

HOUSE BILL NO. 3136

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KNIGHT.

6935H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 376.1186, RSMo, relating to state-based health benefit exchanges.

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

Section A. Section 376.1186, RSMo, is repealed, to read as follows: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.~~

~~3. No department, agency, instrumentality or political subdivision of the state of Missouri shall establish any program, promulgate any rule, policy, guideline or plan or change any program, rule, policy or guideline to implement, establish, create, administer or otherwise operate a state-based health benefit exchange described in the federal health care act unless such department, agency, instrumentality or political subdivision has received statutory authority to do so in a manner consistent with subsection 1 of this section. No department, agency, instrumentality or political subdivision of the state of Missouri shall act as an eligible entity as described in Section 1311(f) (3)(B) of the federal health care act to perform one or more of the~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

25 ~~responsibilities of a state-based health benefit exchange unless authorized by~~
26 ~~statute or a regulation validly promulgated pursuant to such statute.~~

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

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

46 ~~6. Any taxpayer of this state or any member of the general assembly~~
47 ~~shall have standing to bring suit against the state of Missouri or any official,~~
48 ~~department, division, agency, or political subdivision of this state which is in~~
49 ~~violation of this section in any court with jurisdiction to enforce the provisions~~
50 ~~of this section. The court shall award attorney's fees, court costs, and all~~
51 ~~reasonable expenses incurred by the taxpayer or member of the general~~
52 ~~assembly if the court finds that the provisions of this section have been~~
53 ~~violated. Such attorney's fees, court costs, and reasonable expenses shall be~~
54 ~~paid from funds appropriated to the department, division, agency, or any~~
55 ~~political subdivision of this state determined to have violated, in whole or in~~
56 ~~part, the provisions of this section. In no case shall the award of attorney's~~
57 ~~fees, court costs, or reasonable expenses be paid from the legal defense fund,~~
58 ~~nor shall any department, division, agency, or political subdivision of this state~~
59 ~~request, or be granted, additional appropriations in order to satisfy an award~~
60 ~~made under this section.~~

61 ~~7. As used in this section, the term "federal health care act" shall mean~~
62 ~~the federal Patient Protection and Affordable Care Act, Public Law 111-148,~~
63 ~~as amended by the federal Health Care and Education Reconciliation Act of~~
64 ~~2010, Public Law 111-152, and any amendments thereto, or regulations or~~
65 ~~guidance issued under such federal acts.~~

66 ~~8. As used in this section, the term "state-based health benefit~~
67 ~~exchange" means a governmental agency or nonprofit entity established by the~~
68 ~~state of Missouri and not the federal government that meets the applicable~~
69 ~~requirements of Section 1311 of the federal health care act and regulations~~
70 ~~promulgated thereto and makes qualified health care plans available to~~
71 ~~qualified individuals and qualified employers. The term "state-based health~~
72 ~~benefit exchange" includes regional or other interstate exchanges and~~

73 ~~subsidiary exchanges as described in Section 1311(f)(1) and (2) of the federal~~
74 ~~health care act. The term "federally facilitated health benefit exchange" means~~
75 ~~a health benefit exchange established and operated by the Secretary of Health~~
76 ~~and Human Services under Section 1321(e)(1) of the federal health care act,~~
77 ~~either directly or through agreement with a not for profit entity.]~~

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