
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 federal Patient
2 Protection and Affordable Care Act of 2010 (Affordable Care Act)
3 enabled Hawaii to establish its own state-based health insurance
4 exchange.

5 The legislature further finds and declares that the Hawaii
6 health connector, codified under chapter 435H, Hawaii Revised
7 Statutes, is the designated health insurance exchange for the
8 State of Hawaii.

9 The legislature additionally finds that the Affordable Care
10 Act mandates health insurance exchanges to be self-sustaining
11 beginning in 2015. To comply with this requirement, and
12 pursuant to section 435H-3, Hawaii Revised Statutes, the Hawaii
13 health connector authorized a two per cent rate increase on all
14 health plans sold to individuals through the connector beginning
15 on January 1, 2014. The connector further authorized an
16 additional two per cent rate increase on all plans sold to small
17 businesses through the connector beginning on July 1, 2014.



1 The additional connector levy applies only to issuers that
2 sell products through the connector. The Affordable Care Act
3 requires those issuers to price their products sold outside of
4 the connector at the same level as the products sold through the
5 connector. Consequently, issuers that only sell plans outside
6 of the connector do not bear the burden of having the prices of
7 their products increased by the connector levy.

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

16 The legislature also finds that while it is imperative to
17 ensure the long-term sustainability of the connector, it must be
18 done in a way that promotes competition and ensures equity
19 amongst the competitors. The state insurance commissioner would
20 be in the best position to strike the balance between promoting
21 competition, a self-sustaining health insurance exchange market,
22 and reasonable health insurance rates.



1 The legislature further finds that the financial support of
2 the Hawaii health connector is in the public interest and for
3 the public health, safety, and general welfare of the State.

4 Therefore, the purpose of this Act is to clarify the status
5 of the Hawaii health connector as the official health insurance
6 exchange for the State, ensure the sustainability of the Hawaii
7 health connector, and ensure competition amongst health plans
8 by:

- 9 (1) Establishing the Hawaii health insurance exchange
10 special fund, to be administered by the department of
11 commerce and consumer affairs;
- 12 (2) Beginning January 1, 2015, assessing a Hawaii health
13 insurance exchange surcharge of .345 per cent of the
14 premiums derived from the sale of comprehensive
15 medical insurance plans, including dental plans, in
16 the State, to be deposited into the Hawaii health
17 insurance exchange special fund;
- 18 (3) Requiring the board of directors of the Hawaii health
19 connector to prepare and submit to the legislature a
20 fully documented biennial budget request for the
21 connector;



1 (4) Annually appropriating the funds collected from the
2 Hawaii health insurance exchange surcharge to the
3 Hawaii health insurance exchange, pursuant to a
4 documented budget request demonstrating the need for
5 and use of the surcharge for connector sustainability;
6 and

7 (5) Clarifying that the Hawaii health connector must
8 submit the results of the connector's annual audit to
9 the legislature.

10 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is
11 amended by adding three new sections to be appropriately
12 designated and to read as follows:

13 **"§435H-A Hawaii health insurance exchange special fund;**
14 **establishment; budget request; appropriation.** (a) There is
15 established in the state treasury the Hawaii health insurance
16 exchange special fund, into which shall be deposited:

17 (1) All revenues from the collection of the Hawaii health
18 insurance exchange surcharge established pursuant to
19 section 435H-B; and

20 (2) Appropriations made by the legislature to the special
21 fund.



1 (b) Moneys in the special fund shall be used for the
2 following purposes:

3 (1) Financial support to the Hawaii health insurance
4 exchange, also known as the Hawaii health connector,
5 to ensure the sustainability of the Hawaii health
6 insurance exchange; and

7 (2) Administrative expenses of the special fund.

8 (c) The department of commerce and consumer affairs shall
9 administer the special fund.

10 **§435H-B Hawaii health insurance exchange surcharge;**
11 **establishment.** (a) Beginning January 1, 2015, and each January
12 1 thereafter, the commissioner shall assess a Hawaii health
13 insurance exchange surcharge of .345 per cent of the premiums
14 derived from the sale of comprehensive medical insurance plans,
15 including dental plans, in the State.

16 (b) Every insurer shall remit to the commissioner the
17 surcharge imposed by subsection (a) in such form as the
18 commissioner prescribes.

