

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Gomez Analyst: Janet Jennings Bill Number: AB 880
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: March 21, 2013
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 March 21, 2013, 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, 2014.

ANALYSIS

FEDERAL LAW

The federal Patient Protection and Affordable Care Act (Act) 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.

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Existing federal law provides that officers and employees of the United States are subject to felony charges for unauthorized willful disclosure and misdemeanor charges for unauthorized willful inspection of confidential tax information. Additionally, state officers and employees are subject to federal penalties regarding unauthorized disclosure of federal tax information received by the FTB from the Internal Revenue Service (IRS).

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.

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 Act, necessary for the administration of the HBEX.

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 and federal tax agencies, for tax administration purposes only. Unauthorized disclosure of state tax returns and return information is a misdemeanor.

Existing state law provides, upon the request of the HBEX, that the FTB can 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

This bill would add the state employer identification number, and the identifying number assigned to the employer under Section 6109 of the internal Revenue Code to the tax return information the FTB is authorized to provide the HBEX, the State Department of Health Care Services, and the Managed Risk Medical Insurance Board.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations. The department will be able to provide the information requested in this bill from data provided by the taxpayer on or with the state tax return. The department is precluded by federal statute from providing information obtained from the IRS.

LEGISLATIVE HISTORY

AB 174 (Monning, Chapter 815, Statutes of 2012) allows the FTB to provide specified information to the HBEX, the State Department of Health Care Services, the Managed Risk Medical Insurance Board, and county department and agencies.

AB 1602 (Perez, et al. Chapter 655, Statutes of. 2010) enacted the California Patient Protection and Act.

SB 900 (Alquist, et al. Chapter 659, Statutes of 2010) enacted the HBEX.

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.
- *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.
- *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.
- Research of *Illinois and Michigan* law found no specific disclosure agreements for a HBEX.

FISCAL IMPACT

This bill would not impact the department's costs. The FTB is allowed to request reimbursement for the costs incurred to provide the information required.

ECONOMIC IMPACT

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

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

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

Opponents: Some could argue that tax information should not be disclosed by the FTB for purposes other than tax administration.

LEGISLATIVE STAFF CONTACT

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