

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 464

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAAF.

Offered January 24, 2012.

Senate Substitute adopted, January 24, 2012.

Taken up for Perfection January 24, 2012. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

4313S.03P

AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to the authority for creating and operating health insurance exchanges in Missouri, with a referendum clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.1186, to read as follows:

376.1186. 1. No state-based health benefit exchange may be established, created, or operated within this state in order to implement Section 1311 of the federal health care act, 42 U.S.C. Section 18031, or any other provision of the federal health care act that relates to the creation and operation of a state-based health benefit exchange, unless the authority to create or operate such an exchange is enacted into law through:

(1) A bill as prescribed by Article III of the Missouri Constitution;

(2) An initiative petition as prescribed by Article III, Section 50 of the Missouri Constitution; or

(3) A referendum as prescribed by Article III, Section 52(a) of the Missouri Constitution.

2. In no case shall the authority for establishing, administering, or operating a state-based health benefit exchange in Missouri be based upon an executive order issued by the governor of Missouri.

17 3. No department, agency, instrumentality or political
18 subdivision of the state of Missouri shall establish any program,
19 promulgate any rule, policy, guideline or plan or change any program,
20 rule, policy or guideline to implement, establish, create, administer or
21 otherwise operate a state-based health benefit exchange described in
22 the federal health care act unless such department, agency,
23 instrumentality or political subdivision has received statutory
24 authority to do so in a manner consistent with subsection 1 of this
25 section. No department, agency, instrumentality or political
26 subdivision of the state of Missouri shall act as an eligible entity as
27 described in Section 1311(f)(3)(B) of the federal health care act to
28 perform one or more of the responsibilities of a state-based health
29 benefit exchange unless authorized by statute or a regulation validly
30 promulgated pursuant to such statute.

31 4. No department, agency, instrumentality, or political
32 subdivision of this state shall apply for, accept or expend federal
33 moneys related to the creation, implementation or operation of a state-
34 based health benefit exchange or a federally-facilitated health benefit
35 exchange unless such acceptance or expenditure is authorized by
36 statute or an appropriations bill.

37 5. No department, agency, instrumentality, political subdivision,
38 public officer or employee of this state shall enter into any agreement
39 or any obligation to establish, administer, or operate a federally-
40 facilitated health benefit exchange described in Section 1321(c)(1) of
41 the federal health care act unless such department, agency,
42 instrumentality, political subdivision, public officer or employee of this
43 state has received statutory authority to enter into such agreements or
44 obligations. No department, agency, instrumentality, political
45 subdivision, public officer or employee of this state shall provide
46 assistance or resources of any kind to any department, agency, public
47 official, employee or agent of the federal government related to the
48 creation or operation of a federally-facilitated health benefit exchange
49 unless such assistance or resources are authorized by state statute or
50 a regulation promulgated thereto or such assistance or resources are
51 specifically required by federal law.

52 6. Any taxpayer of this state or any member of the general
53 assembly shall have standing to bring suit against the state of Missouri

54 or any official, department, division, agency, or political subdivision of
55 this state which is in violation of this section in any court with
56 jurisdiction to enforce the provisions of this section. The court shall
57 award attorney's fees, court costs, and all reasonable expenses incurred
58 by the taxpayer or member of the general assembly if the court finds
59 that the provisions of this section have been violated. Such attorney's
60 fees, court costs, and reasonable expenses shall be paid from funds
61 appropriated to the department, division, agency, or any political
62 subdivision of this state determined to have violated, in whole or in
63 part, the provisions of this section. In no case shall the award of
64 attorney's fees, court costs, or reasonable expenses be paid from the
65 legal defense fund, nor shall any department, division, agency, or
66 political subdivision of this state request, or be granted, additional
67 appropriations in order to satisfy an award made under this section.

68 7. As used in this section, the term "federal health care act" shall
69 mean the federal Patient Protection and Affordable Care Act, Public
70 Law 111-148, as amended by the federal Health Care and Education
71 Reconciliation Act of 2010, Public Law 111-152, and any amendments
72 thereto, or regulations or guidance issued under such federal acts.

73 8. As used in this section, the term "state-based health benefit
74 exchange" means a governmental agency or non-profit entity
75 established by the state of Missouri and not the federal government
76 that meets the applicable requirements of Section 1311 of the federal
77 health care act and regulations promulgated thereto and makes
78 qualified health care plans available to qualified individuals and
79 qualified employers. The term "state-based health benefit exchange"
80 includes regional or other interstate exchanges and subsidiary
81 exchanges as described in Section 1311(f)(1) and (2) of the federal
82 health care act. The term "federally-facilitated health benefit exchange"
83 means a health benefit exchange established and operated by the
84 Secretary of Health and Human Services under Section 1321(c)(1) of the
85 federal health care act, either directly or through agreement with a
86 not-for-profit entity.

Section B. This act is hereby submitted to the qualified voters of this state
2 for approval or rejection at an election which is hereby ordered and which shall
3 be held and conducted on Tuesday next following the first Monday in November,
4 2012, pursuant to the laws and constitutional provisions of this state for the

5 submission of referendum measures by the general assembly, and this act shall
6 become effective when approved by a majority of the votes cast thereon at such
7 election and not otherwise.

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Unofficial

Bill

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