L E G I S L A T I V E

TAXBILLSERVICE

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SUBJECT: INSURANCE PREMIUMS, Tax on mutual benefit societies, medical workforce promotion, health workforce education or indigent health care tax credit

BILL NUMBER: HB 2852

INTRODUCED BY: Say

BRIEF SUMMARY: Adds a new section to HRS 431:7 to allow an insurer that offers health insurance plans within the state to claim a medical workforce promotion, health workforce education, or indigent health care program tax credit against the tax imposed under HRS section 431:7-202(a). The amount of the nonrefundable credit shall be equal to the amount that the insurer contributes in cash in the taxable year to a state program that: (1) provides or pays for the increase or education of the medical workforce or health workforce or for the provision of health care to low-income individuals or families; and (2) has been approved by the insurance commissioner.

Amends HRS section 431:7-202, to provide that a mutual benefit society or a health maintenance organization, shall be taxed at: (1) 2.265% between July 1, 2010 and December 31, 2011; (2) 3.265% between January 1, 2012 and December 31, 2012; and (3) 4.265% between January 1, 2013 and June 30, 2015.

Makes conforming amendments to HRS sections 431:7-204; 432:1-403 and 432D-19.

The insurance commissioner shall consider whether the imposition of the insurance premiums tax on mutual benefit societies and health maintenance organizations by this act may cause their current managed care plan rates to become inadequate. If so, the insurance commissioner shall use the authority under HRS section 431:14G-104 to determine whether the rates should be adjusted.

This act shall be repealed on June 30, 2015; provided that sections HRS 431:7-202(a), 431:7-204, 432:1-403, and 432D-19(d) of this act shall be reenacted in the form in which they read on the day before the effective date of this act.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: It appears that this measure proposes to temporarily impose a tax on mutual benefit societies to generate additional revenues to address the state's financial crisis. But on the other hand, it proposes a credit in the amount that an insurer contributes to a state program that pays for the increase or education of the medical workforce or health workforce or for the provision of health care to low-income individuals or families. It is questionable that on one hand, these health care organizations would be subjected to the insurance premiums tax from which they are currently exempt, but on the other hand be provided a credit for increasing the education of and promotion of a health care workforce. It seems lawmakers want to squeeze out more revenues to make up for the budget shortfall while at the same time try to encourage this specific activity.

It should be noted that while mutual benefit societies are generally of a nonprofit nature and organized to provide payment of benefits to their members and beneficiaries in case of sickness, disability or death, any additional cost imposed on such organizations, such as any tax imposed as a result of the enactment of this measure, will, no doubt, result in additional costs to the organizations which, in turn, may result in decreased benefits or increased premium costs to members.

It is curious that such a proposal would be forwarded when the underlying concept for forming mutual benefit societies was as the name suggests for the mutual benefit of the members. Given the fact that they are nonprofit in nature, and undoubtedly held up to a standard that no profit accrues to any one person or group of persons, subjecting mutual benefit societies to taxation would run contrary to the philosophy that there is no profit.

Digested 2/16/10

NATIONAL FRATERNAL CONGRESS OF AMERICA
TESTIMONY IN OPPOSTION TO HB 2852, RELATING TO
THE INSURANCE PREMIUM TAX

February 17, 2010

Via e mail: fintestimony@capitol.hawaii.gov
Honorable Marcus R. Oshiro, Chair
Committee on Finance
House of Representatives
Hawaii State Capital, Conference Room 308
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members of the Committee:

Thank you for the opportunity to testify in opposition to HB 2852, relating to the insurance premium tax.

Our firm represents the National Fraternal Congress of America ("NFCA"), a trade association composed of 70 fraternal benefit societies operating in all 50 states. NFCA member societies provide financial security to nearly 10 million Americans and their families through life insurance and related products. More importantly, individual members of NFCA societies volunteered over 94 million hours (valued at $1.9 billion) in support of their communities and made over $415 million in direct financial contributions to support charitable, patriotic, educational, and religious activities in 2008 alone.

