

JAN 26 2011

A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH INSURANCE EXCHANGE.

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

1 SECTION 1. This Act shall be known and may be cited as the
2 "Hawaii Health Insurance Exchange Act".

3 SECTION 2. The federal Patient Protection and Affordable
4 Care Act of 2010 provides for the establishment by January 1,
5 2014, of health insurance exchanges in every state to connect
6 buyers and sellers of health insurance and to facilitate the
7 purchase and sale of federally qualified health insurance plans.
8 The intent of the health insurance exchange is to reduce the
9 number of uninsured individuals, provide a transparent
10 marketplace, conduct consumer education, and assist individuals
11 in gaining access to assistance programs, premium assistance tax
12 credits, and cost-share reductions.

13 The legislature finds that, largely because of Hawaii's
14 current prepaid health care act, chapter 393, Hawaii Revised
15 Statutes, the State already enjoys an overall healthier
16 population, lower uninsured rates, and lower premium costs than
17 mainland states. The prepaid health care act has been and
18 continues to be successful; it is imperative that Hawaii's



1 health insurance exchange work in tandem with the prepaid health
2 care act to preserve its existing benefits for the people of the
3 State.

4 The legislature further finds that the people of Hawaii
5 will be best served by a health insurance exchange that is
6 operated locally in Hawaii. Therefore, this Act provides the
7 framework for a private, nonprofit health exchange that conforms
8 to the requirements of the federal law and is responsive to the
9 unique needs and circumstances of the State.

10 The legislature notes that the State is already in receipt
11 of a federal grant to plan for the design and implementation of
12 a Hawaii-based health insurance exchange and, pursuant to
13 federal domestic assistance grant number 93:525, a task force
14 has been convened for this purpose. This Act formally
15 authorizes the task force to work collaboratively with
16 stakeholders and within the policy framework of this Act to
17 propose legislation to the 2012 legislature implementing a
18 Hawaii health insurance exchange, to be known as the Hawaii
19 health connector, to ensure the State's compliance with the
20 federal act. Pursuant to recommendations of the task force, the
21 legislature is committed to providing policy direction and
22 operational guidelines as the State works toward implementing a



1 fully functional health insurance exchange to meet the
2 federally-mandated 2014 implementation deadline.

3 Recently the United States Department of Health and Human
4 Services issued a request for proposals from states for
5 assistance in establishing state health insurance exchanges.
6 The legislature finds that moving forward now with an enabling
7 statute is the prudent course of action to maximize
8 opportunities to take advantage of forthcoming federal moneys.
9 The framework established by this Act will allow future
10 legislatures to follow the most appropriate course in
11 implementing the health insurance exchange.

12 SECTION 3. Chapter 431, Hawaii Revised Statutes, is
13 amended by adding a new article to be appropriately designated
14 and to read as follows:

15 "ARTICLE . HAWAII HEALTH INSURANCE EXCHANGE

16 §431: -A Definitions. As used in this article:

17 "Board" means the board of directors of the Hawaii health
18 connector.

19 "Commissioner" means the insurance commissioner of the
20 department of commerce and consumer affairs.



1 "Connector" means the Hawaii health insurance exchange,
2 known as the Hawaii health connector, established by section
3 431: -B.

4 "Federal Act" means the federal Patient Protection and
5 Affordable Care Act, Public Law 111-148, as amended by the
6 federal Health Care and Education Reconciliation Act of 2010,
7 Public Law 111-152, and any amendments to, or regulations or
8 guidance issued under, those Acts.

9 "Insurer" has the same meaning as in section 431:1-202.

10 "Qualified health plan" means a health benefit plan offered
11 by an insurer that meets the criteria for certification
12 described in section 1311(c) of the Federal Act.

13 "Secretary" means the Secretary of the United States
14 Department of Health and Human Services.

15 "Task force" means the state health insurance exchange task
16 force established within the department of commerce and consumer
17 affairs in compliance with federal domestic assistance grant
18 number 93:525.

19 **§431: -B Establishment of the Hawaii health insurance**
20 **exchange; purpose.** (a) There is established the Hawaii health
21 insurance exchange, a Hawaii nonprofit organization, to be known
22 as the Hawaii health connector. The connector is not an entity



1 of the State and shall not be subject to laws or rules
2 regulating public employment or public procurement.

3 (b) The purposes of the connector shall include:

4 (1) Facilitating the purchase and sale of qualified health
5 plans in compliance with the Federal Act;

6 (2) Connecting consumers to the information necessary to
7 make informed health care choices; and

8 (3) Enabling consumers to purchase coverage and manage
9 health plans electronically.

10 (c) The connector shall serve as a clearinghouse for
11 information on all qualified health plans listed or included in
12 the connector. The connector shall determine eligibility for
13 the inclusion of health plans according to the recommendation of
14 the task force; provided that all qualified health plans that
15 apply for inclusion shall be included in the connector.

