

HOUSE No. 41

Message from His Excellency the Governor recommending legislation relative to supporting employers in the Commonwealth. Labor and Workforce Development. January 8, 2013.

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON, MA 02133

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DEVAL L. PATRICK

GOVERNOR

TIMOTHY P. MURRAY

LIEUTENANT GOVERNOR

January 8, 2013.

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled “An Act to Support Employers in the Commonwealth.” The legislation is particularly important for the economic success of our state, as it seeks to reduce administrative burdens and costs on Massachusetts businesses.

This legislation will realize these goals by:

- Freezing the Employer Unemployment Insurance (UI) rate for 2013 at “E.” Freezing the rate will save employers an estimated \$500 million compared to if the rate were allowed to increase to “G” as required by current law.
- Eliminating the Fair Share Contribution Program as of June 30, 2013, thereby lessening the administrative burden many businesses currently face.
- Eliminating the Medical Security Program (MSP) health insurance program by the end of this calendar year and allowing the population typically associated with this program to access subsidized health coverage through our existing state insurance programs, such as MassHealth and those offered at the Health Connector.
- Maintaining a key tenet of our state’s 2006 health care reform law – shared responsibility for health care by employers – by repurposing the assessment that

currently funds MSP into an employer contribution that will partially finance state-subsidized health care.

By enacting these provisions, we will keep employers at the table for key health reform policy decisions and help maintain Massachusetts' position as a great state to do business. Accordingly, I urge your prompt and favorable consideration of this legislation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", written in a cursive style.

DEVAL L. PATRICK,

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to support employers in the Commonwealth.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to lower forthwith the cost of unemployment insurance and the costs of operating the Medical Security Trust Program and the Fair Share Program, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding section 14 of chapter 151A of the General Laws, as appearing in
2 the 2010 Official Edition, the experience rate of an employer qualifying therefor under
3 subsection (b) of said section 14 of said chapter 151A shall be the rate which appears in column
4 “E” in clause (1) of subsection (i) of said section 14 of said chapter 151A for calendar year 2013.

5 SECTION 2. Section 188 of chapter 149 of the General Laws, as appearing in the 2010 Official
6 Edition, is hereby repealed.

7 SECTION 3. Section 14G of chapter 151A of the General Laws, as appearing in the 2010
8 Official Edition, is hereby repealed.

9 SECTION 4. Section 8A of chapter 23H of the General Laws, as appearing in the 2010 Official
10 Edition, is hereby amended by striking out, in lines 2-3, the words “Medical Security” and
11 inserting in place thereof the following:- Employer Responsibility.

12 SECTION 5. Chapter 7 of the General Laws, as appearing in the 2010 Official Edition, is hereby
13 amended by inserting after section 61 the following section:-

14 Section 62. Employer Responsibility Trust Fund

15 (a)(1) There is hereby established an Employer Responsibility Trust Fund, which shall be
16 administered by the director of the department of unemployment assistance without further
17 appropriation. The purpose of the Trust shall be to fund the provision of subsidized health care
18 for low-income Massachusetts residents. Said trust fund shall consist of health insurance
19 employer responsibility contributions required by subsection (a)(2). Each quarter, DUA shall
20 transfer said funds to MassHealth and the Connector to be used exclusively for providing
21 subsidized health insurance for low-income residents.

22 (2) Each employer, except those employers who employ five or fewer employees, subject to
23 sections 14, 14A, and 14C of chapter 151A, shall pay, in the same manner and at the same times
24 as the director of the department of unemployment assistance prescribes for the contribution
25 required by said section 14, a health insurance employer responsibility contribution computed by
26 multiplying the wages paid its employees by the health insurance employer responsibility
27 contribution rate of .36 of 1 per cent.

28 (b) The receipts from such contributions shall be placed in the Employer Responsibility Trust
29 Fund, established in subsection (a), but \$1 annually for each employee whose wages determine
30 each employer's total health insurance employer responsibility contribution shall be deposited in

31 the Catastrophic Illness in Children Relief Fund established by section 2ZZ of chapter 29. Prior
32 to the depositing of the receipts, the director of the department of unemployment assistance may
33 deduct all administrative costs incurred by the department as a result of this section, including an
34 amount as determined by the United States Secretary of Labor in accordance with federal cost
35 rules, but in no calendar year may such deduction exceed 5 per cent of the amounts collected
36 pursuant to this section. For the purpose of accommodating discrepancies between the receipt of
37 revenues and related expenditures, the department may incur obligations and the comptroller
38 may certify payment amounts not to exceed the most recent revenue estimate submitted by the
39 department and approved by the comptroller; provided, however, that the Employer
40 Responsibility Trust Fund shall be in balance by the close of each fiscal year.

41 (c)(1) For the purposes of this section, the term “wages” shall not include that part of
42 remuneration which, after remuneration equal to the health insurance employer responsibility
43 contribution wage base with respect to employment with such employer has been paid to an
44 individual during the calendar year, is paid to such individual during such year. For the purposes
45 of this paragraph, remuneration shall include remuneration paid to an individual during the
46 calendar year with respect to employment with a transferring employer, as that term is used in
47 subsection (n) of section 14 of chapter 151A.

