

# SENATE BILL No. 87

January 25, 2007, Introduced by Senators BASHAM, PRUSI, WHITMER, GLEASON, JACOBS, BRATER, SCOTT, HUNTER and OLSHOVE and referred to the Committee on Commerce and Tourism.

A bill to provide for the collection and administration of a fee payable by certain employers; to provide for the disposition of the proceeds of the fee; to require certain employers to submit information; to create a fund in the state treasury; to prescribe the powers and duties of certain state departments and officers; and to provide for civil fines.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the "fair  
2 share health care fund act".

3           Sec. 3. As used in this act:

4           (a) "Employee" means a person employed full- or part-time in  
5 this state by an employer.

1 (b) "Employer" means an entity organized as a for-profit or  
2 not-for-profit entity with 10,000 or more employees in this state.  
3 Employer does not include federal, state, or local government or an  
4 agency of federal, state, or local government.

5 (c) "Fund" means the fair share health care fund established  
6 in section 5.

7 (d) "Health insurance costs" means costs an employer incurs to  
8 provide health care or health insurance to employees, if the costs  
9 are deductible by the employer under federal tax law. Health  
10 insurance costs include payments for medical care, prescription  
11 drugs, medical savings accounts, and other payments that are for  
12 medical care as defined in section 213(d) of the internal revenue  
13 code of 1986, 26 USC 213.

14 (e) "Wages" means the amount reportable by the employer as  
15 taxable and nontaxable wages paid to employees for federal income  
16 tax purposes.

17 Sec. 5. (1) The fair share health care fund is established in  
18 the state treasury.

19 (2) The proceeds from the fee or any penalty collected under  
20 this act shall be deposited with the state treasurer and credited  
21 to the fund.

22 (3) The state treasurer may receive money or other assets from  
23 any source for deposit into the fund. The state treasurer shall  
24 direct the investment of the fund. The state treasurer shall credit  
25 to the fund interest and earnings from fund investments.

26 (4) Money in the fund at the close of the fiscal year shall  
27 remain in the fund and shall not lapse to the general fund.

1           (5) Money in the fund shall be expended to assist in funding  
2 medical assistance under the state's medicaid program administered  
3 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b,  
4 solely for the benefit of employees of contributors to the fund.

5           Sec. 7. (1) For the calendar year 2008 and each subsequent  
6 year, there is imposed on an employer that is organized as a  
7 nonprofit organization an annual fee that is initially established  
8 as the amount equal to 6% of the total annual wages that the  
9 employer pays to its employees minus the employer's annual health  
10 insurance costs, but not less than zero.

11           (2) For the calendar year 2008 and each subsequent year, there  
12 is imposed on an employer that is not organized as a nonprofit  
13 organization an annual fee that is initially established as the  
14 amount equal to 8% of the total annual wages that the employer pays  
15 to its employees minus the employer's annual health insurance  
16 costs, but not less than zero.

17           (3) By January 1 of each year after 2008, the state treasurer,  
18 in consultation with the department of community health, shall  
19 estimate expected claims against the fund for the next calendar  
20 year. The state treasurer shall increase or decrease the amount of  
21 the fee assessed against each employer under this section based on  
22 the amount of the medicaid claims of employees of that employer, so  
23 as to maintain sufficient money in the fund to reimburse medicaid  
24 for expected claims. Any amount in excess of that required to  
25 maintain the solvency of the fund shall not be refunded or credited  
26 to the employer but shall be applied to reduce the employer's  
27 assessment for the next fiscal year.

1           Sec. 9. By April 15 of each year beginning in 2009, an  
2 employer shall submit the fee imposed under section 7 along with  
3 the following information in a form prescribed by the state  
4 treasurer:

5           (a) The average number of employees the employer employed in  
6 this state during the preceding calendar year.

7           (b) The amount of the employer's health insurance costs for  
8 the preceding calendar year.

9           (c) The percentage of wages that was spent by the employer in  
10 the preceding calendar year on health insurance costs. In  
11 calculating the percentage under this subdivision, the employer may  
12 exempt both of the following:

13           (i) Wages paid to an employee in excess of the median household  
14 income in this state as indicated in the most recent publication of  
15 data from the United States census bureau.

16           (ii) Wages paid to an employee who is enrolled in or eligible  
17 for medicare.

18           Sec. 11. The state treasurer shall prescribe the forms  
19 necessary for the administration of the fee under this act and may  
20 promulgate rules necessary to implement this act under the  
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
22 24.328.

23           Sec. 13. An employer shall not deduct any portion of a payment  
24 required under this act from the wages of an employee.

25           Sec. 15. (1) The director of the department of community  
26 health shall develop and make available a form to collect the  
27 information from employers concerning employee health insurance

1 coverage that is necessary to complete the report required under  
2 section 17.

3 (2) By April 15 of each year beginning in 2009, an employer  
4 shall submit the requested information on the form developed under  
5 this section.

6 Sec. 17. On or before September 15 of each year, the director  
7 of the department of community health shall report to the governor  
8 and the clerk of each house of the legislature the name of each  
9 employer subject to this act and all of the following information  
10 for each of those employers:

11 (a) The employer's definition of full-time employees.

12 (b) The employer's definition of part-time employees.

13 (c) The number of full-time employees.

14 (d) The number of full-time employees eligible to participate  
15 in the employer's health benefit program.

16 (e) The number of full-time employees participating in the  
17 employer's health benefit program.

18 (f) The source of health insurance benefits of the eligible  
19 full-time employees who do not participate in the employer's health  
20 benefit program.

21 (g) The number of part-time employees.

22 (h) The number of part-time employees eligible to participate  
23 in the employer's health benefit program.

24 (i) The number of part-time employees participating in the  
25 employer's health benefit program.

26 (j) The source of health insurance benefits of the eligible  
27 part-time employees who do not participate in the employer's health

1 benefit program.

2       Sec. 19. The principal executive officer or a person  
3 performing the function of principal executive officer of the  
4 employer shall sign and submit the forms required under this act.  
5 The signature shall attest to both of the following:

6       (a) That the information included in the form was reviewed by  
7 the signing officer.

8       (b) That the information is true and complete to the best of  
9 the signing officer's knowledge, information, and belief.

10       Sec. 21. (1) An employer who fails to report information  
11 required under this act is responsible for a civil fine of \$250.00  
12 for each day that the report is not timely filed.

13       (2) An employer who fails to pay an amount required under this  
14 act is responsible for a civil fine of \$250,000.00.