

## Employment, Labor & Benefits Alert

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### Patrick Administration Proposes Elimination of Fair Share Contribution Requirements

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On Tuesday, January 8, 2013, the Deval Patrick administration filed An Act to Support Employers in the Commonwealth. This new legislation, if enacted, will repeal the Fair Share Contribution program effective June 30, 2013. The Fair Share Contribution program, in effect since 2006, requires that employers doing business in Massachusetts either provide health coverage to full time employees that satisfies certain rules, or pay a contribution to the Commonwealth equaling \$295 per employee per year. For more details about the Fair Share Contribution rules, please see our alerts which may be accessed [here](#).

These changes are proposed in recognition of the Federal Affordable Care Act's employer mandate, which is similar to the Commonwealth's Fair Share requirements and which will take effect in 2014. According to the Patrick administration's press release, the proposed legislation, if enacted, "will save significant administrative costs for Massachusetts employers; allow time to prepare for the implementation of the ACA [Affordable Care Act] provision; and ensure the state is streamlining possibly duplicative programs and assessments." For more information on the Affordable Care Act's employer mandate as well as the numerous other Affordable Care Act provisions affecting employers, please see our Health Care Reform page which may be accessed [here](#).

Employers may not be completely off the hook. The bill also proposes the creation of an Employer Responsibility Trust Fund, intended to fund the provision of subsidized health care for low-income Massachusetts residents. Each employer who employs more than 5 employees will be required to contribute an amount equal to wages times .36 of 1%. Employers newly subject to the rule shall be required to pay .12 of 1% of wages during the first year subject to the rule and .24 of 1% of wages during the second year subject to the rule.

It is encouraging to see the Patrick administration's acknowledgement of the hardships Massachusetts employers will face if asked to comply with both a federal and a state employer mandate simultaneously. However, Massachusetts employers should keep in mind that, at this point, the bill is merely a proposal. Until and unless the bill is enacted, employers should continue to comply with the Massachusetts Fair Share law requirements, including by offering compliant coverage to full-time employees, carefully documenting compliance, and completing quarterly Fair Share filings. In addition, employers must not underestimate the complexity of the Affordable Care Act's employer mandate, and should be taking steps now to prepare for 2014.

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