

SB 997 -1, -3 STAFF MEASURE SUMMARY

Senate Committee On Health Care

Prepared By: Oliver Droppers, LPRO Analyst

Meeting Dates: 3/30, 4/18

WHAT THE MEASURE DOES:

Requires employers with at least 50 full-time employees, defined as a controlled group of corporations per federal tax law, to pay a penalty for employees enrolled in Medicaid to the Department of Consumer and Business Services (DCBS). Creates the Employer Responsibility for Medical Assistance Trust Fund in State Treasury. Requires DCBS to deposit funds in the Employer Responsibility for Medical Assistance Trust Fund. Provides DCBS with rulemaking, subpoena and enforcement authority. Requires DCBS to send each employer subject to the penalty an annual notice stating the penalty amount. Authorizes DCBS to assess penalties on employers that fail to pay on specified due date. Specifies deposited funds allocated to the Oregon Health Authority (OHA) are to pay Oregon's share of Medicaid costs incurred for eligible employees. Stipulates funds can be used to increase reimbursement or make supplemental payments to qualified Medicaid providers and fund medical residency programs. Prohibits employers from refusing to hire, suspends, retaliate or discharge an employee that applies for or receives Medicaid. Allows employees to bring a civil action or file a complaint with the Bureau of Labor and Industries if impacted by the measure. Requires OHA, DCBS, Department of Revenue and State Treasury to exchange data to determine and collect employer penalties. Takes effect on 91st day following sine die.

ISSUES DISCUSSED:

- Provisions of the measure

EFFECT OF AMENDMENT:

-1 Adds sections 1-7 of measure to list of criteria an employee can claim unlawful practice and file for civil action.

REVENUE: No impact.

FISCAL: May have fiscal impact, but no statement yet issued.

-3 Modifies definition of covered employee by increasing average number of hours an employee works per week to 30 hours.

REVENUE: No impact.

FISCAL: May have fiscal impact, but no statement yet issued.

BACKGROUND:

The Affordable Care Act (ACA) expanded health coverage to individuals and families through Medicaid and premium tax credits and cost-sharing subsidies available in the federal Marketplace. In 2014, Oregon implemented the ACA, expanding Medicaid to low-income individuals under 138 percent FPL (\$27,310 for a family of three in 2014). Individuals and families with incomes between 100-400 percent FPL are eligible to receive premium tax credits to purchase coverage in the Marketplace. In 2016, more than 530,000 individuals enrolled in coverage programs through the ACA.

The ACA requires medium and large employers to offer minimum health coverage to employees (often referred to as the employer mandate). Specifically, the ACA requires employers with 50 or more full-time equivalent employees to provide affordable health coverage options to their employees or pay a fine. Federal law states that part-time positions are not subject to the employer shared responsibility provision. The Oregon Employment Department reports that in 2015, 62 percent of all private sector jobs were by firms with 50 or more employees with 46 percent of individuals enrolled in employer-sponsored health coverage. The federal employer shared responsibility law now

SB 997 -1, -3 STAFF MEASURE SUMMARY

mandates Oregon firms with 50 or more employees offer affordable coverage. Firms are not subject, however, to the employer penalty if they offer coverage to 95 percent of their full-time employees. Specifically, firms with full-time employees eligible for Medicaid are not required to pay a fine for those employees.

Nationally, the Kaiser Family Foundation reports that 56 percent of low-income workers, individuals that earn less than 250 percent of the FPL, work both full-time (35 hours or more per week) and year-round (50 weeks or more per year). The Oregon Health Authority reports that in Medicaid, up to 40 percent of adults ages 16-64 have some type of employment, with 24-31.9 percent working at least half time (2016 OHA Legislative Report).

Senate Bill 997 imposes a penalty on certain employers with employees enrolled in Medicaid.