
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Health insurance exchanges are a central
2 component of the federal Patient Protection and Affordable Care
3 Act, and the federal act gives states broad discretion in
4 establishing the structure and governance of their own
5 exchanges. The legislature finds that the Hawaii health
6 connector was established by Act 205, Session Laws of Hawaii
7 2011, as Hawaii's health insurance exchange and was charged with
8 the responsibility of implementing applicable parts of the
9 federal act.

10 The successful and efficient operation of the Hawaii health
11 connector is essential for the State, health insurers, and
12 insured persons in Hawaii to comply with the new requirements of
13 the federal act. The legislature also finds that the Hawaii
14 health connector was established as a private nonprofit entity,
15 rather than a state agency, to provide the connector with a
16 certain degree of freedom and autonomy in establishing and
17 operating the State's health insurance exchange.



1 However, the legislature believes that evolving federal
2 health care regulations and the need for greater transparency
3 and oversight over Hawaii's health insurance exchange
4 necessitate that the State revise the structure of the Hawaii
5 health connector's board of directors. In addition, the
6 legislature finds that the Hawaii health connector should engage
7 with advisory groups that represent various stakeholder
8 interests and allow for their input and recommendations for the
9 activities of the connector. The legislature also believes that
10 it should take a proactive oversight role to monitor the
11 connector and review its financial and operational plans.

12 The Patient Protection and Affordable Care Act mandates
13 health insurance exchanges to be self-sustaining beginning in
14 January 2015. The legislature further recognizes that the long-
15 term financial sustainability of the Hawaii health connector
16 must be facilitated in a way that promotes competition and
17 ensures equity among the competitors. The legislature finds
18 that a sustainability fee on insurers is an appropriate
19 financing method that will strike a proper balance by promoting
20 competition, facilitating a self-sustaining health insurance
21 exchange market, and maintaining reasonable health insurance
22 rates.



1 The purpose of this Act is to:

- 2 (1) Provide for greater transparency, stakeholder
- 3 engagement, and legislative involvement in the
- 4 activities of the Hawaii health connector; and
- 5 (2) Provide for the long-term sustainability of the Hawaii
- 6 health connector by authorizing the insurance
- 7 commissioner to assess a fee on all issuers selling
- 8 plans, both inside and outside of the connector.

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

12 "§435H-A Consumer, patient, business, and health care
13 advisory group. The board shall establish a consumer, patient,
14 business, and health care advisory group to provide input and
15 recommendations to the board. The advisory group shall reflect
16 geographic diversity and a diversity of interests. Members
17 shall include individuals with education, training, or
18 professional experience in the fields of consumer advocacy,
19 patient advocacy, public health, health care provision,
20 economics, financial management, risk management, and small
21 business. Members of the advisory group shall serve in an
22 advisory capacity only and shall not be considered members of



1 the board. Members shall not be compensated but may be
2 reimbursed for necessary expenses incurred in the performance of
3 their duties.

4 §435H-B Health insurers advisory group. The board shall
5 establish a health insurers advisory group to provide input and
6 recommendations to the board. Members shall consist of
7 representatives of the insurers that offer qualified plans or
8 qualified dental plans through the connector. Members of the
9 advisory group shall serve in an advisory capacity only and
10 shall not be considered members of the board; provided that two
11 advisory group members selected from among the advisory group
12 membership shall serve as nonvoting members of the board.

13 Members of the advisory group shall not be compensated but may
14 be reimbursed for necessary expenses incurred in the performance
15 of their duties.

16 §435H-C Insurance producers advisory group. The board
17 shall establish an insurance producers advisory group to provide
18 input and recommendations to the board. The advisory group
19 shall reflect geographic diversity and members shall include
20 insurance agents and brokers that sell qualified plans through
21 the connector. Members of the advisory group shall serve in an
22 advisory capacity only and shall not be considered members of

1 the board. Members shall not be compensated but may be
2 reimbursed for necessary expenses incurred in the performance of
3 their duties.

4 §435H-D Connector legislative oversight committee. (a)

5 There is created the connector legislative oversight committee,
6 which shall consist of the following members:

7 (1) Two members of the house standing committee on
8 consumer protection and commerce;

9 (2) Two members of the house standing committee on health;

10 (3) Two members of the house standing committee on
11 finance;

12 (4) Two members of the senate standing committee on
13 commerce and consumer protection;

14 (5) Two members of the senate standing committee on
15 health; and

16 (6) Two members of the senate standing committee on ways
17 and means.

18 Members of the connector legislative oversight committee
19 shall be appointed by the senate president and the speaker of
20 the house of representatives, respectively, provided that one
21 appointment from each house shall be a member of the minority
22 party selected by the minority leader.



1 (b) The committee shall select co-chairs from among its
2 members and shall meet at the call of the co-chairs as often as
3 is needed.

4 (c) The committee shall promote and protect the interests
5 of the residents of Hawaii by reviewing the financial and
6 operational plans of the connector and providing input and
7 recommendations to the board.