48 (2) For the purposes of this section, beginning on the effective date of this section, the term
49 “health insurance employer responsibility contribution wage base” shall have the same meaning
50 as the term "unemployment insurance taxable wage base" in section 14(a)(4) of chapter 151A.

51 (d)(1) The provisions of this section shall not apply to an employer newly subject to chapter
52 151A, as defined in paragraphs (2) and (3) of subsection (i) of section 14 of said chapter, until

53 such employer has been an employer for a minimum of 12 consecutive months, as specified in
54 paragraph (1) of subsection (b) of said section 14.

55 (2) During the first calendar year in which this section shall apply to an employer newly subject
56 to this chapter pursuant to paragraph (1), such employer's health insurance contribution shall be
57 computed by substituting in subsection (a) the words “.12 of 1 per cent” for the words “.36 of 1
58 per cent”.

59 (3) During the second calendar year in which this section shall apply to an employer newly
60 subject to this chapter pursuant to paragraph (1), such employer's health insurance contribution
61 shall be computed by substituting in subsection (a) the words “.24 of 1 per cent” for the words
62 “.36 of 1 per cent”.

63 (e) Except where inconsistent with the provisions of this section, the terms and conditions
64 of chapter 151A that are applicable to the payment and collection of contributions or payments in
65 lieu of contributions shall apply to the same extent to the payment of and the collection of such
66 health insurance employer responsibility contribution; provided, however, that such
67 contributions shall not be credited to the employer's account or to the solvency account
68 established pursuant to section 14, 14A, or 14C of chapter 151A.

69 (f) There shall be a health insurance employer responsibility contribution rate review
70 board composed of the commissioner of medical assistance or designee, the director of the
71 department of unemployment assistance or designee, the executive director of the health
72 connector or designee, and the commissioner of insurance or designee. The rate review board
73 shall meet on or before November 30 of each year to review the previous fiscal year's costs by
74 the Commonwealth of providing subsidized care to low-income residents of Commonwealth. If

75 the board determines that costs have increased by more than 5% from the previous fiscal year, it
76 may, by a majority vote, adjust the health insurance employer responsibility contribution by no
77 more than 5%.

78 (g) The director of the department of unemployment assistance, the commissioner of the
79 division of medical assistance, and the executive director of the health connector shall report
80 annually, after the end of each calendar year, to the governor and the senate and house
81 committees on ways and means. The report shall include information about the amount collected
82 in the Employer Responsibility Trust Fund, the amount needed to administer the fund, the
83 amount transferred, and how the funds were used and the method for determining how much was
84 transferred to each program. The report may also make recommendations for changes in the law
85 and regulations governing the fund.

86 (h) Any employer notified of a liability determination under this section by the director of
87 the department of unemployment assistance may request a hearing on such determination. The
88 request for hearing shall be filed within ten days after mailing of the notice of the determination.
89 If a hearing is requested, said director shall give the employer a reasonable opportunity for a fair
90 hearing before an impartial hearing officer designated by the director. The conduct of such
91 hearing shall be in accordance with the procedures prescribed by subsection (b) of section 39 of
92 chapter 151A. Any employer aggrieved by the decision following such hearing may appeal such
93 decision in accordance with the procedures prescribed by sections 40 to 42, inclusive, of chapter
94 151A. Unless action is taken under section 40 of chapter 151A, the decision of said director shall
95 be final on all questions of fact and law.

96 SECTION 6. Section 9 of chapter 111K of the General Laws, as appearing in the 2010 Official
97 Edition, is hereby amended by inserting, after the word “insurance”, in each instance in which it
98 appears, the following:- “employer responsibility”.

99 SECTION 7. Said section 9 of chapter 111K, as so appearing, is hereby further amended by
100 striking out, in line 5, the word “unemployment”.

101 SECTION 8. Said section 9 of chapter 111K, as so appearing, is hereby further amended by
102 striking out, in line 7, the words “deputy director of employment and training”, and inserting in
103 place thereof the following words:- director of the department of unemployment assistance.

104 SECTION 9. Section 1 shall take effect as of January 1, 2013.

105 SECTION 10. Section 2 shall take effect as of June 30, 2013, provided however, that the
106 department of unemployment assistance shall maintain the Fair Share Unit until all liabilities
107 through June 30, 2013, are accounted for.

108 SECTION 11. Sections 3 and 5 shall take effect as of the later of December 31, 2013, or such
109 time as the Medical Security Trust Fund has at least a zero balance; provided however, that the
110 department of unemployment assistance is authorized to expend sums beyond December 31,
111 2013, for the purpose of winding down the Medical Security Program; provided further,
112 however, that, if the Medical Security Program Trust Fund does not have at least a zero balance
113 as of December 31, 2013, the department of unemployment assistance shall submit a report to
114 the governor and the senate and house committees on ways and means certifying projections to
115 bring said trust fund to at least a zero balance and shall be allowed to continue collecting
116 contributions under section 14G of chapter 151A as though it had not been repealed. No funds

117 shall be collected into the Employer Responsibility Trust Fund until a zero balance in the
118 Medical Security Trust Fund is certified by the department of unemployment assistance.

119 SECTION 12. Obligations existing or arising from conduct prior to the effective date of this act
120 shall continue to be governed by section 188 of chapter 149 of the General Laws as though it had
121 not been repealed.