



Senate

General Assembly

File No. 271

January Session, 2015

Substitute Senate Bill No. 1025

Senate, March 26, 2015

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT AUTHORIZING THE CONNECTICUT HEALTH INSURANCE EXCHANGE TO ESTABLISH SUBSIDIARIES.

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-1083 of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (a) For purposes of sections 38a-1080 to 38a-1091, inclusive, as
5 amended by this act, "purposes of the exchange" means the purposes
6 of and the pursuit of the goals of the exchange expressed in and
7 pursuant to this section and the performance of the duties and
8 responsibilities of the exchange set forth in sections 38a-1084 to 38a-
9 1087, inclusive, which are hereby determined to be public purposes for
10 which public funds may be expended. The powers enumerated in this
11 section shall be interpreted broadly to effectuate the purposes of the
12 exchange and shall not be construed as a limitation of powers.

13 (b) The goals of the exchange shall be to reduce the number of

14 individuals without health insurance in this state and assist
15 individuals and small employers in the procurement of health
16 insurance by, among other services, offering easily comparable and
17 understandable information about health insurance options.

18 (c) The exchange is authorized and empowered to:

19 (1) Have perpetual [successions] succession as a body politic and
20 corporate and to adopt bylaws for the regulation of its affairs and the
21 conduct of its business;

22 (2) Adopt an official seal and alter the same at pleasure;

23 (3) Maintain an office in the state at such place or places as it may
24 designate;

25 (4) Employ such assistants, agents, managers and other employees
26 as may be necessary or desirable;

27 (5) Acquire, lease, purchase, own, manage, hold and dispose of real
28 and personal property, and lease, convey or deal in or enter into
29 agreements with respect to such property on any terms necessary or
30 incidental to the carrying out of these purposes, provided all such
31 acquisitions of real property for the exchange's own use with amounts
32 appropriated by this state to the exchange or with the proceeds of
33 bonds supported by the full faith and credit of this state shall be
34 subject to the approval of the Secretary of the Office of Policy and
35 Management and the provisions of section 4b-23;

36 (6) Receive and accept, from any source, aid or contributions,
37 including money, property, labor and other things of value;

38 (7) Charge assessments or user fees to health carriers that are
39 capable of offering a qualified health plan through the exchange or
40 otherwise generate funding necessary to support the operations of the
41 exchange and impose interest and penalties on such health carriers for
42 delinquent payments of such assessments or fees;

43 (8) Procure insurance against loss in connection with its property
44 and other assets in such amounts and from such insurers as it deems
45 desirable;

46 (9) Invest any funds not needed for immediate use or disbursement
47 in obligations issued or guaranteed by the United States of America or
48 the state and in obligations that are legal investments for savings banks
49 in the state;

50 (10) Issue bonds, bond anticipation notes and other obligations of
51 the exchange for any of its corporate purposes, and to fund or refund
52 the same and provide for the rights of the holders thereof, and to
53 secure the same by pledge of revenues, notes and mortgages of others;

54 (11) Borrow money for the purpose of obtaining working capital;

55 (12) Account for and audit funds of the exchange and any recipients
56 of funds from the exchange;

57 (13) Make and enter into any contract or agreement necessary or
58 incidental to the performance of its duties and execution of its powers.
59 The contracts entered into by the exchange shall not be subject to the
60 approval of any other state department, office or agency, provided
61 copies of all contracts of the exchange shall be maintained by the
62 exchange as public records, subject to the proprietary rights of any
63 party to the contract;

64 (14) To the extent permitted under its contract with other persons,
65 consent to any termination, modification, forgiveness or other change
66 of any term of any contractual right, payment, royalty, contract or
67 agreement of any kind to which the exchange is a party;

68 (15) Award grants to trained and certified individuals and
69 institutions that will assist individuals, families and small employers
70 and their employees in enrolling in appropriate coverage through the
71 exchange. Applications for grants from the exchange shall be made on
72 a form prescribed by the board;

73 (16) Limit the number of plans offered, and use selective criteria in
74 determining which plans to offer, through the exchange, provided
75 individuals and employers have an adequate number and selection of
76 choices;

