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HOUSE BILL NO. 258

Offered January 11, 2006

Prefiled January 4, 2006

A *BILL to amend the Code of Virginia by adding in Title 40.1 a chapter numbered 10, consisting of sections numbered 40.1-143 through 40.1-147, relating to benefits provided to employees; Health Care Funding Act; penalty.*

Patron—Ward

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 in Title 40.1 a chapter numbered 10, consisting of sections numbered 40.1-143 through 40.1-147, as follows:

CHAPTER 10.**HEALTH CARE FUNDING ACT.****§ 40.1-143. Definitions.**

As used in this chapter:

"Covered employer" means an employer, other than a municipal corporation, with more than 10,000 employees.

"Fund" means the Virginia Family Access to Medical Insurance Security Plan Trust Fund established under § 32.1-352. .

"Health insurance costs" means the amount paid by an employer to provide health care or health insurance to employees in the Commonwealth to the extent deductible by the employer under the Internal Revenue Code. "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.

"Required percent" means the statewide average of the percent of wages that was spent on employee health insurance costs by all employers with 250 or more employees in the Commonwealth, as determined by the Commissioner.

"Wages" means wages as defined in § 60.2-229.

§ 40.1-144. Employer reporting.

A. By March 1 of each year commencing March 1, 2007, each covered employer shall submit on a form and in a manner approved by the Commissioner a report summarizing: (i) the amount spent by the covered employer in the year immediately preceding the previous calendar year on health insurance costs in the Commonwealth and (ii) the percentage of payroll that was spent by the covered employer in the year immediately preceding the previous calendar year on health insurance costs in the Commonwealth. The information required shall:

1. Be designated in a report signed by the principal executive officer or an individual performing a similar function; and

2. Include an affidavit under penalty of perjury that the information was reviewed by the signing officer and is true to the best of the signing officer's knowledge, information, and belief.

B. When calculating the percentage of payroll under clause (ii) of subsection A, a covered employer may exempt: (i) wages paid to any employee beyond the amount taxable for federal Social Security purposes and (ii) wages paid to an employee who is enrolled in or eligible for the federal Medicare program.

C. The Commissioner shall adopt regulations that specify the information that a covered employer shall submit under subsection A.

§ 40.1-145. Health care payroll assessment.

A. A covered employer that does not spend the required percent or more of the wages paid to its employees in the Commonwealth on health insurance costs shall pay to the Commissioner an amount equal to the difference between what the covered employer spends for health insurance costs and an amount equal to the required percent of the total wages it paid to its employees in the Commonwealth.

B. A covered employer shall not deduct any payment made under Subsection A from the wages of an employee.

C. A covered employer shall make the payment required under this section to the Commissioner on a periodic basis as determined by the Commissioner.

§ 40.1-146. Enforcement; penalty.

A. A covered employer who knowingly fails to file a report in accordance with § 40.1-144 shall be

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59 *subject to a civil penalty not to exceed \$250 for each day that the report is not timely filed.*

60 *B. A covered employer who knowingly fails to make the payment required under § 40.1-145 shall be*
61 *subject to a civil penalty not to exceed \$250,000 for each violation.*

62 *C. The Commissioner shall notify any covered employer who he alleges has violated any provision of*
63 *this chapter by certified mail. Such notice shall contain a description of the alleged violation. Within 15*
64 *days of receipt of notice of the alleged violation, the employer may request an informal conference*
65 *regarding such violation with the Commissioner. In determining the amount of any civil penalty to be*
66 *imposed, the Commissioner shall consider the size of the business of the employer charged and the*
67 *gravity of the violation. The decision of the Commissioner shall be final.*

68 *§ 40.1-147. Additional duties of the Commissioner.*

69 *In addition to his other duties under this title, the Commissioner shall:*

- 70 *1. Annually determine the required percent;*
- 71 *2. Annually verify which employers in the Commonwealth have 10,000 or more employees;*
- 72 *3. Ensure that all covered employers have made the report required under § 40.1-144;*
- 73 *4. Adopt regulations to implement this chapter; and*
- 74 *5. Pay the revenue from the payroll assessment assessed pursuant to § 40.1-145 into the Fund.*