



House of Representatives

File No. 594

General Assembly

February Session, 2012

(Reprint of File No. 5)

Substitute House Bill No. 5013
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 27, 2012

**AN ACT CONCERNING THE BOARD MEMBERS AND EMPLOYEES
OF THE CONNECTICUT HEALTH INSURANCE EXCHANGE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) to (c), inclusive, of section 38a-1081 of the
2 2012 supplement to the general statutes are repealed and the following
3 is substituted in lieu thereof (*Effective from passage*):

4 (a) There is hereby created as a body politic and corporate,
5 constituting a public instrumentality and political subdivision of the
6 state created for the performance of an essential public and
7 governmental function, to be known as the Connecticut Health
8 Insurance Exchange. The Connecticut Health Insurance Exchange shall
9 not be construed to be a department, institution or agency of the state.
10 The exchange shall serve both qualified individuals and qualified
11 employers.

12 (b) (1) (A) The powers of the exchange shall be vested in and
13 exercised by a board of directors, which, until the effective date of this
14 section, shall consist of eleven voting members. The appointment of

15 the initial board members shall be as follows:

16 [(A)] (i) The Governor shall appoint two board members, one of
17 whom shall have expertise in the area of individual health insurance
18 coverage and shall serve for a term of three years and one of whom
19 shall have expertise in issues relating to small employer health
20 insurance coverage and shall serve for a term of two years;

21 [(B)] (ii) The president pro tempore of the Senate shall appoint one
22 board member who shall have expertise in the area of health care
23 finance and shall serve for a term of four years;

24 [(C)] (iii) The speaker of the House of Representatives shall appoint
25 one board member who shall have expertise in the area of health care
26 benefits plan administration and shall serve for a term of four years;

27 [(D)] (iv) The majority leader of the Senate shall appoint one board
28 member who shall have expertise in the health care delivery systems
29 and shall serve for a term of two years;

30 [(E)] (v) The majority leader of the House of Representatives shall
31 appoint one board member who shall have expertise in the area of
32 health care economics and shall serve for a term of [one year] two
33 years;

34 [(F)] (vi) The minority leader of the Senate shall appoint one board
35 member who shall have expertise in health care access issues faced by
36 self-employed individuals and shall serve for a term of three years;

37 [(G)] (vii) The minority leader of the House of Representatives shall
38 appoint one board member who shall have expertise concerning
39 barriers to individual health care coverage and shall serve for a term of
40 two years;

41 [(H)] (viii) The Commissioner of Social Services, the Special Advisor
42 to the Governor on Healthcare Reform and the Secretary of the Office
43 of Policy and Management, or their designees, who shall serve as ex-
44 officio voting board members; and

45 [(I)] (ix) The Insurance Commissioner, the Commissioner of Public
46 Health and the Healthcare Advocate, or their designees, who shall
47 serve as ex-officio nonvoting board members.

48 (B) (i) On and after the effective date of this section, the board of
49 directors shall consist of sixteen voting members. The initial
50 appointment of additional board members shall be as follows, and
51 such appointments shall not affect the terms or appointments of the
52 board members set forth in subparagraph (A) of this subdivision:

53 (I) The president pro tempore of the Senate shall appoint one board
54 member who shall be a small employer and shall serve for a term of
55 three years;

56 (II) The speaker of the House of Representatives shall appoint one
57 board member who shall be an individual consumer of health care
58 services and shall serve for a term of three years. No individual
59 consumer appointed pursuant to this subparagraph shall be a small
60 employer;

61 (III) The majority leader of the Senate and the majority leader of the
62 House of Representatives shall jointly appoint one board member who
63 shall be an individual consumer of health care services and shall serve
64 for a term of two years; and

65 (IV) The minority leader of the Senate and the minority leader of the
66 House of Representatives shall jointly appoint one board member who
67 shall be a small employer and shall serve for a term of two years.

68 (ii) On and after the effective date of this section, the Healthcare
69 Advocate or the Healthcare Advocate's designee shall serve as an ex-
70 officio voting board member.

