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HOUSE BILL NO. 364

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend the Code of Virginia by adding a section numbered 32.1-127.4, by adding in Title 38.2 a chapter numbered 63, consisting of sections numbered 38.2-6300 through 38.2-6303, and by adding a section numbered 40.1-29.1, relating to the establishment of the Hospital-Emergency Treatment Reimbursement Fund; funding through deductions from wages of uninsured workers.

Patron—Purkey

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 32.1-127.4, by adding in Title 38.2 a chapter numbered 63, consisting of sections numbered 38.2-6300 through 38.2-6303, and by adding a section numbered 40.1-29.1 as follows:

§ 32.1-127.4. Data on unreimbursed medical attention provided to uninsured workers.

A. The Commissioner shall collect from each licensed hospital that renders emergency medical services, annually by March 1, information regarding the cost of the emergency health care provided by the hospital to residents of the Commonwealth during the preceding calendar year, for which the hospital has not been paid and does not reasonably expect to be paid, because the care was provided to individuals who did not have health insurance coverage and have not paid for uninsured care and do not reasonably appear to have means to pay for uninsured care. A licensed hospital rendering emergency medical services shall elect annually to participate in distributions from the Hospital-Emergency Treatment Reimbursement Fund established pursuant to § 38.2-6301 by providing the requested information to the Commissioner.

B. By May 1 of each year, the Commissioner shall provide the State Corporation Commission with the information collected pursuant to subsection A for each licensed hospital rendering emergency medical services that provided the information, together with the aggregate total of unreimbursed emergency health care costs reported for the preceding year by all eligible hospitals in the Commonwealth who have elected to participate in the distribution of the Fund.

C. The Commissioner shall have the authority to audit the information provided by licensed hospitals, and hospitals that overstate their unpaid emergency health care costs shall be ineligible to receive distributions from the Fund.

CHAPTER 63.**HOSPITAL-EMERGENCY TREATMENT REIMBURSEMENT FUND.**

§ 38.2-6300. Definitions.

As used in this chapter:

"Eligible hospital" means a licensed hospital that renders emergency medical services for which the hospital is not paid and that complies with the reporting requirements of § 32.1-127.4.

"Health insurance coverage" means benefits consisting of medical care, provided directly, through insurance or reimbursement or otherwise, and including items and services paid for as medical care, under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer. It also includes benefits provided under an employer's self-insurance program exempt from regulation by the Commission pursuant to the Employee Retirement Income Security Act of 1974.

"Hospital-Emergency Treatment Reimbursement Fund" or "Fund" means the fund established pursuant to § 38.2-6301.

"Uninsured worker" means any individual who is employed by an employer in a position at which the individual works an average of not less than 40 hours per week, which position does not provide health insurance coverage, who is not eligible for or receiving health insurance coverage provided or offered by the employer of the individual's spouse or other member of the individual's immediate family or under coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. or Title XX of the Social Security Act, 42 U.S.C. § 1397 et seq. (Medicaid), 5 U.S.C. § 8901 et seq. (federal employees), 10 U.S.C. § 1071 et seq. (CHAMPUS), or Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 (state employees), accident only, credit or disability insurance, or long-term care insurance, plans providing only limited health care services under § 38.2-4300 (unless offered by endorsement or rider to a group health benefit plan), CHAMPUS supplement, Medicare supplement, or workers' compensation coverages, or an

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59 *employee welfare benefit plan (as defined in § 3 (1) of the Employee Retirement Income Security Act of*
60 *1974, 29 U.S.C. § 1002 (1)), which is self-insured or self-funded.*

61 *§ 38.2-6301. Hospital-Emergency Treatment Reimbursement Fund established.*

62 *There is hereby created in the state treasury a special, nonreverting fund to be known as the*
63 *Hospital-Emergency Treatment Reimbursement Fund, hereafter referred to as the Fund. The Fund shall*
64 *be established on the books of the Comptroller. All moneys remitted to the Commission pursuant to*
65 *§ 40.1-29.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in*
66 *the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including*
67 *interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in*
68 *the Fund. Moneys in the Fund shall be used solely for the purpose of providing eligible hospitals with*
69 *funds to offset a portion of the costs they incur in providing emergency medical attention for which the*
70 *hospital is not paid. Payments from the Fund shall be made on warrants of the Comptroller issued on*
71 *vouchers signed by a person designated by the Commission.*

72 *§ 38.2-6302. Distribution to eligible hospitals.*

73 *A. The Commission shall distribute moneys annually from the Fund among the several eligible*
74 *hospitals. Moneys shall be distributed in the proportion that each hospital's unreimbursed emergency*
75 *health care costs bear to the total unreimbursed emergency health care costs reported for the preceding*
76 *year by all eligible hospitals in the Commonwealth who have elected to participate in the distribution of*
77 *the Fund.*

78 *B. The Commission's decisions regarding the allocation of moneys in the Fund to eligible hospitals*
79 *shall be based upon information provided by the Department of Health pursuant to § 32.1-127.4*
80 *regarding the ratio that the eligible hospital's unreimbursed emergency health care costs bears to the*
81 *total statewide unreimbursed emergency health care costs reported for the preceding year.*

82 *C. Decisions of the Commission regarding the allocation of moneys in the Fund to eligible hospitals*
83 *shall be final and not subject to review or appeal.*

84 *§ 38.2-6303. Regulations.*

85 *The Commission may promulgate rules and regulations that will assist it in carrying out the*
86 *provisions of this chapter.*

87 *§ 40.1-29.1. Withholding wages for contributions to the Hospital-Emergency Treatment*
88 *Reimbursement Fund.*

89 *A. Every employer shall determine for each pay period which, if any, of its employees are uninsured*
90 *workers, as defined in § 38.2-6300.*

91 *B. Every employer who employs uninsured workers shall withhold from the payment of wages and*
92 *salaries due to its employees, for each pay period during which the employee is an uninsured worker,*
93 *an amount equal to two percent of the employee's gross wages and salaries for that pay period, and*
94 *shall remit the withheld wages to the State Corporation Commission for deposit into the*
95 *Hospital-Emergency Treatment Reimbursement Fund established pursuant to § 38.2-6301.*

96 *C. The Department shall enforce the provisions of this section.*