

Major Provisions of Initiative Filed 12/28/07 by Governor and Speaker

- Constitutional amendment: exempts new health funding from Prop. 98 and Gann limit
- “Trigger off”: if financial imbalance, then individual mandate, guaranteed issue, tax credit and other provisions
- Health Trust Fund: “lock-box”
- Tobacco tax of \$1.75 a pack
- Employer mandate: 6.5%/6%/4%/1% depending on payroll
- County share of cost: Up to \$1 billion
- Hospital provider fee: as pre prior negotiations
- \$25 million loan to finance kids coverage 1/09-6/09
- Amendment of initiative: either by majority vote or two-thirds, depending on interpretation of existing constitutional requirements.
- Effective only if AB1x passed in “essentially the same form” as passed by the Assembly on 12/17/07
- Severability: full severability

Summary of Provisions

1. Title: Secure and Affordable Health Care Act of 2008
2. Findings and Declarations: 14 provisions, many of which are drawn from the messaging (pp.1-2)
3. Intent: 16 provisions (p.2-4)
4. Constitutional amendment: (p.4-5)
 - a. Exempts funds raised from Prop. 98 and Gann limit
 - b. Not subject to amendment except by subsequent initiative
5. “Trigger Off”: If financial imbalance as a result of the act, some key provisions of AB1x trigger off (p.5-7)
 - a. Finance to estimate twice annually (presumably in budget and May Revise)
 - i. Finance estimate for budget and two out-years (budget year plus one and budget year plus two)
 - ii. Finance to estimate whether funding from employers, counties, and feds sufficient to fund reinsurance (S.1399.844), tax credit (S.17052.30) and coverage for parents (S.140005.301), as well as rate increases.
 - iii. Finance notifies Governor and Legislature
 - b. Legislature to act within 180 days
 - c. If Legislature fails to act, the following cease to be operative:
 - i. Individual mandate (S.8899.50)
 - ii. Guaranteed issue (S.1399.829 and S.10928)
 - iii. Reinsurance of individual market (S.1399.844)
 - iv. Tax credit (S.17052.30)

- v. Coverage for adults (S.12699.211.01, S.14005.301, S.14005.305, S.14005.333)
 - vi. Hospital rates
 - d. LAO to do analysis of any legislation to address financial imbalance, including considering impact on affordability of premiums in individual market as well as whether legislation address financial imbalance
 - e. Two-thirds vote to amend
6. Health Trust Fund: (pp.7-8)
- a. Available exclusively for purposes of Act, including coverage, tax credits and tax benefits, provider reimbursement, prevention, insurance market reforms, reinsurance, and administration/enforcement of Act.
 - b. Unexpended moneys carried forward.
 - c. Prudent reserve
 - d. Moneys in fund shall not be loaned to or borrowed by any other fund.
 - e. Controller audit biennially.
 - f. Not subject to amendment except by subsequent initiative.
7. Tobacco tax: \$1.75 per pack (p.8-12)
- a. Tax on cigarettes and other tobacco products, including floor stock tax
 - b. Prop 99 backfill for
 - i. health education and research
 - ii. breast cancer
 - iii. asthma
 - iv. cancer registry
 - c. Prop 10 backfill: partial: reduce by amount allocated to health insurance for children in 07-08 fiscal year.
 - d. Subject to amendment by two-thirds vote
8. Employer mandate: employer health care contribution (p.12-18)
- a. Employer definition:
 - i. UI Code definition except as below
 - ii. Includes subsidiaries and affiliates (controlled groups)
 - iii. Excludes home care clients (S.683 and S.685 (a))
 - iv. Loan-out corporations included
 - b. Wages excludes tips
 - c. Health expenditures:
 - i. Wellness
 - ii. Disease management
 - iii. Pharmacy benefit management
 - iv. Company docs
 - v. Health coverage
 - vi. HSA
 - vii. Any health expense authorized by IRS
 - viii. Contributions pursuant to collective bargaining

- d. "On and after January 1, 2010, each employer shall pay a health care contribution equal to a percentage of wages paid to its employees during the calendar year. Each employer shall be eligible for a credit to offset the contribution by the amount that the employer expends for health expenditures for employees and their dependents during the same period."
 - i. Under \$250k payroll: 1% of wages
 - ii. \$250k to \$1 mil payroll: 4% of wages
 - iii. \$1 mil to \$15 mil payroll: 6% of wages
 - iv. Over \$15 mil payroll: 6.5% of wages
 - e. Collective bargaining language:
 - i. Paid separately by bargaining unit
 - ii. EDD shall not accept employer contributions if notified by CBA done without express written agreement of employer and labor organization
 - f. Posting
 - g. Generally uses existing EDD authority
9. County share of cost: (p.18-24)
- a. Paid based on adults under 150%FPL
 - b. Payment to equal 40% of costs to state for those eligible and enrolled: done retrospectively, not prospectively
 - c. Up to \$1 billion annually adjusted over time.
 - d. Allocation among counties may be modified.
 - e. If eligibility for adults reduced or eliminated, county share reduced.
 - f. Provision for dispute resolution between county and state
 - g. Effect: Counties with county hospitals advantaged because of local coverage option.
 - h. Subject to amendment
10. County share of cost: billing process
11. County share of cost: dispute resolution, including arbitration and judicial review
12. Hospital provider fee: Coverage Dividend Contribution Act (p.24-37)
- a. As per agreement with hospitals
 - b. Money to be used for increased rates and hospital component of coverage
13. Kids coverage: one-time \$25 million loan to finance kids coverage 1/09-6/09 (p.37)
14. Amendment of initiative: (p.38)
- a. Subject to amendment only by subsequent initiative: Sec. 4 exemption from Gann limit/Prop 98 and Sec. 6 health trust fund
 - b. Two-thirds vote: Sec. 5 "trigger off" and Sec. 12 hospital provider fee
 - c. Two-thirds vote because of Const. XIII A:
 - i. Tobacco tax Sec. 7
 - ii. Employer contribution (because scaled by employer size) Sec 8
 - d. Subject to majority vote:
 - i. County share of cost Sec. 9, 10 and 11
 - ii. AB1x after passage of initiative

15. This initiative is enacted with the expectation that the Legislature passes and the Governor signs a statute that is “essentially the same” as AB1x as passed by the Assembly on 12/17/07. References in the initiative are to statutes as amended or added by AB1x. (p.38)
16. Severability: full severability of all provisions but would trigger “trigger off” provisions in Sec. 5. (p.38)
17. Conflicting measures: if other measure on same subject, then this prevails if the most votes. (Standard language) (p.38-39)