



Senate

General Assembly

File No. 710

January Session, 2005

Substitute Senate Bill No. 1147

Senate, May 5, 2005

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING EMPLOYEE HEALTH SECURITY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2005*) As used in sections 1 to 8,
2 inclusive, of this act:

3 (1) "Coverage" means a health insurance plan, provided in
4 accordance with section 4 of this act, that offers, to the extent possible,
5 health care services and a provider network comparable to that offered
6 by the program established for state employees under the authority of
7 subsection (a) of section 5-259 of the general statutes, based on the
8 anticipated amounts of employer fees and enrollee contributions to be
9 collected under sections 5 and 6 of this act;

10 (2) "Dependent" means the spouse, domestic partner, minor child of
11 a covered enrollee, or child eighteen years of age or over who is
12 dependent on the enrollee, as specified by the commissioner, but does

13 not mean a dependent who is provided coverage by another employer
14 or who is an enrollee as a consequence of such dependent's
15 employment status;

16 (3) "Enrollee" means a person who works three months or more, for
17 not less than thirty-five hours per week, for any individual employer,
18 including a sole proprietor or partner of a partnership;

19 (4) "Employer" means an employer that is subject to chapter 567 of
20 the general statutes, excluding the state, any political subdivision of
21 the state or any quasi-public agency, and includes a franchisor with
22 franchisees that employ collectively five thousand or more employees
23 in the state; and

24 (5) "Wages" means wages paid directly to an individual by his or
25 her employer.

26 Sec. 2. (NEW) (*Effective July 1, 2005*) On and after January 1, 2006,
27 and annually thereafter, all employers with five thousand or more
28 employees shall pay a Health Security Surcharge to the Commissioner
29 of Social Services. Such charge shall be equal to twenty-five per cent of
30 the hourly minimum wage then in effect, multiplied by the total
31 number of hours worked by each enrollee during the year for which
32 the surcharge applies. Each employer providing health care benefits or
33 making payments in accordance with section 5 of this act shall receive
34 a credit, for each covered enrollee, against such surcharge equal to the
35 amount paid by the employer for health care benefits or in accordance
36 with section 5 of this act for the enrollee and, if applicable, the
37 dependents of the enrollee. All amounts collected under this section
38 shall be deposited into the General Fund. The Commissioner of Social
39 Services, in conjunction with the Commissioner of Revenue Services,
40 shall adopt regulations, in accordance with the provisions of chapter
41 54 of the general statutes, to carry out the purposes of this section.

42 Sec. 3. (NEW) (*Effective July 1, 2005*) (a) On and after January 1, 2007,
43 employers shall comply with the provisions of sections 1 and 3 to 8,
44 inclusive, of this act.

45 (b) Any employee covered by a collective bargaining agreement on
46 January 1, 2006, shall not be an enrollee under sections 3 to 8, inclusive,
47 of this act until the expiration of such collective bargaining agreement.

48 Sec. 4. (NEW) (*Effective July 1, 2005*) The Commissioner of Social
49 Services shall establish a health insurance plan to implement the
50 provisions of sections 1 to 8, inclusive, of this act. Said plan shall be
51 known as the HUSKY W Plan. On and after January 1, 2007, the
52 commissioner shall provide coverage under the HUSKY W Plan for
53 enrollees and, if applicable, such enrollees' dependents. Such coverage
54 shall be funded by the employer fees and enrollee contributions
55 established in sections 5 and 6 of this act, which shall be deposited into
56 a separate fund within the Department of Social Services. The
57 commissioner shall administer the coverage in a manner that assures
58 that such fees and enrollee contributions are sufficient to maintain the
59 coverage, including administrative costs. Any excess of fees and
60 enrollee contributions over the actual cost of coverage for enrollees
61 shall be used to increase provider reimbursement rates for the HUSKY
62 Plan.

63 Sec. 5. (NEW) (*Effective July 1, 2005*) (a) On and after January 1, 2007,
64 except as otherwise provided in section 7 of this act, every employer
65 with five thousand or more employees shall pay a fee as specified in
66 this section.