Four NFCA members – Thrivent Financial for Lutherans, Woodmen of the World, Independent Order of Foresters, and Knights of Columbus – operate in Hawaii. Combined, these societies have over 9,000 members in the state and lend their financial and volunteer support to a variety of causes and organizations.

Fraternal benefit societies are exempt from the federal income tax under §501(c) (8), IRC; and are exempt from Hawaii's income tax under §235-2.4(l), HRS, and general excise tax under §237-23, HRS.

As drafted HB 2852, if broadly construed, would impose an escalating premium tax of between 2.265% this year to a maximum of 4.265% over the next 5 years on Hawaii fraternals' health related insurance policies such as disability and long term care insurance.

Taxing fraternals is unprecedented. No state in the union taxes fraternal organizations; nor does the United States Government.

Fraternals provide much-needed assistance to a variety of community service programs and charitable groups in Hawaii that enhance the lives of individuals and communities every day.

In 2008, fraternal volunteers contributed more than 90,000 hours of volunteer service valued at over $1.8 million and made direct financial contributions of over $407,000 to schools, charities, and community service organizations in Hawaii.

Taxing revenues received by fraternals will generate insignificant tax revenue to the State of Hawaii relative to its revenue needs. Based upon NFCA estimates using 2007 data, the total revenue raised by taxing fraternals health related insurance premiums at the 2013 to 2015 maximum rate of 4.265% paid by its Hawaii chapter members would only amount to about $10,700, annually. This number pales in comparison to the millions of hours of volunteer service and hundreds of thousands of dollars fraternals contribute to communities in Hawaii.

Hawaii's four NFCA member-societies, their members and, most importantly, the individuals and charitable organizations that benefit from their direct financial aid and volunteer support would be negatively affected if HB 2852 is construed to as applying to fraternals and is enacted into law.

Subjecting fraternals to the premium tax along with mutual benefit societies, such as HMSA, may have been inadvertent and unintended and fraternals should, therefore, be excluded from the bill's provisions.

Section 3 of the proposed bill imposes a premium tax on each "authorized insurer". Excluded from tax are life insurance contracts, ocean marine insurance contracts and real property title insurance contracts. "Authorized insurer" is defined to include "a mutual benefit society and health maintenance organization <u>that offers a health care insurance plan</u> subject to chapter 432 or 432D, HRS, as applicable". (Emphasis added).

"Health care insurance plan" is not defined in the bill.

Chapter 432, HRS, governs "mutual benefit societies", including fraternal benefit societies; Chapter 432D, HRS, governs "health maintenance organizations".

"Mutual benefit societies" are authorized to provide "death, sick, disability or other benefits". §432: 1-303 to 1-307, HRS.

Chapter 432 authorizes fraternals to provide benefits described in §432: 2-401, HRS, namely, death benefits, endowment benefits, annuity benefits, temporary or permanent disability benefits, hospital, medical or nursing benefits, monuments and tombstone benefits to the memory of deceased members, and such other benefits as authorized for life insurers, such as long term care insurance.

Taking the language of HB 2852 as a whole, it appears that the bill's intent and purpose is to tax health care plans offered by mutual benefit societies such as HMSA and HMO's such as Kaiser; not disability insurance benefits and long term care insurance provided by fraternal societies to their members.

While both fraternals and mutual benefits societies such as HMSA are lumped together in Chapter 432, HRS, entitled "Mutual Benefit Societies", fraternals are fundamentally different than "mutual benefit societies". Unlike HMSA, which is organized for the sole purpose of providing sickness, disability and death benefits to its members, the structure of fraternal benefit societies allows them to financially support and provide volunteer outreach activities to fill gaps in the social safety net and help Hawaii's citizens enhance their lives and their communities.

Requiring fraternal societies to pay premium tax would have a devastating effect on their ability to support to the community service projects that help thousands of Hawaiians every day. Moreover, such a reduction in volunteerism would come at a time when many individuals need help more than ever.

