

SECOND REGULAR SESSION

HOUSE BILL NO. 1805

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CORCORAN (Sponsor), ZWEIFEL, GEORGE, HENKE, ROORDA, YOUNG, FRASER, HARRIS (110), DARROUGH, SCHOEMEHL, DONNELLY, KUESSNER, OXFORD, BOWMAN, DOUGHERTY, LOWE (44), SPRENG, BROWN (50), WALSH, VOGT, YAEGER, BURNETT, MEADOWS, LIESE, WAGNER, CHAPPELLE NADAL, JOHNSON (90), LeVOTA, BOGETTO, ROBINSON, MEINERS, WILDBERGER, DAUS, LOW (39) AND SALVA (Co-sponsors).

Read 1st time February 16, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5049L.011

AN ACT

To amend chapter 285, RSMo, by adding thereto six new sections relating to health care payroll assessments.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto six new sections, to be
2 known as sections 285.400, 285.403, 285.406, 285.409, 285.412, and 285.415, to read as
3 follows:

285.400. As used in sections 285.400 to 285.415, the following terms shall mean:

2 **(1) "Department", the department of social services;**

3 **(2) "Director", the director of the department of social services;**

4 **(3) "Employee", all individuals employed full-time or part-time directly by an**
5 **employer;**

6 **(4) "Employer", the same meaning as such term is defined in section 287.030,**
7 **RSMo; except that, employer shall not include the federal government, the state of**
8 **Missouri, any other state, or any political subdivision of this state or another state. The**
9 **provisions of sections 285.400 to 285.415 shall apply to any employer with seven thousand**
10 **five hundred or more employees in this state;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 (5) "Health insurance costs", the amount paid by an employer to provide health
12 care or health insurance to employees in this state to the extent such costs may be
13 deductible by an employer under federal tax laws and shall include payments for medical
14 care, prescription drugs, vision care, medical savings accounts, and any other costs to
15 provide health benefits as defined in Section 231(d) of the Internal Revenue Code of 1986,
16 as amended.

 285.403. 1. Beginning January 1, 2007, there is hereby established a program
2 within the department of social services to supplement the state Medicaid program by
3 providing reimbursement to health care providers for the provision of uncompensated
4 medical treatment under the state Medicaid program. The department of social services,
5 in consultation with the departments of insurance and labor and industrial relations, shall
6 administer the program and promulgate rules for the implementation of the program.

7 2. Beginning February 1, 2007, and each February first thereafter, each employer
8 subject to sections 285.400 to 285.412 shall annually submit on a form in a manner
9 approved by the director:

10 (1) The number of employees of the employer in this state for the immediately
11 preceding calendar year;

12 (2) The amount spent by the employer in the immediately preceding calendar year
13 on employer-sponsored health care benefits for employees in this state;

14 (3) The number of employees of the employer in this state whose primary health
15 care benefits are provided by Medicare; and

16 (4) Any other information deemed necessary by the director to determine an
17 employer's obligation under the program, if any.

18 3. Any information required to be submitted under subsection 2 of this section
19 shall:

20 (1) Be provided in a report signed by the employer's principal executive officer or
21 an individual performing a similar function for the employer; and

22 (2) Include an affidavit under penalty of perjury that the information required
23 under subsection 4 of this section was reviewed by the signing officer and is true to the best
24 of the signing officer's knowledge, information, and belief.

25 4. The department shall exclude any employer-sponsored health care benefits
26 provided to an employee as secondary coverage to the employee's Medicare benefits when
27 determining whether an employer shall be subject to a surcharge under the program.

28 5. Beginning March 1, 2007, and each March first thereafter, the department of
29 insurance, in collaboration with the departments of social services and labor and industrial
30 relations, shall determine the annual state average cost of employer-sponsored health care

31 benefits per employee in this state for the immediately preceding calendar year. Upon such
32 determination, the department of social services shall utilize the annual state average cost
33 of employer-sponsored health care benefits per employee in this state provided by the
34 department of insurance to calculate the surcharge to be imposed on employers which
35 spend less than such amount on employer-sponsored health care benefits for its employees.
36 Beginning May 1, 2007, and each May first thereafter, each employer subject to the
37 provisions of this section shall be notified of the amount of surcharge to be imposed for the
38 next fiscal year beginning July first.

39 6. Beginning July 1, 2007, every employer in this state with seven thousand five
40 hundred employees or more in this state shall be subject to a surcharge based on an
41 amount equal to the state average cost of employer-sponsored health care benefits per
42 employee in this state minus the amount the employer actually spends per employee in this
43 state on employer-sponsored health care benefits. Any employer subject to the provisions
44 of this section which exceeds the state average shall not be subject to a surcharge. The
45 surcharge imposed under this section shall be imposed on a July first to June thirtieth
46 fiscal year basis.

285.406. 1. An employer that is organized as a nonprofit organization that does not
2 spend a total amount on health insurance benefits for its employees in this state that is
3 equal to or greater than the state average of all employer-sponsored health insurance costs
4 per employee multiplied by the number of employees of the nonprofit organization
5 employer in this state shall pay to the director an amount equal to the difference between
6 the amount the nonprofit organization employer actually spends for health insurance costs
7 and an amount equal to the state average of all employer-sponsored health insurance costs
8 per employee multiplied by the number of employees of the nonprofit organization in this
9 state.