8 (d) The committee shall annually review the sustainability
9 plan that is submitted by the board pursuant to section 435H-F
10 and shall recommend to the commissioner the amount of the Hawaii
11 health connector universal federally mandated sustainability fee
12 that shall be assessed in the upcoming fiscal year.

13 §435H-E Agents and brokers. Certified insurance agents
14 and brokers may enroll individuals and employers in qualified
15 plans through the connector and assist individuals and employers
16 in applying for applicable premium tax credits and cost-sharing
17 reductions for which they may be eligible. The commissioner
18 shall adopt rules for certifying insurance agents and brokers
19 pursuant to this section; provided that the rules shall include
20 qualifications and educational requirements for agents and
21 brokers that comply with the federal act.



1 §435H-F Hawaii health connector universal federally
2 mandated sustainability fee; annual sustainability plan. (a)
3 No later than twenty days prior to the convening of each regular
4 session of the legislature, the board shall submit a
5 sustainability plan to the connector legislative oversight
6 committee and the commissioner that specifies the amount of
7 funding required to finance the operations and cash reserve of
8 the connector for each ensuing fiscal year beginning on July 1;
9 provided that the balance of the cash reserve does not exceed
10 the value of the cost of three months of administering and
11 operating the connector.

12 (b) The sustainability plan submitted pursuant to
13 subsection (a) shall include a detailed itemized budget based
14 upon zero-based budgeting principles for the upcoming fiscal
15 year and a detailed justification for the release of moneys from
16 the Hawaii health connector sustainability special fund pursuant
17 to section 435H-G. For the purposes of formulating the budget,
18 "zero-based budgeting principles" means that the Hawaii health
19 connector shall justify all projected allocations and
20 expenditures, starting with an initial balance of zero dollars
21 to spend.



1 (c) Any other provision notwithstanding, beginning on July
2 1, 2015, and on each July 1 thereafter, the commissioner, taking
3 into account the recommendation of the connector legislative
4 oversight committee, may assess upon and collect from each
5 insurer the Hawaii health connector universal federally mandated
6 sustainability fee. The fee shall be assessed upon a pro rata
7 basis, based upon the number of individuals covered by each
8 insurer on the preceding December 31, excluding individuals
9 covered under a medicaid plan pursuant to Title XIX of the
10 Social Security Act, 42 U.S.C. section 1396 et seq. At the
11 discretion of the commissioner, the fee or a percentage thereof
12 may be assessed upon and collected from each dental insurer
13 subject to chapter 432G. The total of all revenues collected
14 from the fee shall not exceed the amount of funding required to
15 finance the operations and cash reserve of the connector as
16 specified in subsection (a).

17 §435H-G Hawaii health connector sustainability special
18 fund. (a) There is established the Hawaii health connector
19 sustainability special fund, into which shall be deposited:

20 (1) Hawaii health connector universal federally mandated
21 sustainability fee revenues collected pursuant to
22 section 435H-F; and



1 (2) Any appropriations that may be made by the legislature
2 to the fund.

3 Moneys in the Hawaii health connector sustainability
4 special fund shall not be considered part of the general fund.

5 (b) Moneys in the Hawaii health connector sustainability
6 special fund are to be expended by the commissioner only as
7 provided in this subsection. Moneys in the special fund shall
8 be transferred to the connector according to procedures
9 established by the commissioner and shall only be used for the
10 administration, operations, and prudent cash management of the
11 connector.

12 (c) The Hawaii health connector sustainability special
13 fund shall be audited annually by an independent auditor
14 retained by the connector. The auditor's report of each annual
15 audit shall be submitted to the commissioner and the connector
16 legislative oversight committee not later than thirty days from
17 the date the audit report is received by the connector."

18 SECTION 3. Section 435H-2, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) There is established the Hawaii health insurance
21 exchange to be known as the Hawaii health connector. The
22 connector shall be a nonprofit unincorporated entity. The



1 connector shall be an instrumentality of the State; provided
2 that the debts and liabilities of the connector shall not
3 constitute the debts and liabilities of the State; provided
4 further that the connector shall not be considered an agency of
5 the State and shall not be subject to laws or rules regulating
6 rulemaking, public employment, or public procurement. [The
7 ~~connector shall be a Hawaii nonprofit corporation organized and~~
8 ~~governed pursuant to chapter 414D, the Hawaii nonprofit~~
9 ~~corporations act.]~~

- 10 (b) The purposes of the connector shall include:
- 11 (1) Facilitating the purchase and sale of qualified plans
12 and qualified dental plans;
- 13 (2) Connecting consumers to the information necessary to
14 make informed health care choices; [and]
- 15 (3) Enabling consumers to purchase coverage and manage
16 health and dental plans electronically[-]; and
- 17 (4) Performing any and all other duties required of a
18 health insurance exchange pursuant to the federal
19 act."