16 (d) The connector shall be audited annually by the state
17 auditor and shall submit the results of each annual audit to the
18 insurance commissioner no later than thirty days after the
19 connector receives the results. The connector shall retain all
20 annual audits on file, along with any documents, papers, books,
21 records, and other evidence that is pertinent to its budget and
22 operations for a period of three years and shall permit the



1 state auditor, the insurance commissioner, the state
2 legislature, or their authorized representatives to have access
3 to, inspect, and make copies of any documents retained pursuant
4 to this subsection.

5 (e) The board of directors of the connector shall submit
6 an annual report to the legislature which shall include the most
7 recent audit report received pursuant to subsection (d) no later
8 than twenty days prior to the convening of each regular session
9 of the legislature.

10 §431: -C Funding. The connector may receive
11 contributions, grants, endowments, fees, or gifts in cash or
12 otherwise from public and private sources including
13 corporations, businesses, foundations, governments, individuals,
14 and other sources subject to rules adopted by the board. The
15 State may appropriate moneys to the connector; provided that the
16 connector shall be financially self-sufficient by January 1,
17 2015, as required by section 1311(d)(5)(A) of the federal law.
18 Moneys received by or under the supervision of the connector
19 shall not be placed into the state treasury and the State shall
20 not administer any moneys of the connector nor be responsible
21 for the financial operations or solvency of the connector.



1 §431: -D Board of directors; composition; operation.

2 (a) The Hawaii health connector shall be a non-profit entity
3 governed by a board of directors that shall be comprised of
4 fifteen members appointed subject to section 26-34. The Hawaii
5 health connector task force shall recommend qualifications and
6 requirements for board members, which shall include high ethical
7 standards and knowledge or experience in the fields of health
8 care, health insurance, business, or finance.

9 (b) The membership of the board shall reflect geographic
10 diversity and the diverse interests of stakeholders including
11 consumers, employers, insurers, and government entities;
12 provided that if representatives of government or public bodies
13 are appointed to the board in other than an ex officio capacity,
14 the majority of board members shall represent the interests of
15 the private sector.

16 (c) Board members shall serve staggered terms and the task
17 force shall recommend an appropriate schedule for staggered
18 terms.

19 (d) The task force shall recommend policies prohibiting
20 conflicts of interest and procedures for recusal of a member in
21 the case of an actual or potential conflict of interest,
22 including policies prohibiting a member from taking part in



1 official action on any matter in which the member had any
2 financial involvement or interest prior to the commencement of
3 service on the board. Members of the board may retain private
4 counsel for matters relating to service on the board according
5 to rules recommended by the task force.

6 (e) The board shall manage the budget of the connector
7 according to generally accepted accounting principles and a plan
8 for financial organization adopted by the legislature based on
9 recommendations of the task force.

10 (f) The board shall maintain transparency of board
11 actions, including public disclosure and posting of board
12 minutes on the connector's website according to provisions
13 adopted by the legislature based on recommendations of the task
14 force.

15 **§431: -E Officers and employees of the Hawaii health**
16 **connector.** (a) The board shall appoint and employ officers and
17 employees, including an executive director who shall be
18 responsible for the day-to-day operations and management of the
19 exchange, according to a staffing plan recommended by the task
20 force. Officers and employees of the board shall not be
21 employees of the State and shall serve at the pleasure of the
22 board.



1 (b) Subject to the staffing plan adopted by the 2012
2 legislature based on recommendations of the task force, the
3 board may hire consultants, outside experts, and professional
4 specialists as needed for its efficient operations.

5 **§431: -F Oversight; rate regulation.** (a) The insurance
6 commissioner shall retain regulatory jurisdiction pursuant to
7 the authority granted to the commissioner by part II of
8 article 2 of chapter 431 over all insurers and qualified health
9 plans included in the Hawaii health connector.

10 (b) Rate regulation for qualified health plans included in
11 the Hawaii health connector shall be pursuant to applicable
12 state and federal law.

13 **§431: -G Effect on the prepaid health care act.** Nothing
14 in this article shall in any manner diminish or limit the
15 consumer protections contain in or alter the provisions of
16 chapter 393.

17 **§431: -H Rules.** The board shall adopt rules pursuant to
18 chapter 91 to implement the provisions of this article. Rules
19 adopted pursuant to this section shall not conflict with or
20 prevent the application of regulations promulgated by the
21 secretary under the Federal Act."



1 SECTION 4. (a) The Hawaii health connector task force
2 established pursuant to federal domestic assistance grant number
3 93:525 in the department of commerce and consumer affairs for
4 administrative purposes shall recommend to the 2012 legislature
5 policies and procedures to further define and operate the Hawaii
6 health connector.