10 2. An employer that is not organized as a nonprofit organization and that does not
11 spend a total amount on health insurance benefits for its employees in this state that is
12 equal to or greater than the state average of all employer-sponsored health insurance costs
13 per employee plus two percent multiplied by the number of employees of the employer in
14 this state shall pay to the director an amount equal to the difference between the amount
15 the for-profit employer spends for health insurance costs and an amount equal to the state
16 average of all employer-sponsored health insurance costs per employee plus two percent
17 multiplied by the number of employees of the for-profit employer in this state.

18 3. No employer shall deduct any payment made under subsection 1 or 2 of this
19 section from the wages of an employee.

20 **4. An employer shall make the payments required under this section to the director**
21 **on a periodic basis as determined by the director.**

285.409. 1. Any employer that fails to report in accordance with sections 285.400
2 **to 285.415 shall be subject to an administrative penalty of two hundred fifty dollars for**
3 **each day that the report is not timely filed.**

4 **2. Any employer that fails to make a payment required under sections 285.400 to**
5 **285.415 shall be liable for any unpaid surcharge amounts plus an administrative penalty**
6 **of up to ten percent of the unpaid balance, to be determined by the director.**

7 **3. Any moneys collected under this section for nonpayment of the surcharge shall**
8 **be deposited in the uncompensated care fund established under section 285.415.**

9 **4. The attorney general shall enforce the provisions of this section.**

285.412. 1. As used in this section, "health insurance benefits" includes payments
2 **for medical care, prescription drugs, vision care, medical savings accounts, and any other**
3 **costs to provide health benefits as defined in Section 213(d) of the Internal Revenue Code**
4 **of 1986, as amended.**

5 **2. On or before March fifteenth of each year, the director shall report to the**
6 **governor and the general assembly on:**

7 **(1) The name of each nonprofit and for-profit employer with seven thousand five**
8 **hundred or more employees in this state;**

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

10 **(3) The number of full-time employees;**

11 **(4) The number of full-time employees eligible to receive health insurance benefits**
12 **from the employer;**

13 **(5) The number of full-time employees receiving health insurance benefits from the**
14 **employer;**

15 **(6) The source of health insurance benefits for those eligible full-time employees not**
16 **receiving health insurance benefits through an employer subject to reporting under**
17 **sections 285.400 to 285.415, if known by the employer;**

18 **(7) The number of part-time employees;**

19 **(8) The number of part-time employees eligible to receive health insurance benefits**
20 **from the employer;**

21 **(9) The number of part-time employees receiving health insurance benefits from**
22 **the employer; and**

23 **(10) The source of health insurance benefits for those eligible part-time employees**
24 **not receiving health insurance benefits through an employer subject to reporting under**
25 **sections 285.400 to 285.415, if known by the employer.**

26 **3. The information required under subsection 2 of this section shall be reported as**
27 **of the information reporting date determined by the employer under subdivision (1) of**
28 **subsection 1 of section 285.403. Such information shall be confidential and shall not be**
29 **subject to the provisions of chapter 610, RSMo.**

285.415. 1. The director shall:

2 **(1) On an annual basis and based on the information reported under subdivision**
3 **(1) of subsection 1 of section 285.403:**

4 **(a) Verify which employers have seven thousand five hundred or more employees**
5 **in this state; and**

6 **(b) Ensure that all employers with seven thousand five hundred or more employees**
7 **in this state make the report required under section 285.403;**

8 **(2) Promulgate rules to implement the provisions of sections 285.400 to 285.415;**
9 **and**

10 **(3) Transfer any moneys collected from the payroll assessment into the**
11 **uncompensated care fund established in subsection 2 of this section.**

12 **2. (1) There is hereby created in the state treasury the "Uncompensated Care**
13 **Fund" which shall consist of moneys collected under sections 285.400 to 285.415. The state**
14 **treasurer shall be custodian of the fund and shall disburse moneys from the fund in**
15 **accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the**
16 **fund shall be used solely to reimburse licensed hospitals and federally qualified health**
17 **centers that provide uncompensated care to patients as state Medicaid providers.**

18 **(2) Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any**
19 **moneys remaining in the fund at the end of the biennium shall not revert to the credit of**
20 **the general revenue fund.**

21 **(3) The state treasurer shall invest moneys in the fund in the same manner as other**
22 **funds are invested. Any interest and moneys earned on such investments shall be credited**
23 **to the fund.**

24 **3. The division of medical services within the department of social services shall**
25 **establish by rule a formula of reimbursement from the uncompensated care fund on a**
26 **prorated basis for Medicaid providers that provide uncompensated care to patients under**
27 **the state Medicaid program. Any moneys distributed under the program from the fund**
28 **shall be in addition to and not in lieu of any required Medicaid reimbursement payments**
29 **to providers under the state Medicaid program.**

30 **4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
31 **that is created under the authority delegated in sections 285.400 to 285.415 shall become**
32 **effective only if it complies with and is subject to all of the provisions of chapter 536,**

33 RSMo, and, if applicable, section 536.028, RSMo. Sections 285.400 to 285.415 and chapter
34 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
35 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
36 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
37 authority and any rule proposed or adopted after August 28, 2006, shall be invalid and
38 void.

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