



## **Analysis of Amended Bill**

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| Author: Bonta            | Sponsor:                               | Bill Number: AB 414                                     |
| Analyst: Margo Cave      | Phone: (916) 845-7475                  | Introduced: February 7, 2019                            |
| Attorney: Shane Hofeling | Related Bills: See Legislative History | Amended: May 17, 2019, June 26, 2019, and July 11, 2019 |

Subject: Minimum Essential Coverage Individual Mandate-Legislative Report

### **Summary**

This bill would, under the Revenue and Taxation Code, require the Franchise Tax Board (FTB) to report to the Legislature specified information regarding the Minimum Essential Coverage Individual Mandate (MEC), Individual Shared Responsibility Penalty (Penalty), and state financial assistance paid for health care coverage (Subsidy).

### **Recommendation – No position.**

### **Summary of Amendments**

The May 17, 2019, amendments modified provisions of the Minimum Essential Coverage Penalty Collection as introduced February 7, 2019.

The June 26, 2019, amendments removed all of the provisions of the bill and replaced them with provisions requiring the FTB to report to the Legislature specific information regarding the MEC, Penalty, and Subsidy.

The July 11, 2019, amendments modified the bill's reporting requirements.

This is the department's first analysis of this bill.

### **Reason for the Bill**

The reason for the bill is to require the FTB to annually report specified information to the Legislature about qualified individuals regarding the MEC, Penalty, and Subsidy.

### **Effective/Operative Date**

This bill would become effective and operative January 1, 2020.

## Federal Law

Existing federal law, the Patient Protection and Affordable Care Act (PPACA), implemented various health care coverage market reforms as of January 1, 2014. The PPACA generally requires an individual, and any dependents of the individual, to maintain minimum essential coverage, and, if an individual fails to maintain such coverage, the PPACA imposes a penalty on the individual taxpayer. The penalty is referred to as the individual mandate. The federal Tax Cuts and Jobs Act set the penalty associated with the individual mandate of the PPACA to zero beginning in 2019.

## State Law

SB 78, (Chapter 38, Statutes of 2019) was signed into law by Governor Newsom on June 27, 2019. For each month beginning on or after January 1, 2020, the bill created the MEC mandate to ensure an individual and individual's spouse and dependents maintain minimum essential coverage, and imposes a penalty for failure to maintain MEC. Additionally, the bill also created Individual market assistance which will provide financial assistance for health care coverage to California residents with incomes at or below 600 percent of the Federal Poverty Level (FPL) until January 1, 2023.

## This Bill

On or before March 1, 2022, and annually by March 1, thereafter, this bill would under the Revenue and Taxation Code require the FTB to report to the Legislature information on the MEC, Penalty, and Subsidy. Specifically the report would be required to include the following:

- By county and by adjusted gross income (AGI):
  - The total number of applicable households paying the penalty and the total number of dependents for whom applicable households pay the penalty.
  - The total penalty amount imposed.
- The total statewide penalty amount imposed.
- The total number of exemptions applied, and the most common qualifications for exemptions applied.
- By FPL, the number of applicable households who pay the penalty and the number of dependents claimed by applicable households who pay the penalty. The FPL will be estimated using AGI and number of individuals in the tax household using the following categories:
  - At or between 0 percent and 138 percent of the FPL.
  - At or between 139 percent and 266 percent of the FPL.

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- At or between 267 percent and 400 percent of the FPL.
- At or above 401 percent of the FPL.
- By county and by FPL category as described above:
  - The number and amount of subsidies paid and adjustments made through reconciliation.

The report would be required to be submitted in the form and manner specified in Section 9795 of the Government Code.

### **Implementation Considerations**

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill fails to limit the report to be provided to the Legislature to periods when the state health care coverage program is in effect. For clarity and ease of administration, it is recommended that the bill be amended.

### **Legislative History**

AB 78 (Committee on Budget, 2019/2020) would create the California Individual Health Care Mandate to be administered by the California Health Benefit Exchange (also known as Covered California) and the FTB. Beginning January 1, 2020, California residents and their dependents are required to obtain and maintain monthly health care coverage, unless they qualify for an exemption. This bill is currently in the committee process.

SB 78 (Committee on Budget and Fiscal Review, Chapter 38, Statutes of 2019) created the California Individual Health Care Mandate to be administered by Covered California and the FTB. Beginning January 1, 2020, California residents and their dependents are required to obtain and maintain monthly health care coverage, unless they qualify for an exemption. If an individual required to obtain health insurance fails to obtain health care coverage, a penalty per uninsured person in the household may be imposed.

SB 175 (Pan, 2019/2020) would require California residents to have MEC for each month beginning after 2019 and would create the Health Care Penalty Fund. SB 175 is currently in the committee process.

### **Program Background**

*Patient Protection and Affordable Care Act (ACA)*. Enacted in March 2010, the ACA provides the framework, policies, regulations and guidelines for the implementation of comprehensive health care reform by the states. The ACA expands access to quality,

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affordable insurance and health care. As of January 1, 2014, insurers are no longer able to deny coverage or charge higher premiums based on preexisting conditions. These aspects of the ACA, along with tax credits for low and middle income people buying insurance on their own in new health benefit exchanges, make it easier for people with preexisting conditions to gain insurance coverage.

*Federal Individual Shared Responsibility Provision.* The ACA's individual mandate requires that individuals maintain MEC or pay a penalty for noncompliance. Exemptions from the individual mandate are granted for a variety of reasons related to income, affordability of coverage, and federally defined hardship. The penalty for not maintaining MEC is either a flat dollar amount or a percentage of household income above the annual tax-filing threshold, whichever is greater.

In late 2017, the federal Tax Cuts and Jobs Act set the penalty associated with the individual shared responsibility requirement of the ACA to zero beginning in 2019. Some analyses, including the Congressional Budget Office (CBO), conclude that the individual mandate substantially increased insurance coverage and, correspondingly, that the zero-dollar penalty will substantially reduce coverage. The CBO estimated that nationally, the zero-dollar penalty will cause average premiums in the individual market to be about 10 percent higher than they would have been with the mandate in most years of the decade. Health Affairs estimated that California, specifically, could see a 4 percent to 7 percent premium increase due to the zero-dollar penalty. The federal scale back of the individual mandate penalty payment is prompting some states to enact a state mandate to keep healthcare affordable.

### **Other States' Information**

Review of the *District of Columbia, Massachusetts, New Jersey, New York and Vermont* laws found no comparable reporting requirement. These states were selected and reviewed due to their similarities to California's economy, business entity types, and tax laws.

### **Fiscal Impact**

No departmental cost are associated with this proposal.

### **Economic Impact**

#### Revenue Estimate

This bill as amended on July 11, 2019, would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

## Revenue Discussion

For health care coverage years beginning on or after March 1, 2022, this bill would require the FTB to report to the Legislature on specified information regarding the MEC, Penalties, and Subsidies paid for health care coverage.

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