67 (b) The Commissioner of Social Services shall establish the fee for
68 each employer, which shall equal: (1) The premium that would be
69 required for health care coverage for all of the employer's enrollees
70 and, if applicable, their dependents, except those excluded under
71 subsection (f) of this section, under the program established pursuant
72 to subsection (a) of section 5-259 of the general statutes, and (2) an
73 amount equal to two per cent of the amount in subdivision (1) of this
74 subsection to cover costs associated with the administration of and
75 enforcement of the provisions of sections 1 to 8, inclusive, of this act. If
76 more than one plan is established under the authority of section 5-259
77 of the general statutes, the premium used to establish the fee shall be

78 for the plan chosen by the greatest number of state employees under
79 such program. The cost of coverage shall be paid solely by the fees and
80 enrollee contributions collected pursuant to this section and section 6
81 of this act. Except as otherwise provided in sections 1 to 8, inclusive, of
82 this act, such fees and enrollee contributions shall not be used for any
83 purpose other than providing coverage for enrollees and, if applicable,
84 such enrollees' dependents, and reimbursing the administrative costs
85 specified in this subsection.

86 (c) On or before July 1, 2006, and annually thereafter, the
87 commissioner shall notify each employer required to pay a fee under
88 this section of the amount of such fee, which shall be payable quarterly
89 to the commissioner, beginning on or before the following January
90 first.

91 (d) The commissioner shall waive the fee of any employer that is
92 entitled to a credit pursuant to section 7 of this act to the extent of such
93 credit. Employers may apply for the credit in the manner prescribed by
94 the commissioner.

95 (e) Each employer shall provide information as specified by the
96 commissioner to assist the commissioner in determining the fee
97 pursuant to subsection (b) of this section.

98 (f) Any enrollee who provides documentation to the commissioner,
99 in a form approved by the commissioner, that such enrollee and, if
100 applicable, such enrollee's dependents is covered by health insurance
101 provided by a private or self-insured insurer, or by any public
102 program, and any other enrollee working fewer than twenty-five
103 hours per week may decline coverage under sections 1 to 8, inclusive,
104 of this act. The commissioner shall not include such enrollee in
105 determining the fee for such enrollee's employer pursuant to
106 subsection (b) of this section.

107 (g) Coverage of an enrollee or, if applicable, such enrollee's
108 dependents shall not be contingent upon payment of the fee required
109 pursuant to this section by the employer of that enrollee. If an

110 employer fails to pay the required fee or the total amount of such fee,
111 the employer shall pay the fund a penalty of two hundred per cent of
112 the amount due and unpaid.

113 (h) In addition to the penalty imposed pursuant to subsection (g) of
114 this section, an employer shall pay interest on all amounts due and
115 unpaid in accordance with the rate provided for unpaid contributions
116 under chapter 567 of the general statutes.

117 (i) Nothing in this section shall preclude an employer from
118 purchasing additional benefits or coverage, in addition to paying the
119 fee.

120 Sec. 6. (NEW) (*Effective July 1, 2005*) (a) The applicable enrollee
121 contribution, not to exceed fifteen per cent of the fee assessed to the
122 employer, shall be collected by the employer and paid concurrently
123 with the employer fee. The employer may agree to pay more than
124 eighty-five per cent of the fee, resulting in an enrollee and, if
125 applicable, dependent contribution of less than fifteen per cent.

126 (b) If the employer fails to collect or transmit the enrollee
127 contribution or premium in a timely manner, the employer shall
128 become liable for a penalty of two hundred per cent of the amount that
129 the employer has failed to collect or transmit, and the enrollee shall be
130 relieved of all liability for that failure. The employer's failure to collect
131 or transmit the required enrollee contribution or premium or to
132 provide enrollment information about an enrollee shall not affect the
133 enrollee's coverage. An employer shall only withhold and collect an
134 amount for purposes of the program in accordance with the manner
135 and at the times specified by the Commissioner of Social Services
136 pursuant to this section. An enrollee for whom enrollment information
137 is not otherwise received by the commissioner may demonstrate
138 eligibility for coverage by demonstrating employment to the
139 satisfaction of the commissioner.

