

HOUSE No. 3822

Sections 16, 17, 60 to 67, inclusive, 93, 110, 111, 122, 146, 147 and 150 contained in the engrossed Bill making appropriations for the fiscal year 2018(see House, No. 3800), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment F of House, No. 3828). July 17, 2017.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act further regulating employer contributions to health care.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith certain employer healthcare contributions, 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. Section 8A of chapter 23H of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting after the word “system”, in line 2, the following
3 words:- , the contribution established under section 189A of chapter 149.

4 SECTION 2. Said section 8A of said chapter 23H is hereby further amended by striking
5 out the words “, the contribution established under section 189A of chapter 149” inserted by
6 section 1.

7 SECTION 3. Section 189 of chapter 149 of the General Laws, as appearing in the 2016
8 Official Edition, is hereby amended by striking out, in line 8, the figure “.34” and inserting in
9 place thereof the following figure:- .51.

SECTION 4. Said section 189 of said chapter 149 is hereby further amended by striking out the figure “.51”, inserted by section 3, and inserting in place thereof the following figure:-
.34.

SECTION 5. Said section 189 of said chapter 149, as appearing in the 2016 Official Edition, is hereby further amended by striking out, in line 50, the figure “.12” and inserting in place thereof the following figure:— .18.

SECTION 6. Said section 189 of said chapter 149 is hereby further amended by striking out the figure “.18”, inserted by section 5, and inserting in place thereof the following figure:-
.12.

SECTION 7. Said section 189 of said chapter 149, as appearing in the 2016 Official Edition, is hereby further amended by striking out, in line 54, the figure “.24” and inserting in place thereof the following figure:- .36.

SECTION 8. Said section 189 of said chapter 149 is hereby further amended by striking out the figure “.36”, inserted by section 7, and inserting in place thereof the following figure:-
.24.

SECTION 9. Said chapter 149 is hereby further amended by inserting after section 189 the following section:-

Section 189A. (a) Each employer, subject to sections 14, 14A and 14C of chapter 151A, except those who employ not more than 5 employees, shall pay a contribution for each employee who receives health insurance coverage through the division of medical assistance or subsidized insurance through the commonwealth health insurance connector authority. The contribution

shall be computed by multiplying the wages the employer paid any such employee by 5 per cent. The department of unemployment assistance, in consultation with the division of medical assistance and the commonwealth health insurance connector authority, shall promulgate regulations to implement this subsection, which shall specify the number of days that an individual shall be required to receive such subsidized health care coverage to cause the assessment. The contribution shall be paid in a manner prescribed by the director of unemployment assistance.

(b) For the purposes of this section, “wages” shall mean the “unemployment insurance taxable wage base” as defined in paragraph (4) of subsection (a) of section 14 of chapter 151A; provided, however that “wages” shall not include that part of remuneration which, after remuneration equal to the unemployment insurance taxable wage base with respect to employment with such employer has been paid to an individual during the calendar year, is paid to such individual during such year. For the purposes of this paragraph, “remuneration” shall include remuneration paid to an individual during the calendar year with respect to employment with a transferring employer as that term is used in subsection (n) of section 14 of said chapter 151A.

(c) An employer notified of a liability determination under this section may request a hearing on such determination. The request for a hearing shall be filed not more than 10 days after the receipt of the notice of the determination. If a hearing is requested, the employer shall have a reasonable opportunity for a fair hearing before an impartial hearing officer designated by the director of unemployment assistance. The hearing shall be conducted in accordance with subsection (b) of section 39 of chapter 151A. Following the hearing, an aggrieved party may appeal the decision to superior court.

(d) (1) Except where inconsistent with this section, the terms and conditions of chapter 151A that are applicable to the payment and collection of contributions or payments in lieu of contributions shall apply to the same extent to the payment of and the collection of the contribution under this section; provided, however, that such contributions shall not be credited to the employer's account or to the solvency account established under section 14, 14A or 14C of said chapter 151A.

