

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE RESOLUTION

No. 845 Session of 2010

INTRODUCED BY ADOLPH, BOYD, CLYMER, KILLION, J. EVANS,  
CALTAGIRONE, EVERETT, GEIST, GINGRICH, GROVE, HARHART, HELM,  
HESS, HUTCHINSON, KOTIK, LONGIETTI, MILLER, MOUL, O'NEILL,  
PHILLIPS, RAPP, READSHAW, REICHLEY, ROAE, ROSS, SCAVELLO,  
SIPTROTH, STEVENSON AND WATSON, JUNE 10, 2010

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 10, 2010

A CONCURRENT RESOLUTION

1 Urging the Congress of the United States to reexamine the  
2 Federal Unemployment Tax Act as it relates to corporate  
3 officers.

4 WHEREAS, The Federal Unemployment Tax Act (FUTA) (Public Law  
5 99-514, 26 U.S.C. Ch. 23) requires that every employer pay an  
6 excise tax of 6.2% on the first \$7,000 of total wages paid to  
7 each employee; and

8 WHEREAS, FUTA includes corporate officers within the scope of  
9 covered employment by defining these persons as "employees" of a  
10 corporation in section 3121(d)(1) of the Internal Revenue Code  
11 of 1986 (Public Law 99-514, 26 U.S.C. § 3121(d)(1)); and

12 WHEREAS, Pennsylvania employers, including corporate  
13 officers, can, to the extent provided by law, take a tax credit  
14 against the FUTA tax of the unemployment contributions which  
15 were paid into the Unemployment Compensation Fund; and

16 WHEREAS, FUTA establishes that employers may take a maximum  
17 credit of 5.4% against the FUTA tax; and

1       WHEREAS, After the offset credit is applied, Pennsylvania  
2 employers that pay into the Unemployment Compensation Fund are  
3 left to pay 0.8% FUTA tax on the first \$7,000 in wages paid to  
4 each employee; and

5       WHEREAS, The act of December 5, 1936 (2nd Sp.Sess., 1937  
6 P.L.2897, No.1), known as the Unemployment Compensation Law,  
7 requires that corporate officers pay unemployment compensation  
8 taxes, although they generally are not eligible to collect  
9 unemployment compensation benefits should they become  
10 unemployed; and

11       WHEREAS, Pennsylvania corporate officers have expressed  
12 frustration because they are required to pay into the  
13 Unemployment Compensation Fund but are subsequently denied  
14 unemployment benefits when they become unemployed; and

15       WHEREAS, The payment of unemployment compensation taxes is  
16 especially burdensome for small, incorporated businesses; and

17       WHEREAS, Exempting Pennsylvania corporate officers from State  
18 unemployment contribution liability would be futile because such  
19 officers would then be required to pay the full 6.2% FUTA tax on  
20 their wages instead of the net 0.8% rate normally paid with the  
21 5.4% offset credit permitted for State unemployment taxes paid;  
22 and

23       WHEREAS, Such an exemption would not provide any real tax  
24 relief to corporate officers, but would merely result in the  
25 Federal Government benefiting from additional tax revenue at the  
26 expense of the Unemployment Compensation Fund; therefore be it

27       RESOLVED (the Senate concurring), That the General Assembly  
28 of the Commonwealth of Pennsylvania urge the Congress to  
29 reexamine the Federal Unemployment Tax Act (Public Law 99-514,  
30 26 U.S.C. Ch. 23) as it relates to corporate officers and

1 reevaluate the need for such a tax; and be it further

2       RESOLVED, That copies of this resolution be transmitted to  
3 the presiding officers of each house of Congress and to each  
4 member of Congress from Pennsylvania.