140 Sec. 7. (NEW) (*Effective July 1, 2005*) (a) (1) An employer required to
141 pay a fee under section 5 of this act may apply to the Commissioner of

142 Social Services for a waiver of the fee by providing proof of alternate
143 health care coverage for enrollees and, if applicable, such enrollees'
144 dependents consistent with sections 1 to 8, inclusive, of this act. Proof
145 of alternate health care coverage shall include documentation showing
146 that (A) such employer is paying at least as much for each enrollee and
147 dependent for the alternate health care coverage, excluding enrollees
148 that have declined such coverage, as the state pays for each eligible
149 employee and dependent pursuant to subsection (a) of section 5-259 of
150 the general statutes, or (B) such alternate health care coverage is
151 substantially equivalent to the health care coverage provided to state
152 employees under subsection (a) of section 5-259 of the general statutes,
153 and that the cost of the alternate health care coverage to such
154 employer's enrollees is no greater than the cost to eligible state
155 employees for coverage under subsection (a) of section 5-259 of the
156 general statutes.

157 (2) For any period during which the commissioner is determining
158 whether an employer is entitled to a credit against the fee pursuant to
159 this section, the employer may continue to provide alternate health
160 care coverage for enrollees and need not pay any fee under section 5 of
161 this act for those enrollees and, if applicable, dependents of such
162 enrollees for which the employer claims a credit against the fee. If the
163 commissioner determines that the employer is not entitled to a credit
164 against the fee, the employer shall be liable for any difference in the
165 amount the employer paid for such alternate health care coverage and
166 the amount of the fee that would have been payable for the period
167 during which the commissioner was making such determination.

168 (b) Nothing in this section shall preclude an employer from
169 providing additional benefits or coverage.

170 (c) It shall be unlawful for an employer to designate an employee as
171 an independent contractor or temporary employee, reduce an
172 employee's hours of work, or terminate and rehire an employee to
173 avoid the employer's obligations pursuant to sections 1 to 8, inclusive,
174 of this act. An employer that violates this subsection shall pay to the

175 fund a penalty of two hundred per cent of the amount of any fee that
 176 would have otherwise been paid by the employer, including for the
 177 period that the enrollee and, if applicable, dependents should have
 178 received coverage but for the employer's conduct in violation of this
 179 section.

180 (d) An employer shall not request or otherwise seek to obtain
 181 information concerning income or other eligibility requirements for
 182 public health benefit programs regarding an employee, dependent or
 183 other family member of an employee, other than that information
 184 about the employee's employment status otherwise known to the
 185 employer consistent with existing state and federal law and regulation.

186 (e) Any new employer or existing employer that previously was not
 187 subject to this section shall begin complying with all applicable
 188 provisions of this section not later than one month after the date it
 189 becomes subject to sections 1 to 8, inclusive, of this act.

190 (f) Any existing employer previously subject to sections 1 to 8,
 191 inclusive, of this act but no longer subject to said sections shall notify
 192 the Commissioner of Social Services in a manner prescribed by that
 193 department not later than fifteen days after this change before
 194 discontinuing compliance with the provisions of sections 1 to 8,
 195 inclusive, of this act.

196 Sec. 8. (NEW) (*Effective July 1, 2005*) The Commissioner of Social
 197 Services shall adopt regulations, in accordance with the provisions of
 198 chapter 54 of the general statutes, to facilitate the provisions of sections
 199 1 to 7, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005</i>	New section
Sec. 2	<i>July 1, 2005</i>	New section
Sec. 3	<i>July 1, 2005</i>	New section
Sec. 4	<i>July 1, 2005</i>	New section
Sec. 5	<i>July 1, 2005</i>	New section

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect
Department of Social Services	GF - See Below

Municipal Impact: None

Explanation

This bill requires the Department of Social Services (DSS) to establish a health insurance plan to cover employees and their dependents in companies with 5,000 or more employees. The bill also establishes a surcharge on companies that is equal to 25 percent of the minimum wage multiplied by the total hours worked by all enrollees during the year. The surcharge is to be paid each year effective January 1, 2006 and the DSS must establish a health insurance plan, to be known as Husky W, by January 1, 2007.

It is estimated that the surcharge on companies will raise \$423 million in FY06. Companies can earn credits against their surcharge if they provide equivalent state employee health insurance benefits to their employees or pay the premium for the HUSKY W plan that will be available to their employees. These credits will offset a substantial portion of the \$423 million in revenue gain to the General Fund assuming that companies either provide state employee health care coverage or pay for HUSKY W.

The amount of revenue resulting from the surcharge will depend upon how many companies neither provide for equivalent coverage or purchase HUSKY W on behalf of their employees. However, given that either coverage will not be available until FY07, and credits against the surcharge will not be computed until FY07 when an

additional surcharge will be applied, the original revenue gain may not be reduced by any credits and be available to the General Fund in FY06.

