
A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH CONNECTOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Health insurance exchanges are a central
2 component of the federal Patient Protection and Affordable Care
3 Act, and the federal act gives states broad discretion in
4 establishing the structure and governance of their own
5 exchanges. The legislature finds that the Hawaii health
6 connector was established by Act 205, Session Laws of Hawaii
7 2011, as Hawaii's health insurance exchange and was charged with
8 the responsibility of implementing applicable parts of the
9 federal act.

10 The successful and efficient operation of the Hawaii health
11 connector is essential for the State, health insurers, and
12 insured persons in Hawaii to comply with the new requirements of
13 the federal act. The legislature also finds that the Hawaii
14 health connector was established as a private nonprofit entity,
15 rather than a state agency, to provide the connector with a
16 certain degree of freedom and autonomy in establishing and
17 operating the State's health insurance exchange.



1 However, the legislature believes that evolving federal
2 health care regulations and the need for greater transparency
3 and oversight over Hawaii's health insurance exchange
4 necessitate that the State revise the structure of the Hawaii
5 health connector's board of directors. In addition, the
6 legislature finds that the Hawaii health connector should engage
7 with advisory groups that represent various stakeholder
8 interests and allow for their input and recommendations for the
9 activities of the connector. The legislature also believes that
10 it should take a proactive oversight role to monitor the
11 connector and review its financial and operational plans.

12 The legislature finds that the Hawaii health connector is
13 the health insurance exchange for the State. The legislature
14 also finds and declares that financial support of the Hawaii
15 health connector is in the public interest and for the public
16 health, safety, and general welfare of the State. It is,
17 therefore, the desire of the legislature that the Hawaii health
18 connector be officially designated as the State of Hawaii health
19 insurance exchange. This status shall be implemented through an
20 annual appropriation from the Hawaii health insurance exchange
21 special fund.



1 The designation shall not impinge on the autonomy of the
2 Hawaii health connector, nor imply state control over its
3 programs or policies, except as specifically provided.

4 The purpose of this Act is to:

- 5 (1) Provide for greater transparency, stakeholder
6 engagement, and legislative involvement in the
7 activities of the Hawaii health connector; and
8 (2) Appropriate general funds to provide for the
9 sustainability of the Hawaii health connector.

10 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is
11 amended by adding eight new sections to be appropriately
12 designated and to read as follows:

13 "§435H-A Hawaii health connector. The official
14 designation of the Hawaii health connector shall be the State of
15 Hawaii health insurance exchange. The qualifying standards and
16 conditions relating to the receipt of funds contained in chapter
17 42F shall apply to the funds received by the State of Hawaii
18 health insurance exchange.

19 §435H-B Consumer, patient, business, and health care
20 advisory group. The board shall establish a consumer, patient,
21 business, and health care advisory group to provide input and
22 recommendations to the board. The advisory group shall reflect



geographic diversity and a diversity of interests. Members shall include individuals with education, training, or professional experience in the fields of consumer advocacy, patient advocacy, public health, health care provision, economics, financial management, risk management, and small business. Members of the advisory group shall serve in an advisory capacity only and shall not be considered members of the board. Members shall not be compensated but may be reimbursed for necessary expenses incurred in the performance of their duties.

§435H-C Health insurers advisory group. The board shall establish a health insurers advisory group to provide input and recommendations to the board. Members shall consist of representatives of the insurers that offer qualified plans or qualified dental plans through the connector. Members of the advisory group shall serve in an advisory capacity only and shall not be considered members of the board. Members of the advisory group shall not be compensated but may be reimbursed for necessary expenses incurred in the performance of their duties.

§435H-D Insurance producers advisory group. The board shall establish an insurance producers advisory group to provide



1 input and recommendations to the board. The advisory group
2 shall reflect geographic diversity and members shall include
3 insurance agents and brokers that sell qualified plans through
4 the connector. Members of the advisory group shall serve in an
5 advisory capacity only and shall not be considered members of
6 the board. Members shall not be compensated but may be
7 reimbursed for necessary expenses incurred in the performance of
8 their duties.

9 **§435H-E Hawaii health connector oversight council.** (a)

10 There is established the Hawaii health connector oversight
11 council which shall meet at least once annually. The council
12 shall be assigned to the department of commerce and consumer
13 affairs for administrative purposes only. The council shall
14 oversee the activities of the connector to ensure that the
15 connector fulfills its purpose as set forth in this chapter.

16 (b) The council shall consist of five members comprising:

17 (1) A member of the senate appointed by the president of
18 the senate;

19 (2) A member of the house of representatives appointed by
20 the speaker of the house of representatives;

21 (3) The director of labor and industrial relations;

22 (4) The director of commerce and consumer affairs; and



1 (5) An at-large member appointed by the governor.

2 Section 26-34 shall not apply to appointments under this
3 section.

4 (c) The council shall promote and protect the interests of
5 the residents of Hawaii by reviewing the financial and
6 operational plans of the connector and providing input and
7 recommendations to the board.

