

HB1327_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Human Services.

HB26-1327 be amended as follows:

1 Amend printed bill, page 6, strike line 24 and substitute "(6), OR A PUBLIC
2 ENTITY AS DEFINED IN SECTION 24-10-103 (5); OR".

3 Page 6, line 26, after "INCLUDES" insert "AFFORDABLE".

4 Page 8, strike lines 6 through 11 and substitute:

5 "(13) "WORKER" MEANS AN EMPLOYEE, AS DEFINED IN SECTION
6 8-4-101 (5), OF A LARGE EMPLOYER."

7 Page 10, strike lines 19 and 20 and substitute:

8 "(g) ENGAGE THE STATE DEPARTMENT AS NECESSARY TO REVIEW
9 ADMINISTRATIVE DATA FOR PURPOSES OF IDENTIFYING LARGE EMPLOYERS
10 AND DETERMINING A LARGE EMPLOYER'S NUMBER OF SUPPORTED
11 WORKERS;

12 (h) ENGAGE THE DEPARTMENT OF REVENUE TO COLLECT AND
13 ENFORCE THE LARGE EMPLOYER HEALTH-CARE SUPPORT FEE;"

14 Reletter succeeding paragraphs accordingly.

15 Page 14, strike lines 21 through 23 and substitute "FOR THE OPERATION OF
16 THE ENTERPRISE; AND".

17 Reletter succeeding paragraph accordingly.

18 Page 15, strike lines 6 through 27 and substitute:

19 "(6) IN DETERMINING THE USE AND ALLOCATION OF ENTERPRISE
20 REVENUE, THE BOARD SHALL PRIORITIZE MAINTAINING MEDICAL
21 ASSISTANCE BENEFITS FOR SUPPORTED WORKERS AND SHALL ENSURE THAT
22 EXPENDITURES ARE REASONABLY RELATED TO THE COST OF THE SERVICES
23 PROVIDED TO LARGE EMPLOYERS.

24 **25.5-1-1206. Large employer health-care support fee - annual**
25 **employer report - imposition and collection of enterprise fee - penalty**
26 **- rules.**

27 (1) FOR THE 2027 CALENDAR YEAR, AND CONTINUING EACH
28 CALENDAR YEAR THEREAFTER, THE ENTERPRISE SHALL IMPOSE, ASSESS,
29 AND COLLECT THE LARGE EMPLOYER HEALTH-CARE SUPPORT FEE FROM
30 EACH LARGE EMPLOYER.

31 (2) (a) (I) ON OR BEFORE JANUARY 31, 2028, AND NO LATER THAN

1 EACH JANUARY 31 THEREAFTER, EVERY EMPLOYER THAT EMPLOYED FIVE
2 HUNDRED OR MORE EMPLOYEES IN THE STATE AT ANY TIME DURING THE
3 PRECEDING CALENDAR YEAR SHALL REPORT TO THE ENTERPRISE THE
4 EMPLOYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER, THE AVERAGE
5 NUMBER OF FULL-TIME, PART-TIME, AND 1099 EMPLOYEES, AND THE
6 NUMBER OF INDIVIDUALS SUBCONTRACTED FOR THE PRIMARY WORK OF
7 THE EMPLOYER, AND, WITH RESPECT TO EACH OF THE EMPLOYER'S
8 EMPLOYEES THAT WERE EMPLOYED AT ANY TIME DURING THE PRECEDING
9 CALENDAR YEAR:

10 (A) THE EMPLOYEE'S FULL LEGAL NAME AND DATE OF BIRTH;
11 (B) THE DATES WHEN THE EMPLOYEE WAS EMPLOYED DURING THE
12 YEAR;

13 (C) THE AVERAGE NUMBER OF HOURS WORKED PER MONTH FOR
14 EACH EMPLOYEE; AND

15 (D) ANY OTHER INFORMATION REQUIRED BY THE ENTERPRISE.