The Department of Social Services will be subject to significant costs in administering a new health plan. There are estimated to be 117,000 employees who may participate in the new plan if the companies subject to the provisions of this bill choose to participate in HUSKY W. In addition to the employees, their dependents may also be eligible for HUSKY W. The bill allows DSS to establish the premium for such coverage and add a 2 percent administrative fee to cover the costs of operating and enforcing the program. A 2 percent fee may not cover the costs of operating the program, as it currently costs DSS more than 2 percent to operate the HUSKY A and B programs. In addition, there would be start-up costs that would need to be appropriated prior to the collection of a 2 percent fee on premiums. The department would need to either establish new enrollment broker services or expand the existing HUSKY broker services. The department would also have to establish and implement contracting services for the provision of a new health plan through a request-for-proposals process. The department would also have to provide a quality assurance process similar to that which is in place with the HUSKY program.

Additional costs will also be incurred by the department through the requirement that they provide a waiver for companies who can provide proof that they are providing employees with health care coverage that is substantially equivalent, both in terms of costs to the employees and benefits provided, which is required in the bill. The department will need additional staff to evaluate company health care plans to determine if they meet these criteria. This is a function that the department does not currently perform.

There may be potential savings to DSS if certain HUSKY A or B clients dis-enroll as a result of the establishment of HUSKY W. However, given the financial incentives for clients to remain in HUSKY A and the bill's requirement that clients be allowed to remain

in HUSKY A or B, it is unlikely that clients will move from one health plan to another.

OLR Bill Analysis

sSB 1147

AN ACT CONCERNING EMPLOYEE HEALTH SECURITY**SUMMARY:**

This bill imposes a fee on large employers that do not provide employee health insurance to create a state-run health insurance program for full-time employees and their dependents. It imposes fees that equal 85% of the program's cost on all employers with 5,000 or more employees. It requires enrolled employees to contribute up to 15% of the cost.

The Department of Social Services (DSS) calculates and collects the fees, notifies employers, procures health insurance, and administers other aspects of the program, called HUSKY W. The bill also penalizes employers that (1) fail to pay the fee; (2) fail to collect or transmit the employee contribution; or (3) attempt to evade paying the fee by designating employees as independent contractors, temporary workers, or other means. The penalty is double the amount the employer failed to pay or collect.

The bill creates two separate charges for employers: (1) a surcharge that begins January 1, 2006 and (2) a fee that begins January 1, 2007. An employer that provides health insurance coverage to its employees can obtain a credit for the surcharge and a waiver for the fee. For the fee waiver, an employer must demonstrate to DSS that the insurance it provides meets certain standards, including a limit on how much it requires its employees to contribute.

The bill requires DSS to adopt regulations to facilitate the bill's provisions.

EFFECTIVE DATE: July 1, 2005

EMPLOYEE ELIGIBILITY (§§ 1 & 3)

Eligible employees are those who work at least three months and for at

least 35 hours per week for an individual employer, sole proprietor, or partner of a partnership. Covered employers include those with at least 5,000 employees, including a franchisor with franchisees that collectively employ at least 5,000 people in the state, but excluding the state, towns, and any political subdivision or quasi-public agency.

Employees covered by a union contract as of January 1, 2006 are exempt from the bill until the contract expires. This eliminates the surcharge or fee an employer would pay for them until the contract expires.

EMPLOYER SURCHARGE (§ 2)

Effective January 1, 2006, the bill imposes a surcharge on employers with at least 5,000 employees. It provides a credit against the surcharge for employers that (1) provide employee health insurance or (2) pay the employer fee the bill creates that goes into effect January 1, 2007. The surcharge provision does not indicate what standard an employer's health insurance must meet in order to obtain the credit or when the surcharge credit will be available to employers.

The surcharge is equal to 25% of the minimum wage multiplied by the total number of hours each HUSKY W-eligible employee worked during the year for which the surcharge applies. (For an employee working a 40-hour week for 52 weeks per year, the charge today would be \$3,692.) The credit is equal to the per-employee cost of health coverage or the employer fee the bill creates. (Apparently this means on January 1, 2006, an employer pays a surcharge based on the number of eligible employees and the hours they worked in 2005.)

