The Affordable Care Act

and the

Virginia Manpower Control Program
The Affordable Care Act requires that employers provide access to health care coverage to full-time employees.

Under the Act, full-time employees are those who work 30 hours per week on average per year.

Governor and legislature approved an amendment to the Virginia Manpower Control Program limiting the work hours of state employees who are not eligible for health benefits under plans administered by the Department of Human Resource Management (DHRM) to no more than 29 hours per week on average over a twelve month period. This amendment was necessary to ensure compliance with the Act.
Employees impacted by the amendment include wage or “hourly” employees and adjunct faculty.

Adjunct faculty are different from state wage employees who are paid strictly for hours actually worked. Adjunct faculty compensation is normally determined by college and university contract formulas that take into account both preparation and actual classroom instruction time.

Because they are, like wage employees, non-salaried employees who are ineligible for coverage under DHRM’s health plans, they are subject to the restrictions imposed by the amendment.
Adjunct faculty at institutions of higher education may not:

- work more than 29 hours per week on average over a twelve month period, including classroom or other instructional time plus additional hours determined by the institution as necessary to perform the adjunct faculty's duties; or

- meet or exceed, on average over a twelve month period, 75% of the course load for a full-time non-tenure-track teaching faculty member at that institution. The formula of 75% of the course load of a full-time faculty member is consistent with the Act’s definition of full-time employment and with the threshold being used for other state employees.
Limitations on Wage Employment are not New!

Concerns over the “full-time” employment of wage employees as defined by the FLSA, without the provision of benefits, dates back to the early 1980s.

The 1985 General Assembly directed a study of the state’s use of wage employees and the development of a policy governing the conditions of wage employment.

As a result, the 1988 Appropriation Act limited the hours worked by wage employees to 1,500 hours per a 365 day period to prevent this situation from recurring.

In 2006, Agencies were permitted to exceed this limitation, and with the ACA, work hour restrictions are again being enforced.
How Are Wage Employee Hours Tracked?

The 1500 hour wage employment limitation will continue to be used as an approximation of 29 hours per week.

• Effective May 1, 2013, wage employee work hours must be counted on a twelve month basis beginning on that date.

• Wage employees in all agencies (all branches of government) are limited to working no more than 1500 hours per agency over the course of twelve months (May 1st through April 30th).

• There will be no exceptions to the 1500 hour limit.

*Federal Anti-Abuse Rules are in place to curtail misuse of work hours.*
What about Student Workers?

Students in “regular” wage jobs are subject to the limitations.

No federal guidance on Student Workers who receive stipends for work study programs, serving as RAs, etc. Because they do not meet the criteria for “employee” under the FLSA and likely do not meet the definition of “Common Law Employee” they are not subject to the limitations.

Full-time interns and residents in wage positions where the internship is required in order to become licensed in their fields or to complete Ph.D. programs and who receive W2s are considered “employees” and eligible for healthcare, but not under plans administered by DHRM.
What About Part–time Salaried and Q Status Employees?

The criteria for Part–Time Classified and Q–Status Classified employment will be redefined:

- Part–time salaried employment will be defined as 20 – 29 hours per week per year.

- Quasi–full–time employment (Q Status) will be redefined as 30 – 39.9 hours per week per year.

*Note:* All policies impacted by the Act and the amendment will be revised prior to Open Enrollment.
What is “Seasonal” and “Variable” Work?

**Seasonal Work** is exclusively performed at certain seasons or specified periods of the year and may not be continuous or carried on throughout the year. Seasonal employees may work up to, or exceed 40 hours per week during the defined season or specified period of time, provided that the employees do not work more than 29 hours per week on average over the course of twelve months.

**Variable Work** is exclusively performed on an irregular and/or unpredictable basis for a limited time only and is usually of short duration. Employees may work up to, or exceed 40 hours per week during the assignment, provided the employees do not work more than 29 hours per week on average over the course of twelve months.
General Questions?

Amendment to the Manpower Control Act?

Affordable Care Act?