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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Monday, February 9, 2015
2:30 p.m.

TESTIMONY ON HOUSE BILL NO. 725 – RELATING TO THE INSURANCE PREMIUM TAX.

TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department opposes this bill and submits the following comments:

The purpose of this bill is to impose, from July 1, 2015, to June 30, 2017, an insurance premium tax on mutual benefit societies ("MBSs") and health maintenance organizations ("HMOs") but to exempt them from the tax if they do not file for an insurance plan rate increase between January 1, 2015, and June 30, 2017.

Rate increases are necessary based on an insurer's loss experience and to ensure solvency and the ability to pay claims. In addition, chapter 431, article 14G of the Hawaii Revised Statutes regulates rate increases and provides that the Commissioner may approve rate increases unless they are excessive, inadequate, or unfairly discriminatory.

If MBSs and HMOs increase the rates of certain plans but not others, the premiums of the non-increased plans would still be subject to the premium tax, and this might offset the rate increase itself. If MBSs and HMOs instead increase the rates of all plans, they might raise the cost of premiums by passing the premium tax onto their policyholders.

Finally, if this bill were enacted as currently written, there may be an issue regarding the taxation of MBSs and HMOs, as they are nonprofits that have not previously been taxed.

We thank the Committee for the opportunity to present testimony on this matter.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INSURANCE PREMIUMS, Additional tax mutual benefit society or health maintenance organization

BILL NUMBER: SB 724; HB 725 (Identical)

INTRODUCED BY: SB by Baker; HB by McKelvey, Belatti, Evans, Morikawa and 3 Democrats

BRIEF SUMMARY: Amends HRS section 431:7-202 to provide that effective July 1, 2015, to June 30, 2017, a mutual benefit society or health maintenance organization that offers a health care insurance plan shall be subject to a gross premiums tax of 4.265% if they file for a rate increase between January 1, 2015 and June 30, 2017. If they don't file for a rate increase, then they would not be liable for the tax.

Repeals this act on June 30, 2017.

EFFECTIVE DATE: July 1, 2015

STAFF COMMENTS: Currently, insurance companies in the state are subject to the insurance premium tax in lieu of all other taxes. The rate for property and casualty insurance companies is 4.265%. Mutual benefit societies organized under HRS chapter 432, however, are immune from the premium tax. It turns out that large group health organizations, including HMSA and HDS, are organized as mutual benefit societies.

This bill proposes to use the tax system to curtail behavior lawmakers see as destructive, namely filing for a health care premium rate increase during these troubled economic times. So for this period of time the free market economy goes out the window. Also, isn't there a chance that the proposal would backfire? If, for example, one of the benefit societies finds it uneconomical to wait for the end of June 2017 to file for a rate increase, wouldn't it just file for an increase and include the tax? The result would be that the insurer would come out okay but the consumers would be clobbered twice, once to absorb the reasonable costs of the insurer and once to absorb the new tax.

Digested 2/6/15

Chamber of Commerce HAWAII
The Voice of Business

Testimony to the House Committee on Consumer Protection & Commerce
Monday, February 9, 2015 at 2:30 P.M.
Conference Room 325, State Capitol

LATE

RE: HOUSE BILL 725 RELATING TO THE INSURANCE PREMIUM TAX

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **opposes** HB 725, which temporarily imposes an insurance premium tax on mutual benefit societies and health maintenance organizations but exempts them from the tax if they do not file for an insurance plan rate increase during that period.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

While we appreciate the intent of the bill to keep health insurance premiums low, we oppose the method in which this bill tries to accomplish that. It is unrealistic to think that any business can operate year after year without some price increase. Insurers are no different. While we do recognize that they have an exemption, the practical matter is that they provide the bulk of the plans for most companies in Hawaii and will pass that tax onto businesses. This will again provide another cost to doing business in Hawaii.

One way for the legislature to keep health costs from increasing is to not add on any new mandates. While many of the proposed mandates are considered necessary to many in our community, they do add an additional cost. We offer this as a possible way to minimize inflation in premiums.

Thank you for the opportunity to testify.

1132 Bishop Street, Suite 2105 • Honolulu, Hawaii 96813 • Phone: (808) 545-4300 • Facsimile: (808) 545-4369

LATE

February 9, 2015

The Honorable Angus L. K. McKelvey, Chair
The Honorable Justin H. Woodson, Vice Chair
House Committee on Consumer Protection and Commerce

Re: HB 725 – Relating to the Insurance Premium Tax

Dear Chair McKelvey, Vice Chair Woodson and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on HB 725, which seeks to authorize a temporary premium tax on mutual benefit societies and health maintenance organizations. HMSA opposes this Bill.

This Bill authorizes a temporary premium tax on the gross premiums collected by a mutual benefit society (MBS) or health maintenance organization (HMO). The tax is for the period July 1, 2015, through and including June 30, 2017. It allows the MBS or HMO to avoid the tax if it does not file for a rate increase during that 24-month period.

HB 725 raises several concerns

- The Bill does not specify the State fund into which tax receipts are to be deposited. Since the Insurance Commissioner is designated in the legislation to administer the tax, would the tax collections be deposited to the Compliance Resolution Fund? Or, is the intent for the revenue to accrue to the General Fund?

