

ACT 13

S.B. NO. 2775

A Bill for an Act Relating to the Affordable Care Act Section 1332 State Innovation Waiver.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the State of Hawaii has a bold history as an innovator in ensuring that its residents have access to health care. The Hawaii Prepaid Health Care Act has ensured the availability of employer-sponsored health insurance for workers and their families for more than forty years, meeting or exceeding the goals of the federal Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) for employer sponsored health coverage.

The legislature further finds that the State of Hawaii has taken all necessary steps to comply with the implementation of the health insurance exchange and other insurance reforms required by the Affordable Care Act, but that there remain concerns that portions of the Affordable Care Act could undermine certain gains made by the Hawaii Prepaid Health Care Act.

Under section 1332 of the Affordable Care Act, a state can apply for a state innovation waiver, allowing the State to implement innovative ways to provide access to quality health care. Act 158, Session Laws of Hawaii 2014, established a state innovation waiver task force to develop a health care reform plan that would meet the requirements for obtaining a state innovation waiver in compliance with the Affordable Care Act. Act 184, Session Laws of Hawaii 2015, amended the scope of the task force's responsibilities to facilitate the development of a state innovation waiver application in a timely manner.

The state innovation waiver task force has met regularly since September 2014, holding meetings in accordance with state open meeting requirements, and posting all materials on the Governor's website, satisfying the procedural requirement of the Affordable Care Act. In those meetings, the task force carefully considered all sections of the Affordable Care Act for potential waiver, identify-

ing those provisions that improve coverage and consumer protections and those that contradict, confuse, or weaken employer-coverage mandates in the Hawaii Prepaid Health Care Act.

Once the task force agreed upon the substance of its draft proposal, the task force held a series of seven public hearings on six islands, as required by federal law. These public hearings conformed to state and federal public notice requirements and were attended by a total of one hundred sixty-three community participants. The draft plan and additional information were made publicly available prior to and at the public hearings.

The results of the task force's efforts are contained in its report to the legislature, submitted in December of 2015, recommending three actions for Hawaii's insurance marketplace:

- (1) Maintain access to affordable health insurance coverage for individuals via the state-based exchange utilizing the federal platform;
- (2) Align the Affordable Care Act with the Hawaii Prepaid Health Care Act's requirements for private employers to the extent allowable; and
- (3) Waive the Affordable Care Act Small Business Health Options Program and its requirements for the small business marketplace, including the employee choice provision.

Accordingly, in order to facilitate the development of innovative approaches to insuring the people of Hawaii, the purpose of this Act is to authorize the State to submit a state innovation waiver proposal and to implement such waiver upon approval by the federal government.

SECTION 2. The State is authorized to submit a state innovation waiver proposal to the United States Secretaries of Health and Human Services and the Treasury to waive certain provisions of the Affordable Care Act, as provided under section 1332 of the federal act, and upon approval by the Secretaries, to implement the waiver on or after January 1, 2017.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 2016.)