

JAN 23 2014

A BILL FOR AN ACT

RELATING TO HEALTH INSURERS ASSESSMENTS.

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

1 SECTION 1. The legislature finds that the Patient
2 Protection and Affordable Care Act of 2010 mandates health
3 insurance exchanges to be self-sustaining beginning in 2015. To
4 comply with this requirement, and pursuant to section 435H-3,
5 Hawaii Revised Statutes, the Hawaii health connector authorized
6 a two per cent rate increase on all health plans sold to
7 individuals through the connector beginning on January 1, 2014.
8 The connector further authorized an additional two per cent rate
9 increase on all plans sold to small businesses through the
10 connector beginning on July 1, 2014.

11 The additional connector levy applies only to issuers that
12 sell products through the connector. The Affordable Care Act
13 requires those issuers to price their products sold outside of
14 the connector at the same level as the products sold through the
15 connector. Consequently, issuers that only sell plans outside
16 of the connector do not bear the burden of having the prices of
17 their products increased by the connector levy.



1 The legislature is concerned that this discrepancy creates
2 an inequity that: (1) provides a competitive advantage to
3 issuers that only sell plans outside of the connector; and (2)
4 creates a disincentive for issuers to participate in the
5 connector. This situation goes against the intent of the
6 Affordable Care Act, which is to create a competitive
7 marketplace through which the uninsured may receive health care
8 coverage.

9 The legislature further finds that while it is imperative
10 to ensure the long-term sustainability of the connector, it must
11 be done in a way that promotes competition and ensures equity
12 amongst the competitors. The state insurance commissioner would
13 be in the best position to strike the balance between promoting
14 competition, a self-sustaining health insurance exchange market,
15 and reasonable health insurance rates.

16 The purpose of this Act is to establish the Hawaii health
17 connector sustainability trust account and authorize the
18 commissioner to levy a fee on all issuers selling plans inside
19 and outside of the health insurance exchange to sustain the
20 connector, while ensuring more competition at reasonable costs.



1 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new section to article 2 to be appropriately
3 designated and to read as follows:

4 **"§431:2- Hawaii health connector sustainability trust**
5 **account; Hawaii health connector sustainability fee;**
6 **established.** (a) There is established within the compliance
7 resolution fund a trust account to be designated as the Hawaii
8 health connector sustainability trust account. The trust
9 account fund balances are to be expended by the commissioner
10 only as provided by this subsection. All moneys from the
11 connector sustainability fee under subsection (c) shall be
12 deposited to the trust account. Moneys from the trust account
13 shall be transferred to the Hawaii health connector under
14 chapter 435H, pursuant to procedures established by the
15 commissioner, and shall be used only to support the
16 administration, operations, and prudent cash management of the
17 Hawaii health connector.

18 (b) By April 1 of each year, the board of directors of the
19 Hawaii health connector shall inform the commissioner of the
20 amount of funding required to finance the operations and cash
21 reserve of the connector for each ensuing fiscal year beginning
22 July 1; provided that the balance of the cash reserve shall not



1 exceed the value of three months' cost of administering and
2 operating the connector.

3 (c) Any other provision notwithstanding, beginning July 1,
4 2015, and each July 1 thereafter, the commissioner shall assess
5 upon each insurer offering or providing health benefits or
6 services under article 10A of chapter 431, each mutual benefit
7 society under article 1 of chapter 432, health maintenance
8 organizations under chapter 432D, and each dental insurer under
9 chapter 432G, a Hawaii health connector sustainability fee on a
10 pro rata basis, based on the number of individuals covered by
11 each insurer on the preceding December 31, excluding individuals
12 covered under a medicare plan pursuant to title XIX of the
13 Social Security Act, title 42 United States Code section 1396 et
14 seq., being payable by the direct insurer covering the
15 individual. At the discretion of the commissioner, the fee
16 assessed to each dental insurer under chapter 432G may be set at
17 a level up to _____ per cent of the fee assessed to all other
18 insurers in this subsection. The total of all revenues
19 collected from the fee shall not exceed the amount of funding
20 required to finance the operations and cash reserve of the
21 connector as specified in subsection (b)."