16 (II) THE ENTERPRISE MAY REQUIRE AN EMPLOYER TO FILE THE
17 REPORT REQUIRED PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION
18 ELECTRONICALLY.

19 (III) IN ADDITION TO THE EMPLOYERS REQUIRED TO FILE A REPORT
20 PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION, THE ENTERPRISE
21 MAY REQUIRE ANY OTHER EMPLOYER DOING BUSINESS IN THE STATE TO
22 FILE A REPORT DETAILING THE INFORMATION SET FORTH IN SUBSECTION
23 (2)(a)(I) OF THIS SECTION.

24 (IV) IF AN EMPLOYER NEGLECTS OR REFUSES TO FILE A REPORT
25 PURSUANT TO SUBSECTION (2)(a)(I) OR (2)(a)(III) OF THIS SECTION, OR TO
26 PROVIDE A COPY OF RECORDS AS SET FORTH IN SUBSECTION (2)(e) OF THIS
27 SECTION, THE ENTERPRISE SHALL ESTIMATE THE AMOUNT OF THE LARGE
28 EMPLOYER HEALTH-CARE SUPPORT FEE DUE USING THE BEST INFORMATION
29 THAT MAY BE AVAILABLE. THE AMOUNT OF THE FEE MAY BE ESTIMATED
30 AND ASSESSED BY THE ENTERPRISE AT ANY TIME WITHIN THREE YEARS
31 AFTER THE REPORT IS DUE.

32 (b) (I) ON OR BEFORE MARCH 31, 2028, AND NO LATER THAN EACH
33 MARCH 31 THEREAFTER, THE ENTERPRISE SHALL DETERMINE WHETHER AN
34 EMPLOYER IS A LARGE EMPLOYER, CALCULATE AND IMPOSE THE LARGE
35 EMPLOYER HEALTH-CARE SUPPORT FEE DUE FOR EACH LARGE EMPLOYER,
36 AND SEND WRITTEN NOTICE PURSUANT TO SUBSECTION (2)(b)(IV) OF THIS
37 SECTION TO EACH LARGE EMPLOYER AND TO THE DEPARTMENT OF
38 REVENUE.

39 (II) THE ENTERPRISE SHALL DETERMINE THE AMOUNT OF THE FEE
40 THAT IS REASONABLE BASED ON THE COST OF SERVICES PROVIDED TO
41 LARGE EMPLOYERS, INCLUDING MEDICAL ASSISTANCE SERVICES PROVIDED
42 TO SUPPORTED WORKERS, WHICH FEE AMOUNT THE ENTERPRISE MAY
43 ADJUST PURSUANT TO SUBSECTION (4) OF THIS SECTION.

1 (III) THE ENTERPRISE SHALL DETERMINE THE NUMBER OF
2 SUPPORTED WORKERS FOR EACH EMPLOYER USING AVAILABLE
3 ADMINISTRATIVE DATA AND DATA FROM THE ANNUAL EMPLOYER REPORT
4 REQUIRED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION. THE
5 ENTERPRISE SHALL ENTER INTO DATA-SHARING AGREEMENTS WITH THE
6 DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LABOR AND
7 EMPLOYMENT, IN ADDITION TO ANY OTHER AGENCIES WITH DATA
8 NECESSARY TO IMPLEMENT THIS SECTION.

9 (IV) THE ENTERPRISE SHALL ISSUE TO EACH LARGE EMPLOYER AND
10 TRANSMIT TO THE DEPARTMENT OF REVENUE A WRITTEN NOTICE OF THE
11 AMOUNT OF THE LARGE EMPLOYER HEALTH-CARE SUPPORT FEE DUE,
12 INSTRUCTIONS AND DUE DATES FOR PAYING THE FEE, AND AN
13 EXPLANATION OF THE PROCEDURE TO REVIEW THE IDENTIFICATION AS A
14 LARGE EMPLOYER, THE CALCULATION OF SUPPORTED WORKERS, OR TO
15 CLAIM THE EXEMPTION FROM THE FEE SPECIFIED IN SUBSECTION (2)(d) OF
16 THIS SECTION. THE NOTICE MAY BE SENT ELECTRONICALLY. THE NOTICE
17 MUST INCLUDE THE LARGE EMPLOYER'S NAME, THE LARGE EMPLOYER'S
18 FEDERAL EMPLOYER IDENTIFICATION NUMBER, THE AMOUNT OF THE LARGE
19 EMPLOYER HEALTH-CARE SUPPORT FEE THAT THE LARGE EMPLOYER IS
20 REQUIRED TO PAY, AND THE DATE THE PAYMENT IS DUE PURSUANT TO THIS
21 SUBSECTION (2).