The total value of the thousands of volunteer hours and direct financial support Hawaii fraternal members provide to their friends and neighbors far exceeds the revenues that would be raised by taxing them.

In short, the potential loss of what Hawaii fraternal members give in time and treasure to the communities in which they live far outweigh the revenue the State of Hawaii would receive by taxing them.

For the foregoing reasons, NFCA strongly opposes HB 2852 and respectfully requests that as applied to their Hawaii members this Committee defer passage of this bill.

Again, thank you for the opportunity to testify in opposition to HB 2852.

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cc Mr. Joseph J. Annotti
Ms. Elizabeth Snyder

HMSA

Blue Cross Blue Shield of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 17, 2010

The Honorable Marcus Oshiro, Chair
The Honorable Marilyn Lee, Vice Chair
House Committee on Finance

Re: HB 2852 – Relating to the Insurance Premium Tax

Dear Chair Oshiro, Vice Chair Lee and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 2852.

Although HMSA takes no position on the intent of this measure we would like to provide some information on this issue. Currently, the majority of the health plans in the state operate as non-profit entities resulting in a savings to employers who are mandated to provide coverage to their employees via the Prepaid Health Care Act. HB 2852 would require health plans to pay a premium tax of 4.265 percent which would essentially be passed on to Hawaii's businesses.

While we appreciate the legislature's attempt to close budgetary gaps, we would like to remind the Committee that many of the non-profit plans in the state are already facing a funding crisis relating to the provision of safety net services to QUEST members across the state. As you are aware, recently the Department of Human Services (DHS) stated that due to budgetary shortfalls, they will withhold payments to contracted QUEST plans, beginning in April and extending through June. While we understand the budgetary restrictions the State is facing, DHS' decision significantly impacts a health plan's ability to pay for services. Given the impact this will ultimately have on the health care system, we would encourage the Committee to resist imposing additional costs on the system overall

Thank you for the opportunity to provide comments today.

Sincerely,

Jennifer Diesman
Vice President
Government Relations

KAISER PERMANENTE

Government Relations

Testimony of
Frank P. Richardson
Vice President and Regional Counsel

Before:
House Committee on Finance
The Honorable Marcus R. Oshiro, Chair
The Honorable Marilyn B. Lee, Vice Chair

February 17, 2010
1:30 P.M.
Conference Room 308

HB2852 **RELATING TO TAXATION**

Chair Oshiro, and committee members, thank you for this opportunity to provide testimony on HB 2852 which would impose a premium tax on "authorized insurers", which includes a mutual benefit society and a health maintenance organization.

Kaiser Permanente Hawaii opposes this bill.

The cost of delivering health care in Hawaii and across the nation continues to mount. The imposition of a tax on gross premiums will only add to that cost. The burden of an excise tax such as this one would be passed on to health plan purchasers and consumers, driving up the overall cost of healthcare to those purchasers and to the state. Employers, large and small, all of whom are mandated to provided health coverage to their employees in Hawaii, as well as individual purchasers, will wind up shouldering this additional cost. Even government employers and purchasers of healthcare benefits will bear the additional cost of this premium tax on their healthcare benefits.

Kaiser Permanente exists to provide affordable, high-quality health care services to improve the health of our members and the communities we serve. This is our mission. We fulfill our commitment to improve the health of the community by implementing or supporting community efforts to improve the health of people regardless of their age or their means. We have provided grants to the University of Hawaii to study ways to reduce pediatric obesity and to provide state of the art education for nurses. On Maui we partnered with the Maui Foodbank and

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Maui Farm bureau to get more fresh foods to people in need. We educate elementary school children on healthy living with our education theater program that brings the message of healthy eating and active living to the students at their schools. We participate in state programs to provide health care to people who can not otherwise afford it and we have our own programs that provide charity care to patients in need. Imposition of this premium tax would be an unfortunate precedent setting erosion of Kaiser's tax exempt status, inconsistent with its public benefit social mission.

Thank you for your consideration.