71 (2) (A) No [appointee] board member shall be employed by, a
72 consultant to, a member of the board of directors of, affiliated with or
73 otherwise a representative of (i) an insurer, (ii) an insurance producer
74 or broker, (iii) a health care provider, or (iv) a health care facility or

75 health or medical clinic while serving on the board [or on the staff] of
76 the exchange. For purposes of this subdivision, "health care provider"
77 means any person that is licensed in this state, or operates or owns a
78 facility or institution in this state, to provide health care or health care
79 professional services in this state, or an officer, employee or agent
80 thereof acting in the course and scope of such officer's, employee's or
81 agent's employment.

82 (B) No board member shall be a member of, a member of the board
83 of, a consultant to or an employee of a trade association of (i) insurers,
84 (ii) insurance producers or brokers, (iii) health care providers, or (iv)
85 health care facilities or health or medical clinics while serving on the
86 board [or on the staff] of the exchange.

87 (C) No board member shall be a health care provider unless such
88 member receives no compensation for rendering services as a health
89 care provider and does not have an ownership interest in a
90 professional health care practice.

91 (c) (1) All initial appointments of the board members set forth in
92 subparagraph (A) of subdivision (1) of subsection (b) of this section
93 shall be made not later than July 1, 2011. All initial appointments of the
94 board members set forth in subparagraph (B)(i) of subdivision (1) of
95 subsection (b) of this section shall be made not later than thirty days
96 after the effective date of this section. Following the expiration of such
97 initial terms, subsequent board [members] member terms shall be for
98 four years. Any vacancy shall be filled by the appointing authority for
99 the balance of the unexpired term. If an appointing authority fails to
100 make an initial appointment, or an appointment to fill a vacancy
101 within ninety days of the date of such vacancy, the appointed board
102 members may make such appointment by a majority vote. Any board
103 member previously appointed to the board or appointed to fill a
104 vacancy may be reappointed in accordance with this section. Any
105 board member may be removed for misfeasance, malfeasance or wilful
106 neglect of duty at the sole direction of the appointing authority.

107 (2) As a condition of qualifying as a member of the board of
108 directors, each appointee shall, before entering upon such member's
109 duties, take and subscribe the oath or affirmation required under
110 section 1 of article eleventh of the Constitution of the state. A record of
111 each such oath shall be filed in the office of the Secretary of the State.

112 (3) Appointed board members may not designate a representative to
113 perform in their absence their respective duties under sections 38a-
114 1080 to 38a-1090, inclusive. The Governor shall select a chairperson
115 from among the board members and the board members shall
116 annually elect a vice-chairperson. The chairperson shall schedule the
117 first meeting of the board, which shall be held not later than August 1,
118 2011. Meetings of the board of directors shall be held at such times as
119 shall be specified in the bylaws adopted by the board and at such other
120 time or times as the chairperson deems necessary. Any board member
121 who fails to attend more than fifty per cent of all meetings held during
122 any calendar year shall be deemed to have resigned from the board.

123 (4) [Six] Until all additional board members pursuant to
124 subparagraph (B)(i) of subdivision (1) of subsection (b) of this section
125 are appointed, six board members shall constitute a quorum for the
126 transaction of any business or the exercise of any power of the
127 exchange. On and after all such additional board members are
128 appointed, nine board members shall constitute a quorum for the
129 transaction of any business or the exercise of any power of the
130 exchange. For the transaction of any business or the exercise of any
131 power of the exchange, the exchange may act by a majority of the
132 board members present at any meeting at which a quorum is in
133 attendance. No vacancy in the membership of the board of directors
134 shall impair the right of such board members to exercise all the rights
135 and perform all the duties of the board. [Any] Except as otherwise
136 provided, any action taken by the board under the provisions of
137 sections 38a-1080 to 38a-1090, inclusive, may be authorized by
138 resolution approved by a majority of the board members present at
139 any regular or special meeting, which resolution shall take effect
140 immediately unless otherwise provided in the resolution.

141 (5) Board members shall receive no compensation for their services
142 but shall receive actual and necessary expenses incurred in the
143 performance of their official duties.

144 (6) Subject to the provisions of subdivision (2) of subsection (b) of
145 this section, board members may engage in private employment or in a
146 profession or business, subject to any applicable laws, rules and
147 regulations of the state or federal government regarding official ethics
148 or conflicts of interest.

149 (7) Notwithstanding any provision of the general statutes, it shall
150 not constitute a conflict of interest for a trustee, director, partner or
151 officer of any person, firm or corporation, or any individual having a
152 financial interest in a person, firm or corporation, to serve as a board
153 member of the exchange, provided such trustee, director, partner,
154 officer or individual shall abstain from deliberation, action or vote by
155 the exchange in specific request to such person, firm or corporation.