(2) The director of unemployment assistance may share information with the commissioner of revenue to enforce and collect the contribution under this section. The commissioner of revenue may enforce and collect a debt certified by the director as owed under this section in the manner as a tax due and unpaid under chapter 62C; provided, however, that the procedures authorized in subsection (c) shall be the sole remedies for an employer to dispute a debt so certified and remedies otherwise available under said chapter 62C to dispute a tax assessment shall not be available. Notwithstanding any general or special law to the contrary, for the purposes of enforcement of this section the commissioner of revenue may disclose to the department of unemployment assistance any information referred to in chapter 62E or any information relating to the commissioner's collection activities under chapter 62C with regard to debts certified by the director.

(e) Data collected by the department of unemployment insurance, the department of revenue, the division of medical assistance and the commonwealth health insurance connector authority under this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or under chapter 66. The department of unemployment insurance, the department of revenue, the division of medical assistance and the commonwealth health insurance connector authority may share information to implement this section.

77 SECTION 10. Section 189A of said chapter 149 is hereby repealed.

78 SECTION 11. Notwithstanding section 14 of chapter 151A of the General Laws, for
79 calendar year 2018 the experience rate of an employer qualifying under subsection (b) of said
80 section 14 of said chapter 151A shall be the rate which appears in the column designated “D” of
81 paragraph (1) of subsection (i) of said section 14 of said chapter 151A and for calendar year
82 2019 the experience rate of an employer qualifying under said subsection (b) of said section 14
83 of said chapter 151A shall be the rate which appears in the column designated “E” of said
84 paragraph (1) of said subsection (i) of said section 14 of said chapter 151A.

85 The director of unemployment assistance may, notwithstanding any federal interest
86 charges for necessary federal advances, pursue any necessary federal advances to ensure the
87 lowest reasonable federal interest for any federal loans and nothing in this section shall
88 contribute or allow for a reduction in benefits, including but not limited to, the amount or length
89 of benefits, pursuant to chapter 151A.

90 SECTION 12. Notwithstanding any general or special law to the contrary, the
91 comptroller shall count as revenue in fiscal year 2018 any increased contributions collected
92 pursuant to sections 3, 5, 7, and 9 that are received by the commonwealth not later than August
93 31, 2018.

94 SECTION 13. Notwithstanding any general or special law to the contrary, the
95 comptroller shall count as revenue in fiscal year 2019 any increased contributions collected
96 pursuant to sections 3, 5, 7, and 9, that are received by the commonwealth between September 1,
97 2018 and August 31, 2019.

SECTION 14. Notwithstanding the repeal of section 189A of chapter 149 of the General Laws, the director of unemployment assistance may collect any outstanding contributions established pursuant to said section 189A of said chapter 149 obligations arising prior to January 1, 2020 and any such collection shall be conducted in accordance with the regulations promulgated by the department of unemployment assistance pursuant to said section 189A of said chapter 149. The director of unemployment assistance may share information with the commissioner of revenue to enforce and collect outstanding contributions. The commissioner of revenue may enforce and collect a debt certified by the director as owed under this section in the manner of a tax due and unpaid under chapter 62C of the General Laws; provided, however, that the remedies authorized by the regulations of the department of unemployment assistance shall be the sole remedies for an employer to dispute a debt so certified, and remedies otherwise available under said chapter 62C to dispute a tax assessment shall not be available. Notwithstanding any general or special law to the contrary, for the purposes of enforcement of this section the commissioner of revenue may disclose to the department of unemployment assistance any information referred to in chapter 62E of the General Laws or any information relating to the commissioner's collection activities under said chapter 62C with regard to debts certified by the director.

SECTION 15. Subsections (a) and (b) of section 189A of chapter 149 of the General Laws shall take effect on January 1, 2018.

SECTION 16. Sections 2, 4, 6, 8 and 10 shall take effect on December 31, 2019.

SECTION 17. Section 54 of chapter 47 of the acts of 2017 shall take effect on September 30, 2022.

SECTION 18. This act shall take effect as of July 1, 2017.