

HOUSE BILL No. 2579

By Representative Flaharty

1-9

9 AN ACT concerning labor and employment; relating to employers'
10 health care costs; establishing the fair share health care fund; penalties.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. This act shall be known and may be cited as the "fair share
14 health care fund act."

15 Sec. 2. As used in this act:

16 (a) "Employee" means all individuals employed full-time or part-time
17 directly by an employer.

18 (b) "Employer" means any person, firm, partnership, limited liability
19 company, corporation, association, trust or fiduciary of any kind or other
20 type of organization qualifying as an employer for federal income tax
21 withholding purposes and who maintains an office, transacts business in
22 or derives any income from sources within Kansas for whom an individual
23 performs or performed any services, of whatever nature, as the employee
24 of such employer, and who has control of the payment of wages for such
25 services, or is the officer, agent or employee of the person having control
26 of the payment of wages. Employer does not include the federal govern-
27 ment, Kansas, another state or a political subdivision of Kansas or another
28 state.

29 (c) "Health insurance costs" means the amount paid by an employer
30 to provide health care or health insurance to employees in Kansas to the
31 extent the costs may be deductible by an employer under federal income
32 tax law. Such costs include payment for medical care, prescription drugs,
33 vision care, medical savings accounts and any other costs to provide health
34 benefits as defined in section 213 (D) of the federal internal revenue
35 code.

36 (d) "Secretary" means the secretary of labor.

37 (e) "Wages" means remuneration paid for services described in sec-
38 tion 3401 (a)(5) and (6) of the federal internal revenue code.

39 Sec. 3. (a) On September 1, 2007, and annually thereafter, an em-
40 ployer with 10,000 or more employees in Kansas shall submit on a form
41 prescribed by and in a manner approved by the secretary:

42 (1) The number of employees of the employer in Kansas as of January
43 1 of the calendar year immediately preceding the previous calendar year

- 1 which shall be determined by the employer on an annual basis;
- 2 (2) the amount spent by the employer in the calendar year immedi-
3 ately preceding the previous calendar year on health insurance costs in
4 Kansas; and
- 5 (3) the percentage of payroll that was spent by the employer in the
6 calendar year immediately preceding the previous calendar year on health
7 insurance costs in Kansas.
- 8 (b) The secretary shall adopt rules and regulations specifying the in-
9 formation that the employer shall submit under the provisions of this act.
- 10 (c) The information required shall:
- 11 (1) Be designated in a report signed by the principal executive officer
12 or an individual performing a similar function; and
- 13 (2) include an affidavit under penalty of perjury that the information
14 required under subsection (a):
- 15 (A) Was reviewed by the signing officer; and
- 16 (B) is true to the best of the signing officer's knowledge, information
17 and belief.
- 18 (d) When calculating the percentage of payroll under paragraph (3)
19 of subsection (a), the employer may exempt:
- 20 (1) Wages paid to any employee in excess of the median household
21 income in Kansas as published by the most recent United States census
22 bureau; and
- 23 (2) wages paid to an employee who is enrolled in or eligible for
24 medicare.
- 25 Sec. 4. (a) An employer of 10,000 or more employees in Kansas that
26 is organized as a nonprofit organization that does not spend up to 6% of
27 the total wages paid to employees in Kansas on health insurance costs
28 shall pay to the secretary an amount equal to the difference between what
29 the employer spends for health insurance costs and an amount equal to
30 6% of the total wages paid to its employees in Kansas.
- 31 (b) An employer of 10,000 or more employees in Kansas that is not
32 organized as a nonprofit organization and does not spend up to 8% of the
33 total wages paid to employees in Kansas on health insurance costs shall
34 pay to the secretary an amount equal to the difference between what the
35 employer spends for health insurance costs and an amount equal to 8%
36 of the total wages paid to its employees in Kansas.
- 37 (c) An employer may not deduct any payment made under subsection
38 (a) or (b) from the wages of an employee.
- 39 (d) An employer shall make the payment required under this section
40 to the secretary on a periodic basis as determined by the secretary.
- 41 Sec. 5. (a) Failure of an employer with 10,000 or more employees in
42 Kansas to make the report required by section 3, and amendments
43 thereto, shall result in the imposition by the secretary of a civil penalty

1 of \$250 for each day that the report is not timely filed.

2 (b) Failure of an employer with 10,000 or more employees in Kansas
3 to make the payment required pursuant to subsection (a) or (b) of section
4 4, and amendments thereto, shall result in the imposition by the secretary
5 of a civil penalty of \$250,000.

6 Sec. 6. (a) As used in this section, "health insurance benefits" in-
7 cludes payments for medical care, prescription drugs, vision care, medical
8 savings accounts and any other costs to provide health benefits as defined
9 in section 213 (D) of the federal internal revenue code.

10 (b) During January 2008, and annually thereafter, the secretary shall
11 report to the governor and the legislature:

12 (1) The name of each nonprofit and for profit employer with 10,000
13 or more employees in Kansas;

14 (2) the employer's definition of full-time employee and part-time
15 employee;

16 (3) the number of full-time employees;

17 (4) the number of full-time employees eligible to receive health in-
18 surance benefits;

19 (5) the number of full-time employees receiving health insurance
20 benefits from the employer;

21 (6) the source of health insurance benefits for those eligible full-time
22 employees not receiving health insurance benefits through an employer
23 subject to reporting under this act;

24 (7) the number of part-time employees;

25 (8) the number of part-time employees eligible to receive health in-
26 surance benefits;

27 (9) the number of part-time employees receiving health insurance
28 benefits from the employer; and

29 (10) the source of health insurance benefits for those eligible part-
30 time employees not receiving health insurance benefits through an em-
31 ployer subject to reporting under this act.

32 Sec. 7. The secretary shall:

33 (a) On an annual basis, based on the information reported under sec-
34 tion 3, and amendments thereto:

35 (1) Verify which employers have 10,000 or more employees in Kan-
36 sas; and

37 (2) ensure that all employers with 10,000 or more employees in Kan-
38 sas have made the report required under section 3, and amendments
39 thereto.

40 (b) Adopt rules and regulations to implement and administer the pro-
41 visions of this act.

42 (c) Remit all moneys received pursuant to sections 4 and 5, and
43 amendments thereto, to Kansas treasurer in accordance with the provi-

1 sions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
2 such remittance, the state treasurer shall deposit the entire amount in the
3 state treasury to the credit of the fair share health care fund.

4 Sec. 8. (a) There is hereby established in the state treasury the fair
5 share health care fund. The Kansas health policy authority shall be re-
6 sponsible for administering the fair share health care fund, in accordance
7 with appropriations acts and all expenditures from the fair share health
8 care fund shall be upon warrants of the director of accounts and reports
9 issued pursuant to vouchers approved by the Kansas health policy au-
10 thority or the authority's designee. The Kansas health policy authority
11 shall annually report to the governor and legislature the receipts and
12 disbursements from the fair share health care fund for the preceding fiscal
13 year. All expenditures from the fair share health care fund shall be used
14 to support the Kansas medicaid program and the state children's health
15 insurance program.

16 (b) On or before the 10th day of each month, the director of accounts
17 and reports shall transfer from the state general fund to the fair share
18 health care fund interest earnings based on:

19 (1) The average daily balance of moneys in the fair share health care
20 fund for the preceding month; and

21 (2) the net earnings rate of the pooled money investment portfolio
22 for the preceding month.

23 Sec. 9. This act shall take effect and be in force from and after its
24 publication in the statute book.