

SB 6084 to impose an individual mandate on Washington state residents

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Key Findings

1. The 2010 Affordable Care Act forced every American to own government-approved health insurance through the use of an individual mandate.
2. The mandate proved ineffective and was repealed by Congress in 2017.
3. The individual health insurance market, both inside and outside the Obamacare exchange, has become unstable in Washington state.
4. The original SB 6084 bill would have required every citizen in Washington state to own health insurance through a state-based individual mandate.
5. The amended bill, which passed the Washington State Senate along party lines, would establish a task force to develop a plan with penalty-collection methods to impose a state-based individual mandate on Washington residents.
6. If SB 6084 is passed and if the legislature should ultimately adopt an individual mandate plan with penalties, Washington residents would be the only people in the country subject to the unpopular individual mandate.

Introduction

The Affordable Care Act (ACA), also known as Obamacare, became law in 2010. It required every person in the United States to purchase or obtain government-approved health insurance by 2014 or pay a penalty or fine.

The penalty was enforced by the Internal Revenue Service, which withheld the fine amount from a person's income tax return.

Throughout history, this type of requirement for citizenship had never been imposed by the federal government and it was challenged in the courts on constitutional grounds.

The U.S. Supreme Court ruled in 2012 that the individual mandate was constitutional if the penalty for not having insurance was viewed as a tax. The mandate became the least popular and most onerous part of Obamacare for the American public.¹ Most Americans wanted Congress to repeal the mandate as soon as possible.

In 2017, Members of Congress were unable to pass meaningful health care reform. They were, however, able to pass a federal tax reform bill that included the elimination of the ACA individual mandate, starting in 2019.²

The individual health insurance market in Washington state

Officials in Washington state aggressively adopted the provisions of Obamacare and established a state-run health benefit exchange. In spite of taxpayer subsidies in the exchange, people in the individual health insurance market have experienced double-digit premium increases every year since the exchange began in 2014.³ Adverse selection in the exchange, where young and healthy individuals would rather pay the penalty than purchase insurance that doesn't fit their needs, has left older, sicker people faced with

- 1 "The impact of the Affordable Care Act in Washington state," by Roger Stark, MD, Policy Brief, Washington Policy Center, January 21, 2014, at <https://www.washingtonpolicy.org/publications/detail/the-impact-of-the-affordable-care-act-in-washington-state>.
- 2 "The GOP tax bill repeals Obamacare individual mandate. Here's what that means for you," by Sy Mukheyee, *Fortune Online*, December 20, 2017, at <http://fortune.com/2017/12/20/tax-bill-individual-mandate-obamacare/>.
- 3 "Premium rates in the Obamacare exchanges continue to go up," by Roger Stark, MD, blog, Washington Policy Center, October 3, 2017, at <https://www.washingtonpolicy.org/publications/detail/premium-rates-in-the-obamacare-insurance-exchanges-continue-to-go-up>.

ever-increasing premiums.

Likewise, the number of insurance companies and the number of plans they offer in the individual market has decreased. This has destabilized the market in Washington state.

Summary of SB 6084⁴

The original bill mandated that every person in Washington state have government-approved health insurance. The bill was amended. The substitute bill passed the Washington state Senate with a vote of 25 to 23. No Republican senator voted for the amended bill.

The amended bill would establish a task force that is charged with “proactively exploring options on implementing and enforcing a state-level requirement to maintain minimum essential health care coverage.” The task force must report its findings to the legislature by December 1, 2018.

The bill is now under consideration in the Washington state House.

Policy analysis

The architects of the Affordable Care Act forced insurance companies to sell policies to any person regardless of pre-existing conditions and to a certain extent, regardless of age. To protect insurance companies, the ACA forced every American to own health insurance through the use of the individual mandate.

The cost of the penalty for not having insurance was set very low compared to the cost of a health insurance plan. Consequently, many Americans, especially the young and healthy, refused to buy insurance and either paid the fine or used one of many exemption excuses.

The structure and complexity of the ACA meant it was doomed to fail as effective public policy. People found they could not keep

their doctor as promised, could not keep their health care plan, and that the cost of coverage kept rising. The individual mandate was not able to stabilize the health insurance market and premium prices continued to rise in virtually every part of the country.

There is no reason to believe the individual mandate would work any better at the state level than it did as a federal law. Washington state does not have an income tax. Consequently, the penalty or fine could not come out of individual tax refunds. Collecting a specific fine or tax for being uninsured would be cumbersome and would be ideal for fraud and abuse.

Conclusion

If SB 6084 should become law and the legislature imposes an individual mandate, Washington state residents would be the only Americans subject to the onerous individual mandate. This is a clear example of elected officials imposing more regulation on Washington residents, one that has already proven a failure at the federal level.

Although SB 6084 as passed does not require any taxpayer funding, it does commit state officials to use their office time to formulate an individual mandate plan. Their taxpayer-funded hours would be better spent taking care of meaningful state government work.

Instead of working to impose an unpopular individual mandate, state officials should design and promote health care reform that gives patients, as consumers, more control over their health care decisions. Officials should adopt public policies that allow insurance companies to sell affordable plans that people would buy voluntarily; plans that consumers would want and would actually use.

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4 “SB 6084, requiring maintenance of minimum essential health care coverage,” Washington State Legislature, Bill information, at <http://app.leg.wa.gov/bills/summary?BillNumber=6084&Year=2017>.