7 (b) The task force shall make recommendations to the 2012
8 legislature for:

9 (1) Qualifications of the members of the board of
10 directors of the Hawaii health connector which shall
11 include requirements for equitable representation
12 across the stakeholder community including consumers,
13 employers, insurers, and government entities as well
14 as requirements for knowledge and experience in the
15 fields of health care, insurance, or finance;

16 (2) A sustainable, fee-based financing mechanism that may
17 incorporate private and public funding for initial
18 start-up costs, but that shall achieve financial
19 self-sustainability by January 1, 2015, as required by
20 federal law;



- 1 (3) Measures to ensure transparency of the Hawaii health
2 connector's finances and for public disclosure of
3 funding sources and expenditures;
- 4 (4) Procedures for the application for inclusion by
5 insurers in the Hawaii health connector; provided that
6 all applicant health plans that are qualified
7 according to the requirements of federal law and
8 regulations and national quality measures shall be
9 included;
- 10 (5) A phased process of including qualified plans that may
11 include initially prioritizing qualified plans that
12 target individuals and small businesses over large
13 group plans;
- 14 (6) Policies and procedures to ensure continuity of care
15 for consumers transitioning between carriers,
16 including between publicly funded coverage and private
17 qualified health plans; provided that the task force
18 shall form a subgroup to make recommendations for the
19 integration of state subsidized plans with the Hawaii
20 health connector to ensure that consumers who move
21 between publicly funded coverage and unsubsidized



- 1 private coverage are able to maintain continuity of
- 2 coverage and continuity of care;
- 3 (7) Measures to increase transparency and opportunities
- 4 for public participation in determinations of insurer
- 5 eligibility for inclusion in the Hawaii health
- 6 connector and the regulation of insurers and qualified
- 7 health plans;
- 8 (8) Criteria for determining whether a conflict of
- 9 interest exists for a board member and policies and
- 10 procedures for avoiding or mitigating conflicts of
- 11 interest, including when recusal of the board member
- 12 is appropriate and when a board member shall be
- 13 entitled to private counsel for a matter relating to
- 14 the board;
- 15 (9) A schedule of the terms of board members including
- 16 provisions for staggering terms to insure continuity;
- 17 (10) A staffing plan including organization, duties, wages,
- 18 and responsibilities of employees of the board of
- 19 directors of the Hawaii health connector and criteria
- 20 for hiring contractors, consultants, and outside
- 21 experts;



1 (11) A plan of financial organization of the board of the
2 Hawaii health connector and requirements for financial
3 management by its board; and

4 (12) Policies for the use of electronic media to publicly
5 disseminate information, increase transparency, and
6 allow members of the public to manage their health
7 plans, including by the online purchase of a qualified
8 health plan.

9 (c) The task force shall submit a report of its findings
10 and recommendations, including any proposed legislation, to the
11 legislature no later than twenty days prior to the convening of
12 the 2012 regular session, and shall participate in joint
13 informational sessions upon the request of the legislature.

14 (d) At the request of the task force, the department of
15 commerce and consumer affairs may employ temporary staff not
16 subject to chapter 76 to assist in carrying out the requirements
17 of this section including:

18 (1) A facilitator for task force meetings;

19 (2) Information technology professionals to begin
20 construction of the internet-based Hawaii health
21 connector system;



1 (3) A grant writer to pursue additional sources of federal
2 or private funding to assist the operations of the
3 task force; and

4 (4) Any other staff that the task force or the insurance
5 commissioner deems necessary to carry out the duties
6 of the task force.

7 (e) The legislative reference bureau shall assist the task
8 force in preparing its findings, recommendations, and proposed
9 legislation; provided that the chairperson of the task force
10 shall submit the task force's proposals to the legislative
11 reference bureau for drafting no later than November 1, 2011,
12 for the report to the 2012 regular legislative session.

13 (f) The task force shall cease to exist on December 31,
14 2012."

15 SECTION 5. There is appropriated out of federal funds
16 received pursuant to federal domestic assistance grant number
17 93:525 the sum of \$ or so much thereof as may be
18 necessary for fiscal year 2011-2012 to support the operations of
19 the Hawaii health insurance exchange task force.

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



1 SECTION 6. In codifying the new sections added by
 2 section 3 of this Act, the revisor of statutes shall substitute
 3 appropriate section numbers for the letters used in designating
 4 the new sections in this Act.

5 SECTION 7. This Act shall take effect upon its approval.
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Report Title:

Hawaii Health Insurance Exchange

Description:

Establishes the Hawaii health connector to create a health insurance exchange pursuant to the federal Patient Protection and Affordable Care Act of 2010; creates Hawaii health insurance exchange council under a board of directors; creates board of directors; creates task force to recommend policies and procedures to implement the governance of the health insurance exchange.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