19 (c) The commissioner shall deposit the surcharges received
20 into the Hawaii health insurance exchange special fund,
21 established pursuant to section 435H-A.



1 (d) The commissioner shall transfer the accumulated
2 surcharges deposited into the Hawaii health insurance exchange
3 special fund to the Hawaii health insurance exchange established
4 under section 435H-2, pursuant to the legislative appropriation
5 authorized under section 435H-C(b).

6 (e) Not more than \$15,000,000 shall be allocated to the
7 Hawaii health insurance exchange in any calendar year. This
8 ceiling may be increased by action of the legislature through
9 adoption of a subsequent budget request from the connector.

10 **§435H-C Budget requests; annual appropriations.** (a) The
11 board shall prepare a fully documented biennial budget request
12 for the connector, detailing the amount of funding required to
13 be appropriated to the connector to finance the operations and
14 ensure the sustainability of the connector. The board shall
15 submit the budget request to the legislature no later than
16 January 31 of each year.

17 (b) The legislature shall authorize an appropriation based
18 on the request from the connector out of the proceeds of the
19 Hawaii health insurance exchange special fund."

20 SECTION 3. Section 435H-2, Hawaii Revised Statutes, is
21 amended as follows:

22 1. By amending subsection (a) to read:



1 "(a) There is established the Hawaii health insurance
2 exchange to be known as the Hawaii health connector. The
3 connector shall be the designated health insurance exchange for
4 the State. The connector shall not be an agency of the State
5 and shall not be subject to laws or rules regulating rulemaking,
6 public employment, or public procurement. The connector shall
7 be a Hawaii nonprofit corporation organized and governed
8 pursuant to chapter 414D, the Hawaii nonprofit corporations
9 act."

10 2. By amending subsection (d) to read:

11 "(d) The connector shall be audited annually by the state
12 auditor who shall submit the results of each annual audit to the
13 commissioner and the legislature no later than thirty days after
14 the connector receives the results. The connector shall retain
15 all annual audits on file, along with any documents, papers,
16 books, records, and other evidence that is pertinent to its
17 budget and operations for a period of ten years and shall permit
18 the state auditor, the commissioner, the state legislature, or
19 their authorized representatives to have access to, inspect, and
20 make copies of any documents retained pursuant to this
21 subsection."



1 SECTION 4. Section 435H-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§435H-3[+] **Funding.** The connector may receive
4 contributions, grants, endowments, fees, or gifts in cash or
5 otherwise from public and private sources including
6 corporations, businesses, foundations, governments, individuals,
7 and other sources subject to rules adopted by the board. The
8 State may appropriate moneys to the connector[-] via the
9 surcharges collected pursuant to section 435H-B. As required by
10 section 1311(d)(5)(A) of the Federal Act, the connector shall be
11 self-sustaining by January 1, 2015, and may charge assessments
12 or user fees to participating health and dental carriers, or may
13 otherwise generate funding to support its operations. Moneys
14 received by or under the supervision of the connector shall not
15 be placed into the state treasury and the State shall not
16 administer any moneys of the connector nor be responsible for
17 the financial operations or solvency of the connector. The
18 surcharge authorized by the connector shall cease to be
19 collected once the surcharge authorized pursuant to section
20 435H-B is instituted."

21 SECTION 5. In codifying the new sections added by section
22 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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

6



Report Title:

Hawaii Health Connector; Hawaii Health Insurance Exchange Special Fund; Hawaii Health Insurance Exchange Surcharge; Budget Request; Sustainability

Description:

Designates the Hawaii health connector as the health insurance exchange for the State of Hawaii. Establishes the Hawaii health insurance exchange special fund. Beginning January 1, 2015, assesses a Hawaii health insurance exchange surcharge of .345 per cent of the premiums derived from the sale of comprehensive medical insurance plans, including dental plans, in the State, to be deposited into the Hawaii health insurance exchange special fund. Requires the board of directors of the connector to prepare and submit to the legislature a fully documented biennial budget request for the connector. Permits the legislature to annually appropriate funds collected from the surcharge to the Hawaii health insurance exchange. Clarifies that the connector must submit the results of the connector's annual audit to the legislature. (SD1)

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