77 (17) Evaluate jointly with the Sustinet Health Care Cabinet the
78 feasibility of implementing a basic health program option as set forth
79 in Section 1331 of the Affordable Care Act;

80 (18) Establish one or more subsidiaries, in accordance with section 2
81 of this act, to further the purposes of the exchange;

82 (19) Make loans to each subsidiary established pursuant to section 2
83 of this act from the assets of the exchange and the proceeds of bonds,
84 bond anticipation notes and other obligations issued by the exchange
85 or assign or transfer to such subsidiary any of the rights, moneys or
86 other assets of the exchange, provided such assignment or transfer is
87 not in violation of state or federal law;

88 ~~[(18)]~~ (20) Sue and be sued, plead and be impleaded;

89 ~~[(19)]~~ (21) Adopt regular procedures that are not in conflict with
90 other provisions of the general statutes, for exercising the power of the
91 exchange; and

92 ~~[(20)]~~ (22) Do all acts and things necessary and convenient to carry
93 out the purposes of the exchange, provided such acts or things shall
94 not conflict with the provisions of the Affordable Care Act, regulations
95 adopted thereunder or federal guidance issued pursuant to the
96 Affordable Care Act.

97 Sec. 2. (NEW) (*Effective from passage*) (a) The exchange may establish
98 one or more subsidiaries for such purposes as prescribed by resolution
99 of the board of directors of the exchange, which purposes shall be
100 consistent with the purposes of the exchange. Each subsidiary shall be
101 deemed a quasi-public agency for the purposes of chapter 12 of the
102 general statutes and shall have all the privileges, immunities, tax
103 exemptions and other exemptions of the exchange.

104 subsidiary may be organized as a stock or nonstock corporation or a
105 limited liability company.

106 (b) Each subsidiary shall have and may exercise the powers of the
107 exchange and such additional powers as are set forth in such
108 resolution, except the powers of the exchange set forth in subdivisions
109 (7), (12), (15), (16), (17) and (21) of subsection (c) of section 38a-1083 of
110 the general statutes, as amended by this act, shall be reserved to the
111 exchange and shall not be exercisable by any subsidiary of the
112 exchange.

113 (c) (1) Each subsidiary shall act through a board of directors, at least
114 one-half of which shall be members of the board of directors of the
115 exchange or their designees or officers or employees of the exchange.

116 (2) The provisions of section 1-125 of the general statutes shall apply
117 to any member of the board of directors of a subsidiary established
118 under this section. Any such member shall not be personally liable for
119 the debts, obligations or liabilities of any such subsidiary as provided
120 in section 1-125 of the general statutes. Any such subsidiary shall, and
121 the exchange may, save harmless and indemnify any such member as
122 provided in section 1-125 of the general statutes.

123 (d) (1) Each subsidiary shall be subject to suit, provided its liability
124 shall be limited solely to the assets, revenues and resources of such
125 subsidiary and without recourse to the general funds, revenues or
126 resources or any other assets of the exchange.

127 (2) Each subsidiary may convey or dispose of its assets and pledge
128 its revenues to secure any borrowing, provided any such borrowing
129 shall be a special obligation of the subsidiary and shall be payable
130 solely from the assets, revenues and resources of the subsidiary.

131 (3) Each subsidiary or the exchange may take any action necessary
132 to comply with the provisions of the Internal Revenue Code of 1986, or
133 any subsequent corresponding internal revenue code of the United
134 States, as amended from time to time, to qualify and maintain any

135 subsidiary as a corporation exempt from taxation under said code.

136 Sec. 3. Section 38a-1080 of the general statutes is repealed and the
137 following is substituted in lieu thereof (*Effective from passage*):

138 For purposes of sections 38a-1080 to 38a-1091, inclusive, and section
139 2 of this act:

140 (1) "Board" means the board of directors of the Connecticut Health
141 Insurance Exchange;

142 (2) "Commissioner" means the Insurance Commissioner;

143 (3) "Exchange" means the Connecticut Health Insurance Exchange
144 established pursuant to section 38a-1081;

145 (4) "Affordable Care Act" means the Patient Protection and
146 Affordable Care Act, P.L. 111-148, as amended by the Health Care and
147 Education Reconciliation Act, P.L. 111-152, as both may be amended
148 from time to time, and regulations adopted thereunder;

149 (5) (A) "Health benefit plan" means an insurance policy or contract
150 offered, delivered, issued for delivery, renewed, amended or
151 continued in the state by a health carrier to provide, deliver, pay for or
152 reimburse any of the costs of health care services.

