

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.

10 SECTION 4. Said section 189 of said chapter 149 is hereby further amended by striking
11 out the figure “.51”, inserted by section 3, and inserting in place thereof the following figure:-
12 .34.

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

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

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

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

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

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

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

38 (b) For the purposes of this section, “wages” shall mean the “unemployment insurance
39 taxable wage base” as defined in paragraph (4) of subsection (a) of section 14 of chapter 151A;
40 provided, however that “wages” shall not include that part of remuneration which, after
41 remuneration equal to the unemployment insurance taxable wage base with respect to
42 employment with such employer has been paid to an individual during the calendar year, is paid
43 to such individual during such year. For the purposes of this paragraph, “remuneration” shall
44 include remuneration paid to an individual during the calendar year with respect to employment
45 with a transferring employer as that term is used in subsection (n) of section 14 of said chapter
46 151A.

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

54 (d) (1) Except where inconsistent with this section, the terms and conditions of chapter
55 151A that are applicable to the payment and collection of contributions or payments in lieu of
56 contributions shall apply to the same extent to the payment of and the collection of the
57 contribution under this section; provided, however, that such contributions shall not be credited
58 to the employer's account or to the solvency account established under section 14, 14A or 14C of
59 said chapter 151A.

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

71 (e) Data collected by the department of unemployment insurance, the department of
72 revenue, the division of medical assistance and the commonwealth health insurance connector
73 authority under this section shall not be a public record under clause Twenty-sixth of section 7 of
74 chapter 4 or under chapter 66. The department of unemployment insurance, the department of
75 revenue, the division of medical assistance and the commonwealth health insurance connector
76 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.

98 SECTION 14. Notwithstanding the repeal of section 189A of chapter 149 of the General
99 Laws, the director of unemployment assistance may collect any outstanding contributions
100 established pursuant to said section 189A of said chapter 149 obligations arising prior to January
101 1, 2020 and any such collection shall be conducted in accordance with the regulations
102 promulgated by the department of unemployment assistance pursuant to said section 189A of
103 said chapter 149. The director of unemployment assistance may share information with the
104 commissioner of revenue to enforce and collect outstanding contributions. The commissioner of
105 revenue may enforce and collect a debt certified by the director as owed under this section in the
106 manner of a tax due and unpaid under chapter 62C of the General Laws; provided, however, that
107 the remedies authorized by the regulations of the department of unemployment assistance shall
108 be the sole remedies for an employer to dispute a debt so certified, and remedies otherwise
109 available under said chapter 62C to dispute a tax assessment shall not be available.
110 Notwithstanding any general or special law to the contrary, for the purposes of enforcement of
111 this section the commissioner of revenue may disclose to the department of unemployment
112 assistance any information referred to in chapter 62E of the General Laws or any information
113 relating to the commissioner’s collection activities under said chapter 62C with regard to debts
114 certified by the director.

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

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

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

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