Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Perata, et al. | Analyst: Anne Mazur | Bill Number: SB 48

Related Bills: See Prior Analysis | Telephone: 845-5404 | Amended Date: May 16,2007

Attorney: Tommy Leung | Sponsor: ______

SUBJECT: California Health Care Coverage And Cost Control Act/Mandatory Employee Health Care Coverage/Disallowance Of Adjusted Personal Exemption Credit If Failure To Comply/Require Employers Electing To Pay The Health Care Fee To Establish Section 125 Plan

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ____________.

__X__ AMENDMENTS IMPACT REVENUE. A new revenue discussion is provided.

__X__ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended May 1, 2007.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ____________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 1, 2007 STILL APPLIES.

____ OTHER – See comments below.

SUMMARY

This bill would do the following:

- Require every individual with income subject to personal income tax to maintain a minimum policy of health care (individual mandate),
- Require the Franchise Tax Board (FTB) to increase or deny the amount of personal exemption credits permitted against tax based on a taxpayer’s compliance or failure to comply with the health insurance mandate under this act.
- Require employers to elect to make health care expenditures of an unspecified amount or pay an equivalent amount to a specified fund, and require certain employees to make a health care coverage contribution for deposit into a specified fund.
- Require specified employers to adopt an Internal Revenue Code (IRC) section 125 plan (125 mandate).

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Brian Putler	9/6/07
____ N	____ OUA	__X__ PENDING		

The bill contains additional provisions related to proposed and existing health care coverage programs that do not impact the department's operations or programs, and therefore, they are not discussed in this analysis.

SUMMARY OF AMENDMENTS

The May 16, 2007, amendments added a minimum rate equal to 7.5% of social security wages that, at the election of each employer, would be required to be paid by that employer for health care expenditures for the employer's employees or paid directly to the Health Insurance Trust Fund.

The amendments also added a co-author and made nonsubstantive technical changes to provisions that would not impact the department.

Because these amendments impact revenue, a revised Economic Impact section is provided below. A revised Fiscal Impact section is also provided. The remainder of the analysis of the bill as amended May 1, 2007, continues to apply.

POSITION

Pending.

FISCAL IMPACT

Departmental costs to implement provisions of this bill relating to enforcement of the individual mandate are estimated at approximately $415,000 in the first year and approximately $4,557,000 in each year thereafter.

Implementing this bill in the first year would require modifications to the department's information systems, tax forms and instructions, and storage. Estimated annual costs include additional staff for information capture and customer service contacts from taxpayers seeking clarification of the new health insurance rules, reporting responsibilities, and potential disallowance of personal exemption credits for failure to comply. Additional audit staff would also be needed to enforce compliance with the individual mandate. In addition, annual costs include processing and communications equipment overhead, printing, and information systems support.

Costs could be substantially greater depending on whether, and to what extent, FTB would be responsible for administering and enforcing the 125 mandate, in addition to enforcing the individual mandate. The departmental costs to implement and administer this bill were estimated based on the assumption that the Employment Development Department (EDD) would be responsible for administering and enforcing the 125 mandate. If that assumption is correct, that provision of the bill would not significantly impact the department's costs. It is recommended that the bill be amended to clearly authorize EDD as the department responsible for administering and enforcing the 125 mandate and relocating the mandate to a more appropriate Code, such as the Labor Code, where it could have proximity with the employer election.

It is recommended that the bill be amended to include appropriation language that would provide funding to implement this provision. Lack of an appropriation will require the department to secure the funding through the normal budgetary process, which will delay implementation of this provision.

ECONOMIC IMPACT

This bill would disallow exemption credits for individuals who fail to carry health care insurance. The bill would redistribute the revenues raised from this disallowance to taxpayers who are compliant. Because this bill is designed so that the redistribution will offset the denied exemptions, it is estimated that this portion of the bill would have no revenue impact.

This bill would also cause an increase in the number of employees making contributions to their health insurance premiums through section 125 plans. It would also impose fees on employers. These fees would be treated as deductible expenses and, thus, would result in a tax decrease for affected employers. The amount of income tax reduction resulting from increased section 125 use and employer fees would depend on the estimated behavioral responses to the provisions of this bill. These income tax reductions are secondary impacts compared to the health expenditure and primary revenue raising (employer fees) impacts of these bills. To date, department staff has been unable to determine the behavioral responses that were estimated to occur under the provisions of this bill. As such, and because the impacts that department staff would be estimating are secondary, a revenue estimate will not be produced for this bill.

LEGISLATIVE STAFF CONTACT

Anne Mazur
Franchise Tax Board
(916) 845-5404
anne.mazur@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333
brian.putler@ftb.ca.gov