153 (B) "Health benefit plan" does not include:

154 (i) Coverage of the type specified in subdivisions (5), (6), (7), (8), (9),
155 (14), (15) and (16) of section 38a-469 or any combination thereof;

156 (ii) Coverage issued as a supplement to liability insurance;

157 (iii) Liability insurance, including general liability insurance and
158 automobile liability insurance;

159 (iv) Workers' compensation insurance;

160 (v) Automobile medical payment insurance;

- 161 (vi) Credit insurance;
- 162 (vii) Coverage for on-site medical clinics; or
- 163 (viii) Other similar insurance coverage specified in regulations
164 issued pursuant to the Health Insurance Portability and Accountability
165 Act of 1996, P.L. 104-191, as amended from time to time, under which
166 benefits for health care services are secondary or incidental to other
167 insurance benefits.

168 (C) "Health benefit plan" does not include the following benefits if
169 they are provided under a separate insurance policy, certificate or
170 contract or are otherwise not an integral part of the plan:

- 171 (i) Limited scope dental or vision benefits;
- 172 (ii) Benefits for long-term care, nursing home care, home health
173 care, community-based care or any combination thereof; or
- 174 (iii) Other similar, limited benefits specified in regulations issued
175 pursuant to the Health Insurance Portability and Accountability Act of
176 1996, P.L. 104-191, as amended from time to time;
- 177 (iv) Other supplemental coverage, similar to coverage of the type
178 specified in subdivisions (9) and (14) of section 38a-469, provided
179 under a group health plan.

180 (D) "Health benefit plan" does not include coverage of the type
181 specified in subdivisions (3) and (13) of section 38a-469 or other fixed
182 indemnity insurance if (i) such coverage is provided under a separate
183 insurance policy, certificate or contract, (ii) there is no coordination
184 between the provision of the benefits and any exclusion of benefits
185 under any group health plan maintained by the same plan sponsor,
186 and (iii) the benefits are paid with respect to an event without regard
187 to whether benefits were also provided under any group health plan
188 maintained by the same plan sponsor;

189 (6) "Health care services" has the same meaning as provided in

190 section 38a-478;

191 (7) "Health carrier" means an insurance company, fraternal benefit
192 society, hospital service corporation, medical service corporation,
193 health care center or other entity subject to the insurance laws and
194 regulations of the state or the jurisdiction of the commissioner that
195 contracts or offers to contract to provide, deliver, pay for or reimburse
196 any of the costs of health care services;

197 (8) "Internal Revenue Code" means the Internal Revenue Code of
198 1986, or any subsequent corresponding internal revenue code of the
199 United States, as amended from time to time;

200 (9) "Person" has the same meaning as provided in section 38a-1;

201 (10) "Qualified dental plan" means a limited scope dental plan that
202 has been certified in accordance with subsection (e) of section 38a-1086;

203 (11) "Qualified employer" has the same meaning as provided in
204 Section 1312 of the Affordable Care Act;

205 (12) "Qualified health plan" means a health benefit plan that has in
206 effect a certification that the plan meets the criteria for certification
207 described in Section 1311(c) of the Affordable Care Act and section
208 38a-1086;

209 (13) "Qualified individual" has the same meaning as provided in
210 Section 1312 of the Affordable Care Act;

211 (14) "Secretary" means the Secretary of the United States
212 Department of Health and Human Services;

213 (15) "Small employer" has the same meaning as provided in section
214 38a-564.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	38a-1083(a) to (c)

Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	38a-1080

INS *Joint Favorable Subst.*

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: See Below

Municipal Impact: None

Explanation

The bill is not anticipated to result in a direct fiscal impact to the state as Connecticut's health insurance exchange, Access HealthCT, is a quasi-public state agency which does not currently receive state funding.¹ There may be a fiscal impact to the extent that the subsidiaries created are quasi-public state agencies, but it is not explicit whether the state or the exchange will bear the financial risk associated with the actions of the subsidiary.