8 (d) Members of the council shall serve without
9 compensation, but shall be reimbursed for reasonable expenses
10 necessary for the performance of their duties.

11 (e) The council shall conduct and complete an annual
12 review of the sustainability plan that is submitted by the board
13 pursuant to section 435H-G, no later than forty-five days prior
14 to July 1 of every year, commencing in 2015 and continuing
15 through June 30, 2018.

16 (f) At no time shall the legislative members of the
17 council make up the majority of members when voting in favor of
18 decisions or recommendations.

19 (g) The council shall be dissolved on June 30, 2018.

20 **§435H-F Agents and brokers.** (a) Certified insurance
21 agents and brokers may enroll individuals and employers in
22 qualified plans through the connector and assist individuals and



1 employers in applying for applicable premium tax credits and
2 cost-sharing reductions for which they may be eligible. The
3 commissioner shall adopt rules for certifying insurance agents
4 and brokers pursuant to this section; provided that the rules
5 shall include qualifications and educational requirements for
6 agents and brokers that comply with the Federal Act.

7 (b) Certified insurance agents and brokers shall be
8 compensated for these activities in a manner to be determined by
9 the board.

10 **§435H-G Hawaii health connector annual sustainability**

11 **plan.** (a) Until June 30, 2018, the board shall submit a
12 sustainability plan to the Hawaii health connector oversight
13 council and the commissioner no later than ninety days prior to
14 the start of each fiscal year of the connector. The
15 sustainability plan shall specify the amount of funding required
16 to finance the operations and cash reserve of the connector for
17 each ensuing fiscal year beginning on July 1; provided that the
18 balance of the cash reserves shall not exceed the value of the
19 cost of six months of administering and operating the connector.

20 (b) The sustainability plan submitted pursuant to
21 subsection (a) shall include:



- 1 (1) A detailed itemized budget based upon zero-based
2 budgeting principles for the upcoming fiscal year;
3 (2) A detailed justification for the release of moneys
4 from the Hawaii health insurance exchange special fund
5 pursuant to section 435H-H; and
6 (3) Minutes of meetings of the consumer, patient,
7 business, and health care advisory group, the health
8 insurers advisory group, and the insurance producers
9 advisory group, including the results of any votes
10 taken, and any recommendations made by those advisory
11 groups.

12 For the purposes of formulating the budget, "zero-based
13 budgeting principles" means that the Hawaii health connector
14 shall justify all projected allocations and expenditures,
15 starting with an initial balance of zero dollars to spend.

16 (c) After June 30, 2018, the board shall not be required
17 to file a sustainability plan pursuant to subsection (a).

18 (d) Until June 30, 2018, the board may recommend to the
19 governor legislative action, if necessary, for the connector.

20 **§435H-H Hawaii health insurance exchange special fund.**

21 (a) There is established in the state treasury the Hawaii
22 health insurance exchange special fund into which all



1 appropriations made by the legislature to the fund shall be
2 deposited.

3 Moneys in the Hawaii health insurance exchange special fund
4 shall not be considered part of the general fund.

5 (b) Moneys in the Hawaii health insurance exchange special
6 fund shall be used for the following purposes:

7 (1) Financial support to the Hawaii health insurance
8 exchange also known as the Hawaii health connector;
9 and

10 (2) Central service expenses and administrative expenses
11 of the special fund.

12 (c) The Hawaii health insurance exchange special fund
13 shall be audited annually by an independent auditor retained by
14 the connector. The auditor's report of each annual audit shall
15 be submitted to the commissioner and the Hawaii health connector
16 oversight council not later than thirty days from the date the
17 audit report is received by the connector.

18 (d) The Hawaii health insurance exchange special fund
19 shall be dissolved on June 30, 2018, and all unencumbered and
20 unexpended moneys remaining on balance in the special fund on
21 that date shall lapse to the credit of the general fund."



SECTION 3. Section 435H-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is established the Hawaii health insurance exchange to be known as the Hawaii health connector. The connector shall be a nonprofit incorporated entity. The connector shall not be an agency of the State and shall not be subject to laws or rules regulating rulemaking, public employment, or public procurement. ~~[The connector shall be a Hawaii nonprofit corporation organized and governed pursuant to chapter 414D, the Hawaii nonprofit corporations act.]~~ The debts and liabilities of the connector shall not constitute the debts and liabilities of the State.

(b) The purposes of the connector shall include:

(1) Facilitating the purchase and sale of qualified plans and qualified dental plans;

(2) Connecting consumers to the information necessary to make informed health care choices; ~~[and]~~

(3) Enabling consumers to purchase coverage and manage health and dental plans electronically~~[-]~~; and

(4) Performing any and all other duties required of a health insurance exchange pursuant to the Federal Act."