- The purposes for which the tax revenues are to be used are undefined. However, Section 1 of the Bill seems to suggest that the intent is to use the revenues to finance an unspecified program to address insurance rate increases:

  > The legislature finds that multiple insurance plan rate increases cause insurance premiums to rise beyond a level that can be absorbed by small businesses, and such rate increases continue to cripple the economy. The legislature intends that any insurance premium tax revenues, if any, generated by this Act be appropriated for program.

- The tax is set at a 4.265 percent rate on all gross premium receipts. That liability cannot be absorbed and, ultimately, will be passed on to our members. That consequence would exacerbate the concern raised in Section 1 of the HB 725 - rising rate increases for small businesses.

- While the tax authorized in the Bill is for a limited period, we are concerned, once established the tax will be extended in the future, potentially indefinitely.

Thank you for the opportunity to testify in opposition to HB 725, and we ask that you defer this Bill.

Sincerely,

Jennifer Diesman
Vice President
Government Relations

KAISER PERMANENTE® Government Relations

Testimony of Phyllis Dendle
Director, Government Relations

LATE

Before:
House Committee on Consumer Protection & Commerce
The Honorable Angus L.K. McKelvey, Chair
The Honorable Justin H. Woodson, Vice Chair

February 9, 2015
2:30 pm
Conference Room 325

Re: HB 725 Relating to Insurance Premium Tax

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on this bill regarding the temporary imposition of an insurance premium tax on mutual benefit societies and health maintenance organizations, but exempting those organizations if they do not file for an insurance plan rate increase during the period from January 1, 2015 to June 30, 2017 (the "Temporary Period").

Kaiser Permanente strongly opposes this bill.

Kaiser recognizes the well-intended purpose of this bill and its sponsors, which is to curtail the escalation of health care costs by suspending any rate increases by mutual benefit societies and health maintenance organizations during the Temporary Period. The bill, which is based on incorrect assumptions about (i) the premium tax waiver, (ii) not for profit tax exempt organizations, and (iii) rate setting and filing, raises concerns that could result in unintended consequences.

The bill ignores that the carriers' establishment of rates takes into account a number of factors. The use of the premium tax as a disincentive to force carriers, like Kaiser, to not increase its rates circumvents the current rate filing and approval process administered by the Insurance Commissioner, as more fully described below:

- Rate filings by carriers are determined, in part, by increases in expenses, such as the cost of ACA-mandated provisions increase in cost of pharmaceuticals and other medical supplies, etc.. The bill creates an artificial, heavy handed, financial disincentive to filing rate increases, which does not take into account these health care cost increases and could generate losses and solvency concerns, in the long term.

- Retroactive application of this bill is impractical and unworkable. Rates for 2015 have been filed, approved, and the plans have been or are being sold. The withdrawing of a rate after the

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plan it is sold (Page 3, Lines 10 to 15) is problematic as it could expose carriers to contractual liability and result in market disruption.

- Medicare rates for 2015 have been filed with CMS, approved, and are being used. CMS has strict deadlines for filing and approval of rate changes. The deadline for 2015 was June 2, 2014. Commercial rates, likewise, for 2015 have been filed with the Insurance Department, approved, and are being used. The retroactive application of this bill for 2015 could result in substantial logistical impacts and financial losses. Since the temporary period commenced on January 1, 2015, a rate increase by a carrier effective in January 2015 would result in retroactive implementation of the premium tax, which would be a significant unbudgeted expense for carriers.

- "Rate increase," as this term is used in the bill (Page 3, Line 12), is unclear. Does this term apply to an aggregate increase in rates across all of the carrier's lines of business or on each and every any line of business? For 2015, Kaiser submitted a number of rate filings, some of which were for small lines of business that were running at losses before factoring in any inflationary/trend impact.

- The bill presumes that mutual benefit societies and health maintenance organizations are generating significant operating gains. We do not believe this to be the case certainly not for Kaiser Hawaii. Thus, we do not believe that the carriers would be able to support no rate increases, as this will likely result in operating losses and, if unchecked, in the long term, solvency concerns.

- Other unintended consequences could occur as a result of this bill. Since the term, "rate increase," is unclear in the bill, a 1% rate increase would result in the imposition of the 4.265% premium tax, which when added to the rate increase will actually place a greater financial burden on the consumer than the original planned rate increase..

As a not for profit, public benefit corporation, Kaiser Foundation Health Plan, Inc. is exempt from paying the premium tax. Kaiser Foundation Health Plan, Inc. is a nonprofit, organization exempt from paying federal and state taxes. This is a privilege that we take seriously. Net earnings from operations are reinvested into operations, facilities, services, and the communities we serve, all to improve health care, quality of services, and communities. Our community benefit, donations made to in 2014 was $1.2 million to promote community health in collaboration with community, public and private partners. Also, in 2013, we helped leverage $50 Million in new and untapped federal funding to promote health in Hawaii. Examples of grantees include Hawaii Departments of Education and Health, The Hawaii Primary Care Association, Adult Friends for Youth, Project Vision, and Hawaii 5210.