22 (c) (I) WITHIN SIXTY DAYS AFTER THE DATE OF THE NOTICE ISSUED
23 PURSUANT TO SUBSECTION (2)(b)(IV) OF THIS SECTION, THE EMPLOYER TO
24 WHOM NOTICE WAS ISSUED MAY FILE WITH THE ENTERPRISE A WRITTEN
25 REQUEST FOR REVIEW. THE REQUEST MUST SET FORTH THE REASONS FOR
26 REQUESTED CHANGES TO THE NOTICE. THE REQUEST MAY STATE A CLAIM
27 OF EXEMPTION FROM THE FEE PURSUANT TO SUBSECTION (2)(d) OF THIS
28 SECTION. THE EMPLOYER REQUESTING REVIEW HAS THE BURDEN OF PROOF
29 WITH RESPECT TO ISSUES RAISED IN THE REQUEST. THE ENTERPRISE SHALL
30 NOTIFY THE DEPARTMENT OF REVENUE WHEN A REQUEST FOR REVIEW IS
31 MADE BY AN EMPLOYER, AND THE DEPARTMENT OF REVENUE SHALL HOLD
32 IN ABEYANCE ANY ACTION TO COLLECT THE FEE UNTIL THE DEPARTMENT
33 OF REVENUE RECEIVES NOTICE OF THE ENTERPRISE'S FINAL
34 DETERMINATION PURSUANT TO SUBSECTION (2)(c)(II) OF THIS SECTION.

35 (II) UNLESS THE ENTERPRISE SUMMARILY CANCELS THE NOTICE,
36 THE ENTERPRISE SHALL HOLD A HEARING ON THE REQUEST FOR REVIEW IN
37 ACCORDANCE WITH ARTICLE 4 OF TITLE 24. BASED UPON THE EVIDENCE
38 PRESENTED AT THE HEARING OR FILED WITH THE REQUEST, THE
39 ENTERPRISE SHALL MAKE A FINAL DETERMINATION ON THE REQUEST. THE
40 ENTERPRISE MAY AFFIRM, MODIFY, OR CANCEL THE NOTICE OR MAY GRANT
41 AN EXEMPTION PURSUANT TO SUBSECTION (2)(d)(I) OF THIS SECTION. AN
42 EMPLOYER IS NOT ENTITLED TO A SECOND HEARING REGARDING THE
43 NOTICE. THE ENTERPRISE SHALL PROVIDE WRITTEN NOTICE OF ITS FINAL

1 DETERMINATION TO THE EMPLOYER AND TO THE DEPARTMENT OF
2 REVENUE. THE LARGE EMPLOYER SHALL PAY THE AMOUNT FOUND BY THE
3 ENTERPRISE TO BE DUE WITHIN SIXTY DAYS AFTER THE MAILING OF THE
4 FINAL DETERMINATION.

5 (d) (I) THE ENTERPRISE SHALL EXEMPT A LARGE EMPLOYER FROM
6 PAYMENT OF THE LARGE EMPLOYER HEALTH-CARE SUPPORT FEE IF THE
7 LARGE EMPLOYER DEMONSTRATES THAT THE LARGE EMPLOYER HAS
8 OFFERED AFFORDABLE HEALTH COVERAGE TO WORKERS WHO WORK
9 TWENTY OR MORE HOURS PER WEEK OR EIGHTY OR MORE HOURS PER
10 MONTH.

