

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Frusetta Analyst: Kristina E. North Bill Number: AB 1172

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: January 13, 2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Employer Provided Health Care Credit/Farmworkers/California Farmworker Health Care Protection Act of 1999

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

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analyses of bill as proposed to be amended and amended January 3, 2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS PROPOSED TO BE AMENDED and AMENDED January 3, 2000, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would provide a tax credit equal to 25% of the qualified expenses paid or incurred by a taxpayer for preventive health care, a health plan, or preventive care insurance provided to employees who are qualified farmworkers.

SUMMARY OF AMENDMENT

The January 13, 2000, amendment adds amounts paid or incurred for providing a health plan or preventive care insurance to those amounts qualifying for the credit and to the definition of qualified expenses.

Except for the changes discussed in this analysis, the department's analyses of the bill As Proposed To Be Amended and as Amended January 3, 2000, still apply. The new concerns and revenue estimate as well as the remaining implementation and technical considerations are provided below.

Implementation Considerations

- ◆ The definition of "preventive health care" is ambiguous in that it includes, but is not limited to, periodic health evaluations, immunizations, and medical services necessary and appropriate in treating and preventing the spread of a "contagious disease." It is unclear what other types of medical services are intended to be included within the term. To ensure the author's intentions are achieved and to minimize disputes with taxpayers, a clearer definition of "preventive health care" and its components is needed.

Board Position:

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Legislative Director

Date

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- A "health plan" and "preventive care insurance" are included under the definition of "qualified expenses," but are not themselves defined. It is not clear which amounts paid or incurred for providing a health plan or preventive care insurance are eligible for the credit. It is also unclear whether the author intended that expenses paid to a health plan or for preventive care insurance be limited to those plans covering treatment or prevention of the spread of contagious disease. Definitions are needed for these terms to give clear guidance to taxpayers about what expenses are eligible for the credit.
- ◆ The bill limits the maximum allowable credit to \$50,000 per taxpayer for each taxable or income year. However, where the "credit" exceeds the \$50,000 credit limit, this proposed amendment would allow the excess to be carried over to reduce the taxpayer's tax liability for eight subsequent years. This carryover provision is inconsistent with the language limiting the maximum allowable credit to \$50,000. In addition, it is unclear from the language limiting the credit to \$50,000 each year whether the credit is intended to apply only to new expenditures subject to the credit or to limit carryover credits plus newly-claimed credits to this \$50,000 amount. Staff is available to assist in drafting language to clarify the author's intent.
- ◆ This bill defines a qualified farmworker as an individual who, at the time qualified expenses are paid, is not receiving publicly funded health care services "as verified" by the appropriate county office of health services. However, verification may be difficult for the taxpayer to obtain because 1) a county is not required to provide verification; and 2) a county may not have the information available regarding the receipt of publicly funded health care services by an otherwise qualified farmworker. To ensure the employer is allowed to claim the credit, the author may wish to modify this requirement to ensure that the employer can receive the necessary verification.

Technical Considerations

The language allowing carryover of the credit after repeal of the section is unnecessary and should be deleted since general tax law rules contain this provision.

The bill references clinics or health facilities licensed pursuant to Division 2 (commencing with Section 1220) of the Health and Safety Code. The reference needs a technical correction, because Division 2 begins with Section 1200, not Section 1220. Also, Division 2 covers a variety of facilities, such as child care centers and residential facilities for the elderly. The author may wish to narrow the reference to the chapters specifically describing clinics and health facilities.

Constitutional Consideration

This bill would require that a farmworker be a resident of California to make a taxpayer eligible for a credit. A requirement that the farmworker be a resident of California may be subject to constitutional challenge by virtue of the credit being available only for farmworkers who are residents, rather than to all farmworkers who are employed within California.

The credit already requires that farmworkers provide all of their services for the taxpayer within California, which may be sufficient to ensure that the credit is targeted to California workers.

Tax Revenue Estimate

The revenue impact of this bill, under the assumptions discussed below, is estimated to be as follows in applied credits:

Revenue Impact of AB 1172 Beginning 1/01/2000 Assumed Enactment After 6/30/2000 (In Millions)*			
	2000/2001	2001/2002	2002/2003
Personal Income Tax			
Bank & Corporation	-\$2.5	-\$3.5	-\$3.0
Income Tax	-\$2.5	-\$3.5	-\$4.5
Total	-\$5.0	-\$7.0	-\$7.5

*After rounding.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this measure.

The revenue impact of this bill would depend upon the number of employers who would incur qualified health-related expenses for employees who are qualified farmworkers, the average costs of qualifying expenses, and the tax liabilities of employers.

For the analysis, employers who provide insurance would qualify for premium costs incurred and some segment of other employers would qualify for direct costs (immunization, etc.). According to a 1998 survey by the U.S. Department of Labor and University of California, 280,000 full-time equivalent non-unionized farm workers are employed in California. Second, the same survey shows that 5% of the 280,000 farmworkers are currently receiving health care insurance from employers. For the insured group of employees (14,000), it is assumed that the average qualifying premium costs would be \$150 per employee per month. For the uninsured group of employees (266,000) it is assumed that the number ineligible for publicly-funded health care and receiving some form of direct medical benefits from their employers (e.g., immunization, flu shots, etc.) is 20% (53,000), with an average benefit of \$50 per employee. It is assumed that on average 70% of the credit would be fully applied against available tax liabilities in any given year. These assumptions result in an impact for 2000 on the order of \$5 million.

BOARD POSITION

Pending.