SMALL BUSINESS LEGISLATIVE COUNCIL

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HEALTH CARE REFORM - COMPARISON SHOPPING

Here's a health care reform update. In the House, one bill was introduced by the majority. The bill has been approved by the Ways and Means Committee and the Education and Labor Committee. The Energy and Commerce Committee is still considering the bill. If approved by all three committees, their versions will be merged into a single bill by the majority leadership.

In the Senate, two committees, the Health Education Labor and Pension (HELP) Committee and the Finance Committee, have jurisdiction. The HELP committee has approved its version. The Senate Finance Committee is still conducting closed door negotiations on its version. We are supposed to see the language this week.

Both the HELP and Finance Committee versions are expected to have many provisions in common. The HELP committee did not address how to "pay for" the reforms. The House majority uses spending reductions and a "surcharge" on personal incomes to "pay for" health care reform.

Where is this going? At this point, I think the House will still pass their version before the August recess. On the other hand, the leadership is starting to get some push back along the lines of "Why should we pass this before the August recess, when the Senate will not; we are just left hanging in the wind with our constituents?" This sentiment has been gaining steam since the very close climate change bill vote in the House. A lot of friendly arm twisting went on to secure that vote under a "must do" deadline and yet, the outlook for a Senate vote on climate change is unclear.

The health care debate still has to go through the "melt down, phoenix from the ashes" phases if it becomes law.

The major provisions of interest to small business follow. Please note summaries are based on unofficial documents and are subject to change.

<u>SENATE HEALTH EDUCATION LABOR AND PENSION (HELP) COMMITTEE</u>

Employers with more than 25 employees who do not offer qualifying coverage or who pay less than 60 percent of their employees' (not dependents) monthly premiums are subject to a $750 annual fee per uninsured full-time employees and $375 per uninsured part-time employees. For employers subject to the assessment, the first 25 workers will be exempted. Beginning in 2013, the penalty amounts will be adjusted using the Consumer Price Index.

How employees will be counted (e.g. how many days during the year employed) for the purpose of the threshold is not set forth in the bill.

Qualifying coverage will be established by the agencies with jurisdiction. In general, benefits are to include:

(1) Ambulatory patient services.
(2) Emergency services.
(3) Hospitalization.
(4) Maternity and newborn care.
(5) Mental health and substance abuse services.
(6) Prescription drugs.
(7) Rehabilitative and habilitative services and devices.
(8) Laboratory services.
(9) Preventive and wellness services.
(10) Pediatric services, including oral and vision care.

All individuals will be required to obtain health insurance coverage. The minimum penalty to accomplish the goal of enhancing participation in qualifying coverage will be no more than $750 per year. An individual is responsible for dependents.

Beginning in 2010, employers with 50 or fewer full-time workers who pay 60 percent or more of their employees' health insurance premiums will be permitted to receive tax credits for subsidizing coverage. Credit amounts are based on the type of employee coverage, the size of the employer, and the proportion of time the employer paid employee health insurance expenses, and are available for up to 3 consecutive years.

SENATE FINANCE COMMITTEE

Details not available – because they are still negotiating among themselves.

HOUSE MAJORITY'S BILL

Employers are responsible providing coverage for employees *and dependents*. The bill provides that the minimum employer contribution in the case of an offering employer is 72.5 percent of the premium for individual coverage, and 65 percent of the premium for family coverage or a proportional amount for non-fulltime employees. Family coverage for this purpose includes the employee's spouse and qualifying children.

Qualifying coverage will be established by agencies with jurisdiction. In general, essential benefits are:

(1) Hospitalization.
(2) Outpatient hospital and outpatient clinic services, including emergency department services.
(3) Professional services of physicians and other health professionals.
(4) Such services, equipment, and supplies incident to the services of a physician's or a health professional's delivery of care in institutional settings, physician offices, patients' homes or place of residence, or other settings, as appropriate.
(5) Prescription drugs.
(6) Rehabilitative and habilitative services.
(7) Mental health and substance use disorder services.
(8) Preventive services, including those services recommended with a grade of A or B by the Task Force on Clinical Preventive Services and those vaccines recommended for use by the Director of the Centers for Disease Control and Prevention.
(9) Maternity care.
(10) Well baby and well child care and oral health, vision, and hearing services, equipment, and supplies at least for children under 21 years of age.

Employers that elect not to provide health benefit plans to their employees are subject to an additional payroll tax equal to eight percent of wages.

The proposal's definitions of the terms wages, employment, and employer, are generally the same as under present FICA provisions. However, the definition of employment includes services performed by foreign agricultural workers, aliens performing services pursuant to certain nonimmigrant visas, and government workers, among others who are carved out of the definition under current law.

Employers with annual payrolls not exceeding $250,000 during the preceding calendar year are not subject to the tax. Employers with annual payrolls between $250,000 and $400,000 during the preceding calendar year are subject to a reduced rate, as follows: two percent if the annual payroll does not exceed $300,000; 4 percent if the annual payroll exceeds $300,000 but does not exceed $350,000; and six percent if the annual payroll exceeds 350,000 but does not exceed $400,000. Annual payroll is defined as the aggregate wages paid by the employer with respect to employment.

An individual (or a husband and wife in the case of a joint return) who does not maintain coverage under acceptable health insurance for themselves and each of their qualifying children is subject to an additional tax. The tax is equal to the lesser of (a) the national average premium for single or family coverage, as applicable, or (b) two percent of the excess of the taxpayer's adjusted gross income ("AGI") over the threshold amount of income required for income tax return filing.

The bill provides for a tax credit equal to 50 percent of the amount paid by a small employer for employee health coverage. The tax credit is phased out in the case of an employer with 10 to 25 employees, and is also phased out in the case of an employer with average wages of $20,000 to $40,000 per year.

The proposal imposes a tax at the rates of 1 percent, 1.5 percent, and 5.4 percent on income of high-income individuals. In the case of a joint return or return of a surviving spouse, the 1 percent rate applies to so much of the taxpayer's modified adjusted gross income as exceeds $350,000 but does not exceed $500,000; the 1.5 percent rate applies to so much of the taxpayer's modified adjusted gross income as exceeds $500,000 but does not exceed $1,000,000; and the 5.4 percent rate applies to so much of the modified adjusted gross income as exceeds $1,000.000. In the case of a married individual filing a separate return, the dollar amounts are 50 percent of the above dollar amounts. In the case of unmarried individuals, heads of households and trusts and estates, the dollar amounts are 80 percent of the above dollar amounts.