11 (II) IF AT ANY TIME DURING THE THREE YEARS FOLLOWING THE
12 GRANTING OF THE EXEMPTION BY THE ENTERPRISE THE LARGE EMPLOYER
13 CEASES OFFERING AFFORDABLE HEALTH COVERAGE TO EACH WORKER WHO
14 WORKS TWENTY OR MORE HOURS PER WEEK OR EIGHTY OR MORE HOURS
15 PER MONTH, THE LARGE EMPLOYER SHALL NOTIFY THE ENTERPRISE THAT
16 COVERAGE HAS CEASED. THE ENTERPRISE SHALL COMPUTE THE LARGE
17 EMPLOYER HEALTH-CARE SUPPORT FEE THAT WOULD HAVE BEEN IMPOSED
18 SINCE THE DATE THE EXEMPTION WAS GRANTED AND ISSUE THE LARGE
19 EMPLOYER THE NOTICE REQUIRED BY SUBSECTION (2)(b)(IV) OF THIS
20 SECTION. THE LARGE EMPLOYER MAY REQUEST REVIEW OF THE NOTICE AS
21 SET FORTH IN SUBSECTION (2)(c) OF THIS SECTION.

22 (e) EVERY EMPLOYER DOING BUSINESS IN THE STATE THAT
23 EMPLOYS FIVE HUNDRED OR MORE EMPLOYEES DURING THE CALENDAR
24 YEAR SHALL KEEP COMPLETE AND ACCURATE RECORDS NECESSARY FOR
25 THE DETERMINATION OF THE CORRECT AMOUNT OF THE LARGE EMPLOYER
26 HEALTH-CARE SUPPORT FEE BY THE ENTERPRISE. AN EMPLOYER SHALL
27 PROVIDE A COPY OF THE RECORDS REQUIRED TO BE KEPT PURSUANT TO
28 THIS SUBSECTION (2)(e) AND ANY OTHER RECORDS DEEMED NECESSARY
29 BY THE ENTERPRISE FOR THE DETERMINATION OF THE CORRECT AMOUNT
30 OF THE LARGE EMPLOYER HEALTH-CARE SUPPORT FEE TO THE ENTERPRISE,
31 IF SO REQUESTED. THE ENTERPRISE MAY ESTABLISH THE ACCEPTABLE
32 FORM OF SUCH RECORDS.

33 (f) THE ENTERPRISE AND DEPARTMENT OF REVENUE SHALL ADOPT
34 POLICIES OR RULES CONSISTENT WITH THE RULES CONCERNING THE FILING
35 AND PAYMENT PROVISIONS OF SECTION 39-21-119 THAT APPLY TO THE
36 FILING AND PAYMENT DUTIES IMPOSED BY THIS SECTION.

37 (3) (a) (I) THE DEPARTMENT OF REVENUE SHALL COLLECT AND
38 ENFORCE THE LARGE EMPLOYER HEALTH-CARE SUPPORT FEE ON BEHALF
39 OF THE ENTERPRISE FOLLOWING NOTICE FROM THE ENTERPRISE TO THE
40 DEPARTMENT OF REVENUE PURSUANT TO SUBSECTION (2)(b)(IV) OF THIS
41 SECTION OR UPON RECEIPT OF NOTICE OF FINAL DETERMINATION
42 PURSUANT TO SUBSECTION (2)(c)(II) OF THIS SECTION.

43 (II) THE DEPARTMENT OF REVENUE SHALL RETAIN AN AMOUNT

1 THAT DOES NOT EXCEED THE TOTAL COST OF COLLECTING,
2 ADMINISTERING, AND ENFORCING THE LARGE EMPLOYER HEALTH-CARE
3 SUPPORT FEE AND SHALL TRANSMIT THE AMOUNT RETAINED TO THE STATE
4 TREASURER, WHO SHALL CREDIT IT TO THE APPROPRIATE CASH FUND FOR
5 THE DEPARTMENT OF REVENUE.