SECTION 4. Section 435H-3, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§435H-3[+]~~ **Funding.** (a) The connector may receive contributions, grants, endowments, fees, or gifts in cash or otherwise from public and private sources including corporations, businesses, foundations, governments, individuals, and other sources subject to rules adopted by the board. The State may appropriate moneys to the connector. As required by section 1311(d)(5)(A) of the Federal Act, the connector shall be self-sustaining by January 1, 2015, and ~~[may charge assessments or user fees to participating health and dental carriers, or]~~ may otherwise generate non-insurer based funding to support its operations. Moneys received by or under the supervision of the connector shall not be placed into the state treasury and the State shall not administer any moneys of the connector nor be responsible for the financial operations or solvency of the connector~~[-]~~ except as provided in section 435H-G.

(b) In addition to any other means of generating revenue pursuant to subsection (a), the connector may charge fees for displaying advertisements for ancillary services on the connector's website.



1 (c) All plans to generate revenue for the connector shall
2 be in compliance with federal law."

3 SECTION 5. Section 435H-4, Hawaii Revised Statutes, is
4 amended by amending subsections (a) through (c) to read as
5 follows:

6 "(a) ~~[The Hawaii health]~~ Notwithstanding chapter 414D, the
7 connector shall be ~~[a nonprofit entity]~~ governed by a board of
8 directors that shall comprise ~~[fifteen]~~ ten members as follows:

9 (1) The director of commerce and consumer affairs or the
10 director's designee, who shall be an ex officio,
11 nonvoting member;

12 (2) The director of human services or the director's
13 designee, who shall be an ex officio, nonvoting
14 member;

15 (3) The healthcare transformation coordinator, who shall
16 be an ex officio, nonvoting member;

17 (4) Three members who shall be appointed by the governor
18 ~~[and with the advice and consent of the senate~~
19 ~~pursuant to section 26-34; provided that the governor~~
20 ~~shall submit nominations to the senate for advice and~~
21 ~~consent no later than February 1, 2012; and provided~~
22 ~~further that the senate shall timely advise and~~



~~consent to nominations for terms to begin July 1, 2012. Members of the interim board shall be eligible for appointment to the board.];~~

(5) Two members who shall be appointed by the president of the senate; and

(6) Two members who shall be appointed by the speaker of the house of representatives.

The board shall elect one of its members as the chairperson of the board. The board, by majority vote, may remove or suspend for cause any member after due notice and public hearing.

(b) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders including consumers, employers, insurers, and dental benefit providers.

~~[The director of commerce and consumer affairs or the director's designee, the director of health or the director's designee, the director of human services or the director's designee, and the director of labor and industrial relations or the director's designee shall be ex officio, voting members of the board.~~

~~The director of commerce and consumer affairs, the director of health, the director of human services, and the director of labor and industrial relations may select a designee for a~~



~~specified meeting or meetings. Such selection of the designee shall be submitted in writing to the board of directors prior to or at the meeting in which the designee will serve.]~~ Each person appointed to the board shall have education, training, or professional experience in at least one of the following areas:

(1) Health care policy;

(2) Health benefits plan administration, including
medicaid administration;

(3) Health insurance; provided that no employee of an
insurer shall be appointed to the board;

(4) Health care financing and purchasing;

(5) Health care delivery;

(6) Information technology; or

(7) Economics and actuarial science.

In making appointments, the appointing authorities shall consider the background and expertise of all members of the board and the geographic, socioeconomic, and other characteristics of the State, so that the board's composition reflects a diversity of expertise, skills, and background relevant to the State; provided that members appointed pursuant to subsection (a)(4) through (6) shall not be employees of the State.



1 (c) Board members shall serve staggered terms and the
2 interim board shall recommend an appropriate schedule for
3 staggered terms; provided that this subsection shall not apply
4 to [~~ex officio members,~~] members appointed pursuant to
5 subsection (a)(1) through (3), who shall serve during their
6 [entire] term of office."

7 SECTION 6. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so much
9 thereof as may be necessary for fiscal year 2014-2015 for
10 necessary expenses incurred by members of the entities
11 established pursuant to sections 435H-B, 435H-C, 435H-D, and
12 435H-E, Hawaii Revised Statutes, in section 2 of this Act.

13 The sum appropriated shall be expended by the department of
14 commerce and consumer affairs for the purposes of this Act.

15 SECTION 7. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2014-2015 to be
18 deposited into the Hawaii health insurance exchange special fund
19 for the sustainability of the Hawaii health connector.

20 SECTION 8. There is appropriated out of the Hawaii health
21 insurance exchange special fund the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2014-2015 for the
2 operations of the Hawaii health connector.

3 The sum appropriated shall be expended by the department of
4 commerce and consumer affairs for the purposes of this Act.

5 SECTION 9. In codifying the new sections added by section
6 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 10. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 11. This Act shall take effect on July 1, 2112.



Report Title:

Health; Hawaii Health Connector; Appropriation

Description:

Establishes the Hawaii health connector as the State of Hawaii Health Insurance Exchange. Establishes advisory groups and an oversight council to assist the Connector Board. Amends the composition and duties of the Connector Board. Establishes a special fund. Appropriates funds. Effective July 1, 2112.
(SB2470 HD1)

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