1 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
2 amended by amending subsection (o) to read as follows:

3 "(o) Every person licensed under any chapter within the
4 jurisdiction of the department of commerce and consumer affairs,
5 and every person licensed subject to chapter 485A or registered
6 under chapter 467B shall pay upon issuance of a license, permit,
7 certificate, or registration a fee and a subsequent annual fee
8 to be determined by the director and adjusted from time to time
9 to ensure that the proceeds, together with all other fines,
10 income, and penalties collected under this section, do not
11 surpass the annual operating costs of conducting compliance
12 resolution activities required under this section. The fees may
13 be collected biennially or pursuant to rules adopted under
14 chapter 91, and shall be deposited into the special fund
15 established under this subsection. Every filing pursuant to
16 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
17 initial filing and at each renewal period in which a renewal is
18 required, a fee that shall be prescribed by rules adopted under
19 chapter 91, and that shall be deposited into the special fund
20 established under this subsection. Any unpaid fee shall be paid
21 by the licensed person, upon application for renewal,
22 restoration, reactivation, or reinstatement of a license, and by



1 the person responsible for the renewal, restoration,
2 reactivation, or reinstatement of a license, upon the
3 application for renewal, restoration, reactivation, or
4 reinstatement of the license. If the fees are not paid, the
5 director may deny renewal, restoration, reactivation, or
6 reinstatement of the license. The director may establish,
7 increase, decrease, or repeal the fees when necessary pursuant
8 to rules adopted under chapter 91. The director may also
9 increase or decrease the fees pursuant to section 92-28.

10 There is created in the state treasury a special fund to be
11 known as the compliance resolution fund to be expended by the
12 director's designated representatives as provided by this
13 subsection. Notwithstanding any law to the contrary, all
14 revenues, fees, and fines collected by the department shall be
15 deposited into the compliance resolution fund. Unencumbered
16 balances existing on June 30, 1999, in the cable television fund
17 under chapter 440G, the division of consumer advocacy fund under
18 chapter 269, the financial institution examiners' revolving
19 fund, section 412:2-109, the special handling fund, section
20 414-13, and unencumbered balances existing on June 30, 2002, in
21 the insurance regulation fund, section 431:2-215, shall be
22 deposited into the compliance resolution fund. This provision



1 shall not apply to the drivers education fund underwriters fee,
2 sections 431:10C-115 and 431:10G-107, insurance premium taxes
3 and revenues, revenues of the workers' compensation special
4 compensation fund, section 386-151, the captive insurance
5 administrative fund, section 431:19-101.8, the insurance
6 commissioner's education and training fund, section 431:2-214,
7 the medical malpractice patients' compensation fund as
8 administered under section 5 of Act 232, Session Laws of Hawaii
9 1984, and fees collected for deposit in the office of consumer
10 protection restitution fund, section 487-14, the real estate
11 appraisers fund, section 466K-1, the real estate recovery fund,
12 section 467-16, the real estate education fund, section 467-19,
13 the contractors recovery fund, section 444-26, the contractors
14 education fund, section 444-29, the condominium education trust
15 fund, section 514B-71, and the mortgage foreclosure dispute
16 resolution special fund, section 667-86. Any law to the
17 contrary notwithstanding, the director may use the moneys in the
18 fund to employ, without regard to chapter 76, hearings officers
19 and attorneys. All other employees may be employed in
20 accordance with chapter 76. Any law to the contrary
21 notwithstanding, the moneys in the fund shall be used to fund
22 the operations of the department. The moneys in the fund may be



1 used to train personnel as the director deems necessary and for
2 any other activity related to compliance resolution. Moneys in
3 the Hawaii health connector sustainability trust account within
4 the fund shall only be used by the commissioner for the purpose
5 of section 431:2- .

6 A separate special subaccount of the compliance resolution
7 fund, to be known as the post-secondary education authorization
8 special subaccount, shall be established for fees collected by
9 the department of commerce and consumer affairs pursuant to
10 chapter 305J. The special subaccount shall be governed by
11 section 305J-19.

12 As used in this subsection, unless otherwise required by
13 the context, "compliance resolution" means a determination of
14 whether:

- 15 (1) Any licensee or applicant under any chapter subject to
16 the jurisdiction of the department of commerce and
17 consumer affairs has complied with that chapter;
- 18 (2) Any person subject to chapter 485A has complied with
19 that chapter;
- 20 (3) Any person submitting any filing required by chapter
21 514E or section 485A-202(a)(26) has complied with
22 chapter 514E or section 485A-202(a)(26);



1 (4) Any person has complied with the prohibitions against
2 unfair and deceptive acts or practices in trade or
3 commerce; or

4 (5) Any person subject to chapter 467B has complied with
5 that chapter;

6 and includes work involved in or supporting the above functions,
7 licensing, or registration of individuals or companies regulated
8 by the department, consumer protection, and other activities of
9 the department.

10 The director shall prepare and submit an annual report to
11 the governor and the legislature on the use of the compliance
12 resolution fund. The report shall describe expenditures made
13 from the fund including non-payroll operating expenses."

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.

16

INTRODUCED BY: John Muen MD

Gregory H. Bell



Report Title:

Hawaii Health Connector; Sustainability Fee

Description:

Establishes the Hawaii health connector sustainability trust account. Authorizes the commissioner to levy a Hawaii health connector sustainability fee on all issuers selling plans inside and outside 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.

