

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Monning Analyst: Janet Jennings Bill Number: AB 174
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: August 9, 2012
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Disclosure Of Information To California Health Benefit Exchange

SUMMARY

This bill would allow the Franchise Tax Board to provide specified information to the California Health Benefit Exchange (HBEX).

RECOMMENDATION

No position.

Summary of Amendments

The August 9, 2012, amendments added provisions authorizing the disclosure of information between the Franchise Tax Board (FTB), the Employment Development Department and the HBEX. This is the department's first analysis of the bill. This analysis only addresses the provisions of this bill that impact the department's programs and operations.

REASON FOR THE BILL

The reason for the bill is to require the necessary information to verify or determine eligibility of an individual for Medi-Cal benefits, the Healthy Families Program, the Access for Infants and Mothers Program, health benefits, tax credits, health insurance subsidies, or cost sharing reductions through the HBEX.

EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative January 1, 2013.

ANALYSIS

FEDERAL LAW

The federal Patient Protection and Affordable Care Act (PPACA) requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by certain qualified individuals and qualified small employers.

Board Position:

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Executive Officer

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STATE LAW

The California Patient Protection and Affordable Care Act and the California Health Benefit Exchange were enacted on September 30, 2010, to make available qualified health plans to qualified individuals and qualified employers.

Section 8 of subdivision (a) of Section 100504 of the Government Code allows the HBEX to share information with relevant state departments, consistent with the confidentiality provisions in Section 1411 of the federal PPACA, necessary for the administration of the HBEX.

Section 7460 of the Financial Code allows specified associations and service corporations to bring an action for recovery where an action is based on fraud.

Existing state law prohibits the disclosure of any taxpayer returns or return information, except as specifically authorized by the taxpayer or by statute. Generally, disclosure is authorized to other state tax agencies, federal tax agencies, for tax administration purposes only. Unauthorized disclosure of state tax returns and return information is a misdemeanor.

Return information is defined to include, among other things, any data received by, recorded by, prepared by, furnished to, or collected by the FTB.

THIS BILL

This bill would allow, upon the request of the HBEX, the FTB to disclose to the HBEX, the State Department of Health Care Services, the Managed Risk Medical Insurance Board, and county departments and agencies, returns or return information as follows:

- Information necessary to validate or make the eligibility determination, including wages, withholdings, identifying information, and credits,
- The demographic information of any taxpayer, and
- Tax refund information of any taxpayer.

This bill would specify that any information received from the FTB as a result of this bill will be subject to the information sharing and confidentiality requirements in paragraph (8) of subdivision (a) of Section 100504 of the Government Code, in addition to the disclosure penalties contained in the Revenue and Taxation Code.

The provisions of this bill would not supersede the requirements and protections in the California Right to Financial Privacy Act, under Chapter 20, commencing with Section 7460.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

AB 1602 (Perez, et al. Ch. 655, Stats. 2010) enacted the California Patient Protection and Affordable Care Act.

SB 900 (Alquist, et al. Ch. 659, Stats. 2010) enacted the California Health Benefit Exchange.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

- *Florida* has not established an HBEX.
- *Illinois*, unable to locate specific disclosure agreements for a HBEX.
- *Massachusetts* law allows the Commonwealth Health Insurance Connector Authority, the department of revenue and the office of medicaid to assist the division and the department of workforce development with the administration of the HBEX.
- *Michigan*, unable to locate specific disclosure agreements for a HBEX.
- *Minnesota* law allows the HBEX to enter into information-sharing agreements with federal and state agencies and other state exchanges to carry out its responsibilities.
- *New York* law allows the HBEX to enter into agreements as necessary with federal and state agencies and other state exchanges to carry out its responsibilities.

FISCAL IMPACT

This bill would allow the FTB to request reimbursement for the costs incurred to provide the information required. It is expected that the exchange of data could be accomplished using existing programs and the cost would be less than \$10,000 per year.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Would argue that the information required to be disclosed by this bill is necessary to implement the requirements of the HBEX.

Opponents: Would argue that tax information should not be disclosed by the FTB.

LEGISLATIVE STAFF CONTACT

Janet Jennings

Legislative Analyst, FTB

(916) 845-3495

janet.jennings@ftb.ca.gov

Gail Hall

Legislative Director, FTB

(916) 845-6333

gail.hall@ftb.ca.gov