The imposition of a premium tax and/or creating a disincentive to appropriate rate increases would severely impact Kaiser Hawaii's ability to re-invest revenue in its health care operations, service and community giving.

Based on the foregoing, we urge the committee to hold this bill.

Thank you for your consideration.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 08, 2015 8:03 AM
To: CPCtestimony
Cc: cwatanabe@unitehere5.org
Subject: *Submitted testimony for HB725 on Feb 9, 2015 14:30PM*

LATE

HB725
Submitted on: 2/8/2015
Testimony for CPC on Feb 9, 2015 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joli Tokusato	UNITE HERE Local 5	Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE TESTIMONY

UNITE HERE!
LOCAL 5 HAWAII

Eric Gill, Financial Secretary-Treasurer *Hernando Ramos Tan, President* *Godfrey Maeshiro, Senior Vice-President*

Saturday, February 7, 2015

The Honorable Angus McKelvey, Chair
and Members
Committee on Consumer Protection and Commerce
Hawaii State House of Representatives

TESTIMONY submitted on behalf of UNITE HERE! Local 5
Re: HB 725, Relating to the insurance premium tax

Chair McKelvey and members:

UNITE HERE Local 5 is a local labor organization representing 10,500 hotel, health care and food service workers employed throughout our State. We stand in strong support of HB 725 and ask for your Committee's support in advancing the measure.

HB 725 is designed to acknowledge the growing cost of health care in our State, and at the same time recognize the hardships often placed on small businesses as a result of multiple insurance plan rate increases handed down by our State's highly profitable and non-profit health maintenance organizations.

HB 725 simply seeks to restore fairness for consumers and taxpayers of our community. As taxpayers, we should not be handing down tax incentives to non-profit HMO's who in return ask the State for increases, year after year, to their plans.

Take for example Kaiser Permanente, the State's largest HMO.

Kaiser Permanente Net Income:		*Kaiser Permanente Rate Increases (for groups)	
2010	$1.99 Billion	2010	10.7%
2011	$2.01 Billion	2011	12.6 %
2012	$2.59 Billion	2012	8.8%
2013	$2.68 Billion	2013	5.3%
2014 (first 9 months)	$3.10 Billion	2014	5.0%

**These numbers are an average and come from the State's Insurance Commission filings. Kaiser negotiates different rate increases with each group, but these numbers reflect the weighted average that the Insurance Commission approved. For instance, the 2012 filing with the Insurance Commission says that Kaiser could increase any one group's premium by anywhere from 0% to 30%. On average though, it was 8.8%.*

Kaiser Permanente has a total net worth of $25.9 Billion. In 2012 - the most recent year for which data is available, the top 50 executives at Kaiser (including the Hawaii Region CEO) got an average compensation of over $1.2 million each. In the first three quarters of 2014 alone Kaiser Permanente posted $3.1 billion in profit – an amount equal to $11 million a day, every day of the year. At the same time, more than 1,800 unionized workers at Kaiser Permanente here in Hawaii just concluded a week-long statewide strike – the first in almost 30 years. Medical assistants, receptionists, and housekeepers, were among the strong majority of workers who were on strike protesting changes implemented by Kaiser that hurt patient care, such as closing urgent care clinics and the laying off workers.

We ask for the Committee's support in moving HB 725 forward.

1516 South King Street • Honolulu, Hawaii • 96826-1912 • Phone (808) 941-2141 • Fax (808) 941-2166 • www.unitehere5.org

LATE

The Honorable Angus McKelvey, Chair and Members
Committee on Consumer Protection and Commerce
Hawaii State House of Representatives

TESTIMONY in support of HB 725 relating to the insurance premium tax

Chair McKelvey and members:

I'm Grace Esperanza. I'm a Kaiser employee for 12 years. I'm a ward clerk in the Clinical Decision Unit. I'm one of the 1800 employees who was on strike last week. I'm one of the Local 5 members who met with elected officicals last week.

YES! I support House Bill 725. I believe as an employee for 12 years I have witness Kaiser Thrive and profit 11 millions dollars a day. But still Kaiser managed to SHUT DOWN the Urgent Care at the Honolulu Clinic; where tax payers are able to go for non emergency care. Further more, the WORK LOAD is beyond your imagination. For example, in the hospital setting where tax payers are in need one-on-one care are expected to wait. The ratios are 20 patients to 1 nurses aide and 5 patients to 1 nurse.

I'm telling you this so you can open your eyes and know how KAISER operates. It's NOT FAIR! Kaiser is failing workers and this community. It's NOT FAIR for tax payers. Not to mention KAISER IS profitting 11 million dollars a day and yet KAISER claims they are NON-PROFIT.

It's NOT FAIR! For tax payers. KAISER IS THRIVING while the community are hurting by increasing their premium year after year.

It's NOT FAIR! For tax payers AT ALL! Why should a non-profit HMO like Kaiser – making billions of dollars, building new buildings, be afforded a tax break and yet be allowed to raise their rates year after year. Why should we, as taxpayers, let this happen.

Sincerely,
Gracie Esperanza