

HOUSE OF REPRESENTATIVES

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AMENDMENT TO: House Bill 1134 House Draft 1

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OFFERED BY: Representative Kymberly Pine

CHIEF CLERK'S OFFICE
HOUSE OF
REPRESENTATIVES

DATE: March 8, 2011

SECTION 1. House Bill No. 1134, House Draft 1, is amended by deleting its contents, and replacing it with the following text, to read as follows:

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

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SECTION 1. The legislature finds that the health and well-being of Hawaii's residents and families is paramount. Consequently, for over thirty years, the Hawaii Prepaid Health Care Act has protected the welfare of the people of Hawaii, offering residents unparalleled access to health care benefits and services. The Hawaii Prepaid Health Care Act has accomplished this through various mandates, such as requiring employers who employ one or more full-time employees to provide health insurance, setting the standards for health care coverage in Hawaii, limiting the amount that employees must contribute to premiums, and requiring employees to accept coverage unless covered under another health insurance plan (e.g., a spouse's plan). This has resulted in Hawaii having robust health care plans, low uninsured rates, and some of the lowest premiums in the country. While Hawaii experiences some of the same issues relative to access, quality, and cost as other states across the country, the Hawaii Prepaid Health Care Act has ensured system stability throughout the State.

The legislature further finds that at the time the Hawaii Prepaid Health Care Act was enacted, the legislature anticipated future federal health care reform legislation. Thus, the Hawaii Prepaid Health Care Act included a termination clause in the event such federal legislation was passed. Section 393-51, Hawaii Revised Statutes, states:

This chapter shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this chapter, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii.

The legislature further finds that in 1993, the newly-installed Clinton administration launched health care reform onto the national agenda. Concerned that the federal law would jeopardize the quality of health care that people enjoyed in Hawaii because of the Hawaii Prepaid Health Care Act, the legislature enacted Act 99, Session Laws of Hawaii 1994, which repeals the Hawaii Prepaid Health Care Act's termination clause upon the effective date of any federal act permitting an amendment of the Hawaii Prepaid Health Care Act.

While the Clinton reform did not materialize, national health care reform finally became a reality with the enactment of the federal Affordable Care Act in 2010. Although the Affordable Care Act generally provides for individual and employer health care coverage, it acknowledges the success of Hawaii's prepaid health care model by providing for the continuance of the Hawaii Prepaid Health Care Act in Section 1560(b) of the Affordable Care Act, as follows:

Nothing in this title (or an amendment made by this title) shall be construed to modify or limit the application of the exemption for Hawaii's Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 et seq.) as provided for under section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)).

The legislature understands the value of the Affordable Care Act and the efforts of the President and United States Congress. However, the legislature continues to believe that the Hawaii Prepaid Health Care Act provides superior benefits for the people of Hawaii, and the legislature is wary that current efforts to move Hawaii to the Affordable Care Act will jeopardize the Hawaii Prepaid Health Care Act. Therefore, the legislature believes it is imperative to study this issue before introducing any legislation that attempts to preempt the Affordable Care Act and jeopardize the Hawaii Prepaid Health Care Act.

SECTION 2. (a) There is hereby created the Hawaii prepaid healthcare task force to assess the current state of the Hawaii Prepaid Healthcare Act and the effects that the Affordable Care Act will have on the Hawaii Prepaid Healthcare Act and report back to the legislature.

(b) The task force shall consist of fifteen members and be as follows:

(1) Two members of the house of representatives, one of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the minority leader of the house of representatives;

(2) Two members of the senate, one of whom shall be appointed by the president of the senate and one of whom shall be appointed by the minority leader of the senate;

(3) The Director of Health or their designee;

(4) The Director of Labor and Industrial Relations or their designee;

(5) The two US Senators from Hawaii or their designee;

(6) The two members of the US House of Representatives from Hawaii or their designee;

(7) The Attorney General or his designee; and

(8) The Governor or his designee.

(9) A representative from the health insurance industry or their designee;

(10) A representative from Hawaii Medical Association or their designee;

(11) The Dean of John A. Burns School of Medicine or their designee;

(12) A licensed physician in the State of Hawaii chosen by the other members; and

(13) A labor attorney, with an expertise in ERISA, chosen by the Hawaii Bar Association Labor Law Division.

(c) The task force shall meet at least four times and additionally as convened by the chairperson.

(d) The task force shall:

(1) Assess the Hawaii Prepaid Health Care Act, and establish the data on how many people are covered by the Act and the affects of the Act on the people of Hawaii;

(2) Study and evaluate the Federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to, or regulations or guidance issued under, those Acts.

(3) Study and evaluate the affect that proposed changes to the Hawaii Prepaid Healthcare Act, such as HB 1134 as originally introduced, would have on the ERISA exemption for Hawaii; and

(4) The task force shall prepare and submit a written report, 30 days prior to the convening of the 2012 legislature that includes:

(A) A summary of the work accomplished by the task force over the prior year;

(B) An assessment of the Hawaii Prepaid Health Care Act and the statistics requested;

(C) An assessment of federal Patient Protection and Affordable Care Act;

(D) An assessment of proposed legislation to amend the Hawaii Prepaid Health Care Act and the affect of ERISA preemption on the proposed legislation; and

(E) Any legislative recommendations, with a statement of how the ERISA preemption will affect the proposed legislation as the task force deems necessary.

(e) The task force shall terminate at the convening of the 2012 legislature.

SECTION 4. This Act shall take effect upon approval.