



# THE SMALL BUSINESS LEGISLATIVE COUNCIL REPORT

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## **Good News for the Small Business Healthcare Relief Act**

Congress is back in session with both Chambers trying to wrap everything up (including a continuing resolution to keep funding the government through March) by December 9, 2016.

Among the items on Congress' to-do list is the 21<sup>st</sup> Century Cures Act, which has been one of the most heavily lobbied bills this Congress. The Cures Act includes, among other things, funding for the Food and Drug Administration (FDA) and the National Institute of Health (NIH), and Vice President Joe Biden's Cancer Moonshot.

**For small businesses, the big news is that, just this week, the Small Business Healthcare Relief Act was added to the Cures Act.** The language that was added takes primarily the same form as the language in the bill that was passed by the House last June and has been awaiting consideration by the Senate.

As previously reported, the purpose of the bill is to address the fact that, under current law, employers who do not sponsor a group health plan but that reimburse their employees for their premiums for individual health coverage are violating the Patient Protection and Affordable Care Act (ACA) and are running the risk of being liable for an excise tax of \$100 per day per reimbursed employee (or \$36,500 per employee per year).

**If passed, either as a stand-alone bill or as part of the Cures Act, the Small Business Healthcare Relief Act would allow businesses with under 50 employees to once again reimburse employees for their premiums on a pre-tax basis for individual coverage without penalty.** The SBLC has been working hard to get this bill to become law. It is a major bill for small businesses because reimbursing employees is a common practice for

many companies. Unfortunately, many small businesses are not even aware that they are running afoul of the law since they are doing something good for their employees. Traps for the unwary often occur when a law defies commonsense.

The Cures Act is expected to be brought to the Senate floor today with debate extending no later than December 5, 2016.

While there is bi-partisan support for the Small Business Healthcare Relief Act as well as a number of other provisions, the Cures Act itself is not without controversy. It is a very expensive bill, the funding of which has raised questions. Moreover, just this week Senator Elizabeth Warren (D-MA) came out strongly against the bill asserting that it has been hijacked by big pharma and that it has become more about giveaways to them than the funding for FDA and NIH.

While the passage of the Cures Act is not guaranteed, this is the best chance that the important provisions of the Small Business Healthcare Relief Act have had of becoming law. If enacted these provisions would provide meaningful relief for many small businesses as they wait to see what a Trump Administration will mean for the future of the Affordable Care Act and employers-sponsored health insurance in this country.