All surcharge funds collected must be deposited in the General Fund. The bill requires DSS and the Department of Revenue Services to adopt regulations to implement the surcharge.

EMPLOYER FEE AND HUSKY W (§§ 4 & 5)

The bill creates the HUSKY W health insurance program and establishes a fee for it, effective January 1, 2007, that all employers with over 5,000 employees must pay unless they receive a waiver. The fee is based on the state's cost to provide insurance through the state employee health plan plus 2% for administrative costs. The fee equals what it costs the state per employee under the state plan chosen by the

greatest number of state employees to provide coverage for the employee, and dependents, if applicable. Under the bill, the fee charged to an employer per eligible employee is either the amount for single coverage or including dependents, as applicable.

The bill requires the cost of providing coverage to be paid solely through the fee and the employee contributions collected under the bill.

On or before July 1, 2006, and annually thereafter, DSS must notify each covered employer of the fee amount it must pay. Payments are to be made quarterly, and the first payment must be made on or before January 1, 2007. The bill requires employers to provide information the DSS commissioner requests to determine each employer's fee.

EMPLOYEE OPT OUT (§ 5(F))

Eligible employees who have health insurance coverage from another source (public or private) may opt out of HUSKY W by showing documentation to DSS. Any employee working fewer than 25 hours a week may also opt out of the program, but the definition of eligible employee already excludes this group. (Eligible employees must work at least 35 hours a week.)

When determining an employer's fee, the bill prohibits the DSS commissioner from including employees who opt out.

FEE WAIVER (§ 7)

An employer who provides employee health insurance that meets the bill's standards can get a fee waiver. An employer must show DSS proof of employer-sponsored health care coverage for the employee (and if applicable, his dependents) to obtain a waiver. Such proof must show that either:

1. the employer is paying at least as much for health coverage as the state pays for each eligible employee (and if applicable, his dependents) under the state health plan, or
2. the alternative health care coverage is substantially equivalent to state employee coverage and the cost to an enrolled employee is no greater than it is to a state employee

enrolled in the state plan.

The bill does not provide guidance as to how the DSS commissioner determines if an employer's health coverage is "substantially equivalent" to state employee coverage. Employers may apply for the fee waiver in the manner the DSS commissioner prescribes.

EMPLOYEE CONTRIBUTIONS (§ 6(A))

The employee contribution cannot exceed 15% of the fee assessed to the employer and the employer will collect it and pay it concurrently with the employer fee.

PENALTIES (§§ 5(G), 6(B), & 7(B))

Failure to Pay or Collect Employee Contributions

If an employer fails to pay all or part of the required fee, the employer faces a penalty of twice the amount due and unpaid. Coverage of an employee, or if applicable such employee's dependents, is not contingent upon the employer paying the fee.

In addition to the penalty imposed above, an employer must pay interest on all amounts due and unpaid in accordance with the rate provided for unpaid contributions under state unemployment compensation law.

If the employer fails to collect or transmit the employee contribution in a timely manner, the employer becomes liable for a penalty of twice the amount that the employer has failed to collect or transmit, and the employee is relieved of all liability for the failure. The employer's failure to collect or transmit the required employee contribution or provide employee enrollment information will not affect an employee's coverage. An employer will only withhold and collect an amount for the bill's purposes in accordance with any procedures the DSS commissioner specifies.

Fee Evasion

The bill prohibits an employer from any of the following to avoid its obligations under the bill:

1. designating an employee as an independent contractor or a

temporary employee,

2. reducing an employee's work hours, or
3. terminating and rehiring an employee.

An employer who violates these provisions must pay a penalty of twice the amount that would otherwise have been paid under the bill. This includes any period for which the employee would have been covered except for the employer's evasion.

EMPLOYER RESTRICTION

The bill prohibits employers from attempting to obtain information about income or other eligibility requirements for public health programs regarding an employee or his dependents. The employer is not prohibited from attempting to get information about an employee's employment status that is consistent with state and federal law and regulation.

EMPLOYERS NO LONGER UNDER THE BILL

Existing employers no longer subject to the bill (apparently due to a decrease in workforce size) must notify DSS in a manner the department prescribes no later than 15 days after the employer status change before the employer is no longer required to comply with the bill.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 9 Nay 4

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 26 Nay 22