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



1 "~~+~~§435H-3~~+~~ Funding. (a) The connector may receive
2 contributions, grants, endowments, fees, or gifts in cash or
3 otherwise from public and private sources including
4 corporations, businesses, foundations, governments, individuals,
5 and other sources subject to rules adopted by the board. The
6 State may appropriate moneys to the connector. As required by
7 section 1311(d)(5)(A) of the Federal Act, the connector shall be
8 self-sustaining by January 1, 2015, and may charge assessments
9 or user fees to participating health and dental carriers, or may
10 otherwise generate funding to support its operations. Moneys
11 received by or under the supervision of the connector shall not
12 be placed into the state treasury and the State shall not
13 administer any moneys of the connector nor be responsible for
14 the financial operations or solvency of the connector~~-~~ except
15 as provided in section 435H-G.

16 (b) In addition to any other means of generating revenue
17 pursuant to subsection (a), the connector may charge fees for
18 displaying advertisements for ancillary services on the
19 connector's website."

20 SECTION 5. Section 435H-4, Hawaii Revised Statutes, is
21 amended by amending subsections (a) through (c) to read as
22 follows:



1 "(a) The ~~[Hawaii health]~~ connector shall be ~~[a nonprofit~~
2 ~~entity]~~ governed by a board of directors that shall comprise
3 ~~[fifteen]~~ twelve members as follows:

4 (1) The director of commerce and consumer affairs or the
5 director's designee, who shall be an ex officio
6 nonvoting member;

7 (2) The director of human services or the director's
8 designee, who shall be an ex officio nonvoting member;

9 (3) The healthcare transformation coordinator, who shall
10 be an ex officio nonvoting member;

11 (4) Three members who shall be appointed by the governor
12 ~~[and with the advice and consent of the senate~~
13 ~~pursuant to section 26-34; provided that the governor~~
14 ~~shall submit nominations to the senate for advice and~~
15 ~~consent no later than February 1, 2012; and provided~~
16 ~~further that the senate shall timely advise and~~
17 ~~consent to nominations for terms to begin July 1,~~
18 ~~2012. Members of the interim board shall be eligible~~
19 ~~for appointment to the board.];~~

20 (5) Two members who shall be appointed by the president of
21 the senate;



1 (6) Two members who shall be appointed by the speaker of
2 the house of representatives; and

3 (7) Two members who shall be appointed by the health
4 insurers advisory group from among its members, who
5 shall be nonvoting members.

6 The board shall elect one of its members as the chairperson of
7 the board. The board, by majority vote, may remove or suspend
8 for cause any member after due notice and public hearing.

9 (b) The membership of the board shall reflect geographic
10 diversity and the diverse interests of stakeholders including
11 consumers, employers, insurers, and dental benefit providers.

12 Each person appointed to the board shall have education,
13 training, or professional experience in at least one of the
14 following areas:

15 (1) Health care policy;

16 (2) Health benefits plan administration, including
17 medicaid administration;

18 (3) Health insurance;

19 (4) Health care financing and purchasing;

20 (5) Health care delivery;

21 (6) Information technology; or

22 (7) Economics and actuarial science.



1 In making appointments, the appointing authorities shall
2 consider the background and expertise of all members of the
3 board and the geographic, socioeconomic, and other
4 characteristics of the State, so that the board's composition
5 reflects a diversity of expertise, skills, and background
6 relevant to the State; provided that members appointed pursuant
7 to subsection (a)(4) through (7) shall not be employees of the
8 State.

9 ~~[The director of commerce and consumer affairs or the~~
10 ~~director's designee, the director of health or the director's~~
11 ~~designee, the director of human services or the director's~~
12 ~~designee, and the director of labor and industrial relations or~~
13 ~~the director's designee shall be ex officio, voting members of~~
14 ~~the board.~~

15 ~~The director of commerce and consumer affairs, the director~~
16 ~~of health, the director of human services, and the director of~~
17 ~~labor and industrial relations may select a designee for a~~
18 ~~specified meeting or meetings. Such selection of the designee~~
19 ~~shall be submitted in writing to the board of directors prior to~~
20 ~~or at the meeting in which the designee will serve.]~~

21 (c) Board members shall serve staggered terms and the
22 interim board shall recommend an appropriate schedule for



1 staggered terms; provided that this subsection shall not apply
2 to [~~ex-officio members,~~] members appointed pursuant to
3 subsection (a)(1) through (3), who shall serve during their
4 [entire] term of office."

5 SECTION 6. In codifying the new sections added by section
6 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 7. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 8. This Act shall take effect on July 1, 2112.



Report Title:

Health; Hawaii Health Connector; Sustainability Fee

Description:

Reduces the membership of the Connector board of directors from fifteen to twelve members and changes the composition and voting status of the board. Creates the consumer, patient, business, and health care advisory group; health insurers advisory group; and the insurance producers advisory group to advise the Connector board of directors. Creates the Connector legislative oversight committee to review the financial and operational plans of the Connector. Establishes a sustainability fee to support operations of the Connector and establishes a special fund. Effective 07/01/2112. (HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