There may be a fiscal impact to Access HealthCT which is dependent on the financial relationship between the subsidiary and the exchange and the nature of the subsidiary's business.

There is no fiscal impact to municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ Pursuant to federal law, the state exchange is required to be financially self-sufficient and does so through an assessment on insurance carriers.

OLR Bill Analysis**sSB 1025*****AN ACT AUTHORIZING THE CONNECTICUT HEALTH INSURANCE EXCHANGE TO ESTABLISH SUBSIDIARIES.*****SUMMARY:**

This bill allows the quasi-public Connecticut Health Insurance Exchange (i.e., Access Health CT) to form quasi-public subsidiaries to fulfill the exchange's purposes and (1) make loans to them or (2) assign or transfer to them any of the exchange's rights, money, or other assets if permitted by state or federal law. The bill specifies which of the exchange's powers may be exercised by a subsidiary. And it requires each subsidiary to act through a board of directors, half of whom must be exchange board members or their designees or exchange officers or employees.

Under the bill, the exchange's purposes, for which public money may be spent, include pursuing the exchange's statutory goals and performing its legal duties and responsibilities. Its goals are to (1) reduce the number of uninsured Connecticut residents and (2) help people and small businesses obtain health insurance by offering easily comparable and understandable information about health insurance options. Its duties and responsibilities include administering an online health insurance marketplace pursuant to state and federal law.

EFFECTIVE DATE: Upon passage

SUBSIDIARIES

The bill allows Access Health CT to form subsidiaries as stock or non-stock corporations or limited liability companies. Like the exchange, each subsidiary is a quasi-public agency and enjoys the same privileges, immunities, tax exemptions, and other exemptions as the exchange. As with other quasi-public agencies, a subsidiary's

board members are not personally liable for the subsidiary's debts, obligations, or liabilities. The subsidiary must indemnify its board members.

The bill allows each subsidiary or the exchange to take any action needed to comply with federal tax law to qualify and maintain the subsidiary as a tax-exempt corporation.

Enumerated Powers

Under the bill, each subsidiary may exercise certain specified powers granted to the exchange and any further powers granted to it by the exchange. Under the specified powers, a subsidiary can:

1. have perpetual succession as a body politic and corporate;
2. adopt bylaws;
3. adopt an official seal and alter it;
4. establish an office in the state;
5. employ staff, including assistants, agents, and managers, as necessary;
6. acquire, own, manage, hold, and dispose of real and personal property and lease, convey, deal, or enter into agreements concerning such property on any terms necessary to carry out the exchange's purposes, except acquisitions of real property that use state-appropriated funds or bond proceeds backed by the state's full faith and credit are subject to the Office of Policy and Management secretary's approval and must be in accordance with state law (CGS § 4b-23);
7. receive and accept aid or contributions of any kind from any source;
8. obtain insurance against loss for its property and other assets;
9. invest its funds in U.S. - or state-issued or -guaranteed

- obligations and obligations that are legal investments for savings banks in Connecticut;
10. issue, fund, or refund bonds, bond anticipation notes, and other obligations of the exchange to fund any of its corporate purposes;
 11. borrow money to obtain working capital;
 12. enter into contracts or agreements necessary to perform its duties, but such contracts are not subject to approval of any state agency as long as they are made public records, subject to the proprietary rights of any party to the contract;
 13. if permitted under its contracts, agree to any termination, modification, forgiveness, or other change of any term of any contractual right, payment, royalty, contract, or agreement;
 14. establish subsidiaries;
 15. make loans to subsidiaries from the exchange's assets and bond proceeds or assign or transfer any of the exchange's rights, money, or other assets if permitted by state or federal law;
 16. sue, be sued, plead, and be impleaded; and
 17. do all acts necessary and convenient to carry out its purposes, provided they do not conflict with the federal Affordable Care Act or related regulations and guidance.

With respect to being sued, the bill limits a subsidiary's liability solely to its own assets, revenue, and resources. Its liability cannot extend to the exchange's other funds, revenue, resources, or assets.

Under the bill, each subsidiary may secure borrowing with its assets or revenue, but any debt it incurs is its special obligation and must be repaid with its own resources.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 10 Nay 9 (03/12/2015)