156 (8) Each board member shall execute a surety bond in the penal sum
157 of fifty thousand dollars, or, in lieu thereof, the chairperson of the
158 board shall execute a blanket position bond covering each board
159 member, the chief executive officer and the employees of the exchange,
160 each surety bond to be conditioned upon the faithful performance of
161 the duties of the office or offices covered, to be executed by a surety
162 company authorized to transact business in this state as surety and to
163 be approved by the Attorney General and filed in the office of the
164 Secretary of the State. The cost of each such bond shall be paid by the
165 exchange.

166 (9) No board member of the exchange shall, for one year after the
167 end of such member's service on the board, accept employment with
168 any health carrier that offers a qualified health benefit plan through
169 the exchange.

170 Sec. 2. Subsection (e) of section 38a-1081 of the 2012 supplement to
171 the general statutes is repealed and the following is substituted in lieu
172 thereof (*Effective from passage*):

173 (e) (1) (A) No employee of the exchange shall be employed by, a
174 consultant to, a member of the board of directors of, affiliated with or
175 otherwise a representative of (i) an insurer, (ii) an insurance producer
176 or broker, (iii) a health care provider, or (iv) a health care facility or
177 health or medical clinic while serving on the staff of the exchange. For
178 purposes of this subdivision, "health care provider" means any person
179 that is licensed in this state, or operates or owns a facility or institution
180 in this state, to provide health care or health care professional services
181 in this state, or an officer, employee or agent thereof acting in the
182 course and scope of such officer's, employee's or agent's employment.

183 (B) No employee of the exchange shall be a member of, a member of
184 the board of, a consultant to or an employee of a trade association of
185 [(A)] (i) insurers, [(B)] (ii) insurance producers or brokers, [(C)] (iii)
186 health care providers, or [(D)] (iv) health care facilities or health or
187 medical clinics while serving [on the board or] on the staff of the
188 exchange.

189 [(2)] (C) No employee of the exchange shall be a health care
190 provider unless [(A)] (i) (I) such employee receives no compensation
191 for rendering services as a health care provider, or [(ii)] (II) the chief
192 executive officer approves the hiring of such provider as an employee
193 on the basis that such provider fills an area of need of expertise for the
194 exchange, and [(B)] (ii) such employee does not have an ownership
195 interest in a professional health care practice.

196 [(3)] (2) No employee of the exchange shall, for one year after
197 terminating employment with the exchange, accept employment with
198 any health carrier that offers a qualified health benefit plan through
199 the exchange.

200 [(4)] (3) Any employee of the exchange whose primary purpose is to
201 assist individuals or small employers in selecting health insurance
202 plans offered on the exchange to purchase shall be licensed as an
203 insurance producer under chapter 701a not later than eighteen months
204 after such employee begins employment with the exchange.

205 (4) Any employee of the exchange may enroll in a group
206 hospitalization and medical and surgical insurance plan under
207 subsection (a) of section 5-259, provided the exchange reimburses the
208 appropriate state agencies for all costs incurred by such enrollment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-1081(a) to (c)
Sec. 2	<i>from passage</i>	38a-1081(e)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes a variety of changes to the composition of the board of the Connecticut Health Insurance Exchange (exchange). There is no fiscal impact.

In addition, the bill allows employees of the exchange the option of participating in the state employee health plan. The current number of exchange employees is estimated to be less than 50. The annual cost to the exchange for providing health benefits, assuming the same employer share as the state, will be up to \$670,000.

It is anticipated the number of employees who would be eligible to join the state employee plan is insignificant and therefore would not impact the risk of the state employee pool or the premium equivalent for the state and employees participating in the plan.

House "A" strikes the underlying bill and makes the aforementioned changes which do not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5013 (as amended by House "A")*****AN ACT CONCERNING THE BOARD MEMBERS OF THE CONNECTICUT HEALTH INSURANCE EXCHANGE.****SUMMARY:**

This bill:

1. adds four members to the Connecticut Health Insurance Exchange's board of directors, increasing the membership from 14 to 18;
2. makes the Healthcare Advocate, who is currently an *ex-officio* nonvoting board member, a voting board member;
3. increases, from six to nine, the number of board members that constitutes a quorum;
4. expands outside employment and affiliations restrictions applicable to exchange board members and staff; and
5. lengthens the term of the House majority leader's health care economist board appointee from one year to two years.