6 (b) (I) A LARGE EMPLOYER SHALL PAY THE DEPARTMENT OF
7 REVENUE THE AMOUNT SET FORTH IN THE NOTICE ISSUED BY THE
8 ENTERPRISE PURSUANT TO SUBSECTION (2)(b)(IV) OF THIS SECTION
9 WITHIN SIXTY DAYS AFTER THE MAILING OF THE NOTICE UNLESS THE
10 EMPLOYER TIMELY FILED A WRITTEN REQUEST FOR REVIEW. IF A TIMELY
11 REQUEST FOR REVIEW IS FILED, THE LARGE EMPLOYER SHALL PAY THE
12 DEPARTMENT OF REVENUE THE AMOUNT DUE, IF ANY, AS STATED IN THE
13 FINAL DETERMINATION OF THE ENTERPRISE WITHIN SIXTY DAYS AFTER THE
14 MAILING OF THE FINAL DETERMINATION. THE DEPARTMENT OF REVENUE
15 MAY REQUIRE ELECTRONIC PAYMENT OF ANY AMOUNT DUE PURSUANT TO
16 THIS SECTION.

17 (c) (I) IF A LARGE EMPLOYER DOES NOT PAY THE LARGE EMPLOYER
18 HEALTH-CARE SUPPORT FEE DUE, THE DEPARTMENT OF REVENUE SHALL
19 ADD INTEREST, PURSUANT TO SECTION 39-21-110.5, TO THE UNPAID
20 AMOUNT AND A PENALTY EQUAL TO THE GREATER OF:

21 (A) FIFTEEN DOLLARS; OR

22 (B) TEN PERCENT OF THE UNPAID AMOUNT, PLUS ONE-HALF
23 PERCENT PER MONTH FROM THE DATE WHEN DUE, NOT TO EXCEED
24 EIGHTEEN PERCENT IN THE AGGREGATE.

25 (II) THE DEPARTMENT OF REVENUE SHALL PROCEED TO COLLECT
26 THE UNPAID AMOUNT, AND ANY INTEREST OR PENALTY ADDED TO THE
27 UNPAID AMOUNT, PURSUANT TO ARTICLE 21 OF TITLE 39 IN THE SAME
28 MANNER AS ANY UNPAID TAX, PENALTY, OR INTEREST ASSESSED
29 PURSUANT TO ARTICLE 21 OF TITLE 39. ALL METHODS OF COLLECTION AND
30 REMEDIES AUTHORIZED BY ARTICLE 21 OF TITLE 39 ARE AVAILABLE TO
31 THE DEPARTMENT OF REVENUE FOR PURPOSES OF ENFORCING THIS
32 SECTION.

33 (III) THE DEPARTMENT OF REVENUE SHALL NOT FILE A NOTICE OF
34 LIEN, ISSUE A DISTRAINT WARRANT, INSTITUTE A SUIT FOR COLLECTION, OR
35 TAKE ANY OTHER ACTION TO COLLECT THE AMOUNT DUE MORE THAN
36 THREE YEARS AFTER THE PAYMENT IS DUE; EXCEPT THAT A NOTICE OF LIEN
37 THAT HAS BEEN FILED PRIOR TO THE EXPIRATION OF THE THREE-YEAR
38 PERIOD SHALL CONTINUE FOR ONE YEAR AFTER THE EXPIRATION OF THE
39 THREE-YEAR PERIOD.

