement of a material fact or omit a
27 material fact necessary to make the statement made not misleading and is true to the best of the
28 signing officer's knowledge, information, and belief.

29 (c) When calculating the percentage of payroll under subsection (a)(6) of this section, an
30 employer may exempt:

31 (1) Wages paid to any employee beyond the amount taxable for Federal Social Security
32 OASDI purposes; and

33 (2) Wages paid to an employee who is enrolled in or eligible for Medicare.

34 **42-140-6. Fair Share contributions required.** -- (a) Beginning on January 30, 2007 and

1 each year thereafter, an employer that did not spend up to eight percent (8%) of the total payroll
2 paid to employees in the state on health insurance costs in the year immediately preceding the
3 previous calendar year shall pay to the director an amount equal to the difference between what
4 the employer spent for health insurance costs and an amount equal to eight percent (8%) of the
5 total payroll paid to employees in the state or two hundred fifty thousand dollar (\$250,000)
6 penalty, whichever amount is greater.

7 (b) Beginning on January 30, 2008 and each year thereafter, an employer that did not
8 spend up to the average Rhode Island percentage of the total payroll paid to employees in the
9 state on health insurance costs as reported in the requirement of section 42-140-5 in the year
10 immediately preceding the previous calendar year shall pay to the director an amount equal to the
11 difference between what the employer spent for health insurance costs and an amount equal to the
12 Rhode Island average percentage of the total payroll paid to employees in the state or two
13 hundred fifty thousand dollar (\$250,000) penalty, whichever amount is greater.

14 (c) An employer may not deduct any payment made under subsection (a) of this section
15 from the wages of an employee.

16 (d) An employer shall make the payment required under this section to the director on a
17 annual basis or on a periodic basis as determined by the director.

18 (e) In calculating the fair share assessment, an employer may exempt monies paid to
19 employees in lieu of health insurance to employees who have demonstrated that they have
20 alternate private health care coverage.

21 **42-140-7. Penalties.** -- (a) Failure to report in accordance with section 42-140-5 shall
22 result in the imposition by the director of a penalty of up to two hundred fifty dollars (\$250) for
23 each day that the required report is not timely filed.

24 (b) Failure to make the timely payment required under section 42-140-6 shall result in an
25 additional penalty equal to the amount which was originally required under this chapter.

26 **42-140-8. Reports to Governor, General Assembly and Health Insurance**
27 **Commissioner.** -- (a) In this section, "health insurance benefits" includes payments for medical
28 care, prescription drugs, vision care, medical savings accounts, any other costs to provide health
29 benefits, as defined in section 213(d) of the Internal Revenue Code.

30 (b) On or before March 15th of each year, the director shall report to the governor, the
31 chairman of the joint committee on health care oversight and the health care commissioner on:

32 (1) The name of each employer with one thousand (1,000) or more employees in the
33 state;

34 (2) The employer's definition of full-time employee and part-time employee;

- 1 (3) The number of full-time employees;
- 2 (4) The number of full-time employees eligible to receive health insurance benefits;
- 3 (5) The number of full-time employees receiving health insurance benefits from the
- 4 employer;
- 5 (6) The number of part-time employees;
- 6 (7) The number of part-time employees eligible to receive health insurance benefits;
- 7 (8) The number of part-time employees receiving health insurance benefits from the
- 8 employer; and
- 9 (9) The percentage of payroll that was spent on health insurance costs by employers.

10 (c) The information required under subsection (b) of this section shall contain

11 information as reported to the director by employers for the reports required in section 42-140-4.

12 **42-140-9. Duties of director. -- The director shall:**

- 13 (a) On an annual basis; (1) Verify which employers in the state have one thousand
- 14 (1,000) or more employees in the state; and (2) Ensure that all employers in the state with one
- 15 thousand (1,000) or more employees in the state have made the report required;
- 16 (b) Adopt regulations to implement this chapter; and
- 17 (c) Pay the revenue from employer fair share contributions required in section 42-140-5
- 18 into the Fair Share Fund.

19 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- FAIR SHARE HEALTH CARE
FUND

1 This act would establish the Fair Share Health Care Fund and would require employers of
2 1,000 employees or more to file annual reports relating to the portion of total employees health
3 care costs paid by the employer. This act would also require large employers to pay into the fund
4 the difference between eight percent (8%) of the total payroll and the amount the employer
5 actually spent on employee health care insurance.

6 This act would take effect upon passage.

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