The bill allows exchange employees to enroll in the state employee health plan if the exchange pays the enrollment costs. It also makes technical changes.

*House Amendment "A":

1. adds four new exchange board members, instead of two as in the underlying bill;
2. lengthens two of the new members' terms by one year;

3. increases the necessary quorum;
4. expands the outside employment and affiliations restrictions for board members and exchange employees; and
5. allows exchange employees to enroll in the state employee health plan if the exchange pays the enrollment costs.

EFFECTIVE DATE: Upon passage

NEW BOARD APPOINTMENTS

The bill requires the legislative leaders to appoint four new voting board members within 30 days of the bill's effective date. The Senate president pro tempore must appoint a small employer (generally understood to mean an employer with up to 50 employees) to serve an initial three-year term. The House speaker must appoint an individual consumer of health care services who is not a small employer to serve an initial three-year term. The Senate and House majority leaders must jointly appoint an individual consumer of health care services to serve an initial two-year term. The Senate and House minority leaders must jointly appoint a small employer to serve an initial two-year term. Subsequent terms are four years.

OUTSIDE EMPLOYMENT AND AFFILIATIONS RESTRICTIONS

The law subjects exchange board members and staff to certain restrictions relating to their employment and affiliations. The bill expands upon these.

Specifically, under current law, board appointees cannot be employed by, serve as a consultant to, be a board member of, be affiliated with, or represent an insurer, insurance producer or broker, health care provider, health care facility, or health or medical clinic. The bill extends this restriction to all board members and staff.

Under current law, board members and staff cannot be members, board members, or employees of a trade association of insurers, insurance producers or brokers, health care providers, health care

facilities, or health or medical clinics. The bill prohibits them from also being consultants to such trade associations.

By law, additional restrictions apply to board members and staff (see BACKGROUND).

BACKGROUND

Exchange Board of Directors

PA 11-53 created the Connecticut Health Insurance Exchange as a quasi-public agency, which is empowered to help individuals and small employers obtain health insurance. The law vested the powers of the exchange in a board of directors, which currently includes the (1) insurance and public health commissioners and the Healthcare Advocate, or their designees, as ex-officio, nonvoting members and (2) social services commissioner, special advisor to the governor on healthcare reform, and Office of Policy and Management (OPM) secretary, or their designees, as ex-officio, voting members. The remaining eight voting board members were appointed by the governor and the legislative leaders. Table 1 shows current appointees and their qualifications and initial term.

Table 1: Appointed Exchange Board Members

<i>Appointing Authority</i>	<i>Required Expertise</i>	<i>Initial Term</i>
Governor	Individual health insurance coverage	Three years
Governor	Small employer health insurance coverage	Two years
Senate president pro tempore	Health care finance	Four years
House speaker	Health care benefits plan administration	Four years
Senate majority leader	Health care delivery systems	Two years
House majority leader	Health care economics	One year
Senate minority leader	Self-employed individuals' healthcare access issues	Three years
House minority leader	Barriers to individual health care coverage	Two years

After the initial terms expire, all subsequent terms are four years.

Vacancies must be filled by the appointing authority for the rest of the term. Members can be reappointed. They can be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty. They are not compensated, but may be reimbursed for expenses incurred in performing official duties. Appointed members may not designate a representative to perform in their absence.

Additional Outside Employment and Affiliations Restrictions

In addition to the restrictions described above, the law prohibits board members and staff from being health care providers unless they receive no compensation as providers and have no ownership interest in a professional health care practice. A staff member may also be a health care provider if the exchange's chief executive officer approves the hiring to fill an area of needed expertise.

Board members may engage in private employment or in a profession or business, subject to any federal or state laws, regulations, and rules regarding ethics and conflict of interest.

The law specifies that it does not constitute a conflict of interest for a trustee, director, partner, or officer of any person, firm, or corporation, or any individual having a financial interest in the person, firm, or corporation, to serve as a board member. But such a member must abstain from any deliberation, action, or vote relating to the person, firm, or corporation.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 20 Nay 0 (02/21/2012)

Government Administration and Elections Committee

Joint Favorable

Yea 9 Nay 2 (04/09/2012)