

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2678

By: Gilbert

AS INTRODUCED

An Act relating to poor persons; enacting the Fair Share Health Care Fund Act; establishing the Fair Share Health Care Fund and procedures related thereto; defining terms; requiring certain employers to submit certain forms to the Commissioner of Labor; requiring employers to make payments under certain circumstances; providing for penalties; requiring certain reports; requiring certain actions by the Commissioner of Labor; defining term; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Fair Share Health Care Fund Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Medicaid Program to be designated the "Fair Share Health Care Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Labor Department under this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Medicaid Program for the purpose of supporting the operations of the Oklahoma Medicaid Program, specifically helping to finance health insurance coverage for uninsured workers. Expenditures from said fund shall be made upon

warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. As used in the Fair Share Health Care Fund Act:

1. "Employee" means all individuals employed full-time or part-time directly by an employer;

2. "Employer" means any individual or entity that employs others in their business. "Employer" does not include the federal government, the state, another state, or a political subdivision of the state or another state;

3. "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 Section 213(d) of the Internal Revenue Code;

4. "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 an employer under federal tax law;

5. "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 Section 213(d) of the Internal Revenue Code;

6. "Commissioner" means the Commissioner of Labor; and

7. "Wages" means all compensation of value, provided in the course of employment to an employee including, but not limited to, salaries, hourly compensation, benefits, equity, and bonuses.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. This section applies to an employer with three thousand or more employees in the state.

1. On January 1, 2007, and annually thereafter, an employer shall submit on a form and in a manner approved by the Commissioner of Labor:

- a. the number of employees of the employer in the state as of January 1 of the previous year,
- b. the amount spent by the employer in the previous calendar year on health insurance costs for employees in the state, and
- c. the percentage of payroll that was spent by the employer in the previous calendar year on health insurance costs for employees in the state.

2. The Commissioner shall promulgate rules that specify the information that an employer shall submit under paragraph 1 of this subsection.

3. The information required shall:

- a. be designated in a report signed by the principal executive officer or an individual performing a similar function, and
- b. 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 knowledge of the officer and does not contain any untrue statement of a material fact or omit a material fact necessary to make the statement made not misleading and is true to the best knowledge, information, and belief of the signing officer.

B. When calculating the percentage of payroll under subparagraph c of paragraph 1 of subsection A of this section or the

amount spent on health care under subparagraph b of paragraph 1 of subsection A of this section, an employer may exempt wages paid to an employee who is enrolled in or eligible for Medicare.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.5 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. This section applies to an employer with three thousand or more employees in the state.

1. An employer that is organized as a nonprofit organization and does not spend at least eight percent (8%) of total wages and salaries on health care costs shall pay to the Commissioner of Labor an amount equal to the difference between what the employer spends for health insurance costs and an amount equal to eight percent (8%) of total wages.

2. An employer that is not organized as a nonprofit organization and does not spend at least nine percent (9%) of total wages and salaries on health care costs shall pay to the Commissioner an amount equal to the difference between what the employer spends for health insurance costs and an amount equal to nine percent (9%) of total wages.

B. An employer may not deduct any payment made under subsection A of this section from the wages of an employee.

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.6 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Failure to report in accordance with this act shall result in the imposition by the Commissioner of Labor of a civil penalty of Two Hundred Fifty Dollars (\$250.00) for each day that the report is not timely filed.

B. Failure to make the payment required under the Fair Share Health Care Fund Act shall result in the imposition by the Commissioner of a civil penalty of Two Hundred Fifty Thousand Dollars (\$250,000.00).

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.7 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. On or before March 15 of each year, the Commissioner of Labor shall report to the Governor, the Speaker of the Oklahoma House of Representatives, and to the President Pro Tempore of the State Senate:

1. The name of each nonprofit and for-profit employer with three thousand or more employees in the state;

2. The definition of the employer 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;

6. 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;

7. The number of part-time employees;

8. The number of part-time employees eligible to receive health insurance benefits;

9. The number of part-time employees receiving health insurance benefits from the employer; and

10. 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.

B. The information required under subsection B of this section shall be reported as of the information reporting date determined by the employer under Section 4 of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.8 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Commissioner of Labor shall:

1. On an annual basis, based on the information reported under Section 4 of this act:

- a. verify which employers in the state have three thousand or more employees in the state, and
- b. ensure that all employers in the state with three thousand or more employees in the state have made the report required;

2. Promulgate rules to implement the Fair Share Health Care Fund Act; and

3. Pay the revenue from the payroll assessment into the fund created under this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009.9 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Any applicant for health care benefits under public programs including, but not limited to Medicaid, State Children's Health Insurance Program, or SoonerCare, and any person requesting uncompensated care in a hospital shall identify the employer or employers of the proposed beneficiary of the health care benefits. If the proposed public health program beneficiary is not employed, the applicant shall identify the employer or employers of any adult who is responsible for providing all or some of the proposed support of the beneficiary.

B. On or before July 1 of each year, the Labor Department shall transmit to the Governor, Speaker of the Oklahoma House of

Representatives, and President Pro Tempore of the State Senate a report identifying all employers identified pursuant to the application requirements in Section 1 of this act that employ twenty-five or more public health program beneficiaries. In determining whether the twenty-five-employee threshold is met, the Labor Department shall include all public health program beneficiaries employed by the employer and its subsidiaries at all locations within the state. The report shall include the name of each employer and, as appropriate, the names of its subsidiaries that employ public health program beneficiaries, location(s), the total number of its employees and dependents who are enrolled in each state-funded health care program, and the total cost to the state of providing public health care benefits for the employees and enrolled dependents of each named employer. The report shall not include the names of any individual public health access program beneficiaries and shall be subject to privacy standards pursuant to federal law. In addition to filing the report with the Governor, the Speaker of the Oklahoma House of Representatives, and the President Pro Tempore of the State Senate, the Labor Department shall make the report available to the public.

C. Any member of the public has a right to request and receive a copy of the report published pursuant to subsection B of this section.

D. As used in this section, "proposed beneficiary" means any individual who files an application for benefits or hospital care for himself or herself; or any other individual on whose behalf an application is filed, including but not limited to children or other dependents of the applicant or other individuals for whom the application is filed.

SECTION 10. This act shall become effective November 1, 2006.

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