

ACT 44

S.B. NO. 2383

A Bill for an Act Relating to the Hawaii Health Connector.

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

SECTION 1. The legislature finds that the federal Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) requires states to establish health insurance exchanges to connect buyers and sellers of health and dental insurance and facilitate the purchase and sale of federally qualified health insurance plans and qualified dental plans. Hawaii's health insurance exchange, known as the Hawaii health connector (Connector), was established in 2011 and charged with implementing applicable parts of the Affordable Care Act.

The legislature further finds that:

- (1) Due to Hawaii's small population, the highly successful Hawaii Prepaid Health Care Act of 1974 (Prepaid Health Care Act), and expanded medicaid coverage that resulted in lower numbers of uninsured residents in the State; and
- (2) Despite substantial federal investment in technology and assistance, the efforts of the board of directors and the staff of the Connector, work contributed by public sector employees, and the support of the legislature,

the Connector was unable to meet the financial sustainability requirements imposed by the federal government.

In June 2015, the federal Department of Health and Human Services determined that Hawaii was not in compliance with certain provisions of the Affordable Care Act. The governor, state cabinet officials, and Connector leadership agreed to accelerate the transition of the Connector's authority to the State in November 2015. The legislature notes that this transition was in the best interests of Hawaii residents, as the State had already begun the transition into

the federal marketplace for the enrollment period slated to last through January 1, 2016. The Connector officially ceased operations in December 2015.

The legislature recognizes that some of the challenges faced by the Connector can be attributed to the overwhelming success of the State's Prepaid Health Care Act, which has defined employer-sponsored health insurance in Hawaii and fundamentally shaped Hawaii's health insurance marketplace for over forty years. The Prepaid Health Care Act was the first law of its kind in the nation and requires nearly all employers to provide a uniformly high level of coverage for their employees. Under the Prepaid Health Care Act, employees who work at least twenty hours a week must be offered employer-sponsored health insurance and cannot be required to pay more than 1.5 per cent of their wages for employee-only coverage. Furthermore, employer-based coverage under the Prepaid Health Care Act is robust and provides significantly better benefits than those required under the Affordable Care Act.

The legislature additionally finds that the Prepaid Health Care Act's long history of mandated health care coverage has resulted in a rate of uninsured individuals that is among the lowest in the nation. The uninsured rate in Hawaii has historically fallen between five and seven per cent, with a recent analysis putting the current percentage of uninsured residents at 5.3 per cent. However, the tremendous success of the Prepaid Health Care Act also created challenges for the Connector. Given Hawaii's small population, small insurance marketplace, and historically low uninsured rate, implementing a state-run exchange that could maintain financial sustainability was difficult. Overall, the State lacked the high population and high percentage of uninsured individuals needed to ensure the long-term sustainability of the Connector.

The legislature notes that although the state-based exchange model did not end up working in Hawaii's unique marketplace, the Connector was successful in reaching many previously uninsured individuals. Furthermore, Hawaii residents will still have the opportunity to access affordable health care coverage through the federally supported, state-based exchange, similar to those in Oregon, Nevada, and New Mexico. The legislature also notes that the State has been working with the federal government to provide a new framework for marketplace enrollment that will comply with federal requirements. This successor program to the Connector will be established in a separate measure currently moving through the legislative process.

Finally, the legislature acknowledges and appreciates the work of the board of directors and the staff of the Connector and notes that neither the board nor the Connector staff are responsible for the ultimate repeal of the Connector.

Accordingly, due to the Connector ceasing operations and the transition to a federally supported, state-based exchange, the purpose of this Act is to:

- (1) Repeal the Connector and update an associated reference to the Connector within the Hawaii Revised Statutes;
- (2) Specify that any debts and liabilities pertaining to the Connector that were incurred prior to its repeal shall not constitute a debt or liability of the State; and
- (3) Specify that the provisions in this Act shall not diminish or limit the consumer protections contained in or alter the provisions of the Prepaid Health Care Act.

SECTION 2. Section 432F-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) To enable the commissioner to determine the network adequacy for qualified health plans to be listed [~~with the Hawaii health connector under see-~~

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~~tion 435H-11,]~~ on the federal Patient Protection and Affordable Care Act marketplace, the commissioner may request that a managed care plan demonstrate the adequacy of its provider network at the time that it files its health plan benefit document with the commissioner.”

SECTION 3. Chapter 435H, Hawaii Revised Statutes, is repealed.

SECTION 4. Notwithstanding the repeal in section 3 of this Act of chapter 435H, Hawaii Revised Statutes, enacted as Act 205, Session Laws of Hawaii 2011, and amended by Act 233, Session Laws of Hawaii 2014:

- (1) The debts and liabilities incurred by the Hawaii health connector remain the debts and liabilities of the Hawaii health connector and do not constitute the debts and liabilities of the State; nor is the State responsible for the financial operations or solvency of the Hawaii health connector; and
- (2) Nothing in this Act shall in any manner diminish or limit the consumer protections contained in or alter the provisions of chapter 393, Hawaii Revised Statutes.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 29, 2016.)