

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number/Version Date
Franchise Tax Board	Monning	AB 174

SUBJECT

FTB Disclosure Of Information To California Health Benefit Exchange, et al.

SUMMARY

This bill would allow the Franchise Tax Board (FTB) to provide specified information to the California Health Benefit Exchange (HBEX), the State Department of Health Care Services, the Managed Risk Medical Insurance Board, and county department and agencies.

This report 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 authorize the FTB to provide information necessary 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, have an American Health Benefit Exchange that facilitates the purchase of qualified health plans by certain qualified individuals and qualified small employers.

The Health Insurance Portability and Accountability Act of 1996 (HIPPA) protects health insurance coverage for workers and their families when they change or lose their jobs, requires the establishment of national standards for electronic health care transactions and national identifiers for providers, health insurance plans, and employers, and addresses the security and privacy of health data.

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STATE LAW

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

Existing law 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.

Current law also 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 or 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.

Under current tax law, the Director of Social Services or deputy directors are allowed to inspect the income tax returns, limited to the records for the current year and the year preceding inspection, of applicants for aid, recipients of aid, or responsible relatives. Counties are authorized to request the information as provided in this section from the Director of Social Services or deputy directors. The applicant or recipient or responsible relative, whose income tax records have been requested from the FTB, are notified by mail at the time of the request that the request has been made.

Under current law, the California Information Practices Act (IPA) provides individuals the right to access information pertaining to them in State records. The IPA provides that agencies are obligated to allow individuals to inspect their "personal information" with exceptions, in certain records containing personal information.

Under current law the California Welfare and Institutions Code (WIC) governs among other provisions the granting of public aid.

THIS BILL

This bill would allow 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 provided for in the Government Code¹, 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 Act² the HIPPA³, IPA⁴ and the WIC⁵ or any other state or federal laws that are intended to, or have the effect of, protecting individual privacy and information security in any circumstance.

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 specified information. 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.

¹ paragraph (8) of subdivision (a) of Section 100504.

² Chapter 20, commencing with Section 7460.

³ Public Law. 104-191, 110 Stat. 1936, enacted August 21, 1996.

⁴ California Civil Code Section 1798.34.

⁵ Section 14100.2.

ECONOMIC IMPACT

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

APPOINTMENTS

None.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

VOTES

Concurrence	08/30/12	Y: 56	N: 20
Assembly Floor	05/19/11	Y: 78	N: 0
Senate Floor	08/29/12	Y: 25	N: 8

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