40 (d) THE DEPARTMENT OF REVENUE MAY:

41 (I) GRANT A REASONABLE EXTENSION OF TIME FOR PAYING THE
42 LARGE EMPLOYER HEALTH-CARE SUPPORT FEE;

43 (II) WAIVE, FOR GOOD CAUSE SHOWN, ANY PENALTY OR INTEREST

1 ASSESSED PURSUANT TO THIS SECTION;
2 (III) COMPROMISE ANY CIVIL CASE ARISING PURSUANT TO THIS
3 SECTION AS SET FORTH IN SECTION 39-21-106; AND
4 (IV) ADOPT, AMEND, OR RESCIND RULES NECESSARY FOR THE
5 ADMINISTRATION OF THIS SECTION IN ACCORDANCE WITH ARTICLE 4 OF
6 TITLE 24.
7 (e) EXCEPT FOR THE AMOUNT RETAINED BY THE DEPARTMENT OF
8 REVENUE PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION, MONEY
9 THAT THE DEPARTMENT OF REVENUE COLLECTS PURSUANT TO THIS
10 SECTION IS CUSTODIAL MONEY HELD TEMPORARILY BY THE DEPARTMENT
11 OF REVENUE AND THE STATE TREASURER SOLELY FOR THE PURPOSE OF
12 TRANSFERRING THE MONEY TO THE LARGE EMPLOYER HEALTH-CARE
13 SUPPORT FUND FOR USE BY THE ENTERPRISE. BASED ON THE ENTERPRISE'S
14 STATUS AS AN ENTERPRISE, THE MONEY COLLECTED AND TRANSFERRED TO
15 THE LARGE EMPLOYER HEALTH-CARE SUPPORT FUND IS NOT SUBJECT TO
16 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AT ANY TIME
17 DURING THE MONEY'S COLLECTION, TRANSFER, AND USE.
18 (4) THE ENTERPRISE MAY ANNUALLY ADJUST THE FEE AS
19 DETERMINED PURSUANT TO SUBSECTION (2)(b)(II) OF THIS SECTION FOR
20 INFLATION, TO REFLECT THE COST OF SERVICES PROVIDED TO LARGE
21 EMPLOYERS, INCLUDING MEDICAL ASSISTANCE COSTS FOR SUPPORTED
22 WORKERS OR FOR OTHER REASONS DETERMINED BY THE BOARD.
23 (5) THE ENTERPRISE MAY PAY, FROM FEE REVENUE RECEIVED BY
24 THE ENTERPRISE, REASONABLE AND NECESSARY DIRECT AND INDIRECT
25 EXPENSES RELATING TO:
26 (a) SERVICES OR SUPPORT PROVIDED TO THE ENTERPRISE BY THE
27 STATE DEPARTMENT RELATING TO THE PURPOSES OF THE ENTERPRISE; AND
28 (b) THE DEPARTMENT OF REVENUE'S COLLECTION AND
29 ENFORCEMENT OF THE FEE FROM LARGE EMPLOYERS AND TRANSMITTAL
30 OF THE FEE TO THE STATE TREASURER.
31 (6) FOR PURPOSES OF IMPOSING, ASSESSING, AND COLLECTING THE
32 FEE, AN EMPLOYER SHALL COMPLY WITH REQUESTS FOR DATA FROM THE
33 ENTERPRISE, AND ANY STATE AGENCIES REQUESTING DATA ON BEHALF OF
34 THE ENTERPRISE, THAT ARE NECESSARY TO IMPLEMENT THE ENTERPRISE'S
35 POWERS AND DUTIES PURSUANT TO THIS PART 12."

36 Strike pages 16 through 18.

37 Page 19, strike lines 1 through 15.

38 Page 19, strike lines 23 and 24.

39 Reletter succeeding paragraphs accordingly.

1 Page 20, strike lines 13 through 27.

2 Renumber succeeding sections accordingly.

3 Page 21, strike lines 1 through 25 and substitute:

4 "SECTION 2. In Colorado Revised Statutes, 39-21-102, **add** (10)
5 as follows:

6 **39-21-102. Scope.**

7 (10) THIS ARTICLE 21 APPLIES TO THE FEE IMPOSED PURSUANT TO
8 SECTION 25.5-1-1206, BUT ONLY TO THE EXTENT THAT THIS ARTICLE 21 IS
9 NOT INCONSISTENT WITH SECTION 25.5-1-1206."

10 Renumber succeeding sections accordingly.

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