

JAN 29 2015

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## A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH CONNECTOR.

**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 required states to establish health insurance exchanges to  
4 connect buyers and sellers of health and dental insurance and  
5 facilitate the purchase and sale of federally qualified health  
6 insurance plans and qualified dental plans. Hawaii's health  
7 insurance exchange, known as the Hawaii health connector  
8 (connector), stated in its January 2015 annual report that it is  
9 on the path to financial self-sustainability and could reach a  
10 surplus by 2022. However, increased engagement and  
11 participation by insurers in the connector will be a critical  
12 factor to increase enrollment and achieve self-sustainability as  
13 quickly as possible.

14           The legislature further finds that the Affordable Care Act  
15 allows states to elect to permit the sale of fully-insured large  
16 group health plans through state health exchanges. If a state  
17 chooses this option, the same insurance market reforms that



1 currently apply to fully-insured group health plans purchased by  
2 small employers will apply to the fully-insured large group  
3 health insurance market. Enabling the Hawaii health connector  
4 to offer large group coverage to insurers is one option for  
5 increased insurer participation in the connector.

6 The legislature additionally finds that the small business  
7 health options program (SHOP) participation provision is a  
8 qualified health plan certification requirement that links  
9 certification of a qualified health plan insurer in the  
10 individual market to SHOP participation. Adopting the federal  
11 interpretation of the participation provision will increase  
12 health insurer participation in the Hawaii health connector, by  
13 requiring all health insurers with more than 20 per cent of the  
14 market share to participate in the connector's SHOP market.

15 The legislature also finds that section 1304(b)(2) of the  
16 Affordable Care Act defines a small employer as an employer who  
17 employs an average of at least one but not more than one hundred  
18 employees. Amending the definition of "small employer" in  
19 section 431:2-201.5, Hawaii Revised Statutes, to conform to the  
20 definition in section 1304(b)(2) of the Affordable Care Act may



1 help expand the potential market for small businesses in the  
2 Hawaii health connector's small business health options program.

3       The legislature further finds that states currently have  
4 the option to permit health insurers to continue certain  
5 insurance policies that would otherwise be canceled due to the  
6 requirements of the Affordable Care Act. These transitional  
7 renewal policies, also known as grandmothers health plans,  
8 contain some of the features of the Affordable Care Act but are  
9 not considered out of compliance with certain reforms of the  
10 Act, if specific conditions are met. States may not extend  
11 these plans to policy years beginning after October 1, 2016, but  
12 may elect to end the transitional period at an earlier date.  
13 Ending transitional renewal policies by January 1, 2016, will  
14 increase the number of individuals and small businesses that  
15 could compare plans offered through the connector and will  
16 ensure that all plans offered in Hawaii are fully compliant with  
17 the Affordable Care Act.

18       The legislature also finds that under the federal  
19 Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA),  
20 employers sponsoring group health plans to covered employees  
21 must provide an initial notice about the ability to continue



1 insurance coverage under COBRA. The federal Department of Labor  
2 also requires employers covered by the Fair Labor Standards Act  
3 to provide written notice to employees about potential insurance  
4 coverage available through state health insurance marketplaces.  
5 Requiring health insurers to provide notice about the connector  
6 will therefore ensure that more people are aware of their health  
7 insurance options under COBRA and the connector.

8 The purpose of this Act is to:

- 9 (1) Enable the Hawaii health connector to offer large  
10 group coverage to insurers;
- 11 (2) Require insurer participation in the connector if an  
12 insurer has a share of the small group market in the  
13 State that exceeds twenty per cent;
- 14 (3) Expand the potential small businesses market in the  
15 connector by amending the current definition of "small  
16 employer" under section 431:2-201.5, Hawaii Revised  
17 Statutes;
- 18 (4) End transitional renewal policies, beginning  
19 January 1, 2016; and
- 20 (5) Require health insurers to provide notice to group  
21 health plans offering continuation coverage about



1 options to secure affordable coverage under the Hawaii  
2 health connector.

3 SECTION 2. Chapter 435H, Hawaii Revised Statutes, is  
4 amended by adding four new sections to be appropriately  
5 designated and to read as follows:

6 "§435H- Large group coverage. Beginning on January 1,  
7 2017, the State shall allow the connector to offer large group  
8 coverage to insurers, as permitted in section 1312(f)(2)(b) of  
9 the Federal Act.

10 §435H- Insurer participation. If an insurer has a share  
11 of the small group market in the State that exceeds twenty per  
12 cent, as determined from the most recent earned premiums data  
13 reported to the commissioner, that insurer shall be required to  
14 offer coverage on the connector.

15 §435H- Transitional renewal policies. Beginning January  
16 1, 2016, the State shall cease permitting transitional renewal  
17 policies issued by insurers. All policies issued or renewed  
18 after this date shall be in compliance with the Federal Act,  
19 including the requirements of sections 2701, 2702, 2703, 2704,  
20 2705, 2706, 2707, and 2709 of the Federal Act.



1           §435H- Consolidated Omnibus Budget Reconciliation Act;  
2 notification. In addition to the requirements under the federal  
3 Consolidated Omnibus Budget Reconciliation Act of 1985, all  
4 insurers shall provide notice to group health plans that offer  
5 continuation coverage to employees, former employees, spouses,  
6 former spouses, and dependent children regarding options to  
7 secure affordable coverage through the connector, including the  
8 official website, telephone number, similar health insurance  
9 plans, and the availability of advance premium tax credits and  
10 cost-sharing reductions."

11           SECTION 3. Section 431:2-201.5, Hawaii Revised Statutes,  
12 is amended by amending subsection (b) to read as follows:

13           "(b) The following definitions shall be used when applying  
14 title 42 United States Code section 300gg, et seq.:

15           "Employee" means an employee who works on a full-time basis  
16 with a normal workweek of twenty hours or more.

17           "Group health issuer" means all persons offering health  
18 insurance coverage to any group or association, but shall not  
19 include those persons offering benefits exempted from title I of  
20 the Health Insurance Portability and Accountability Act of 1996,  
21 P.L. 104-191, under sections 732(c) and 733(c) of title I of the



1 Employee Retirement Income Security Act of 1974 and sections  
2 2747 and 2791(c) of the Public Health Service Act.

3 "Small employer" means, in connection with a group health  
4 plan with respect to a calendar year and a plan year, an  
5 employer who employed an average of at least one but no more  
6 than [~~fifty~~] one hundred employees on business days during the  
7 preceding calendar year and who employs at least one employee on  
8 the first day of the plan year."

9 SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2015.  
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# S.B. NO. 1338

**Report Title:**

Hawaii Health Connector; Insurers; Participation; Large Group Coverage; Small Employers; Transitional Renewal Policies; Notification

**Description:**

Enables the Hawaii health connector to offer large group coverage to insurers. Requires insurer participation in the connector if an insurer has a share of the small group market in the State that exceeds 20 per cent. Expands the potential small businesses market in the connector by amending the current definition of "small employer" under section 431:2-201.5, Hawaii Revised Statutes. Beginning January 1, 2016, ends transitional renewal policies in Hawaii. Requires health insurers to provide notice to group health plans offering continuation coverage about options to secure affordable coverage under the connector.

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