



Senate

General Assembly

File No. 222

February Session, 2018

Substitute Senate Bill No. 373

Senate, April 4, 2018

The Committee on Insurance and Real Estate reported through SEN. LARSON of the 3rd Dist. and SEN. KELLY of the 21st Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE CONNECTICUT HEALTH INSURANCE EXCHANGE, LOW OPTION BENEFIT DESIGN PLANS AND SHORT-TERM HEALTH INSURANCE POLICIES.

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

1 Section 1. (NEW) (*Effective October 1, 2018*) (a) For the purposes of
2 this section, "low option benefit design plan" means any individual or
3 group health insurance policy or plan that (1) covers the state's
4 essential health benefits as required under the Patient Protection and
5 Affordable Care Act, P.L. 111-148, as amended from time to time, (2)
6 covers all health benefits mandated by chapter 700c of the general
7 statutes, and (3) is in compliance with all state and federal laws,
8 regulations and other administrative guidance, including, but not
9 limited to, laws, regulations and administrative guidance concerning
10 network adequacy, as described in section 38a-472f of the general
11 statutes.

12 (b) A low option benefit design plan may offer alternative levels of

13 cost-sharing, including deductibles, coinsurance and copayments,
14 within allowable ranges pursuant to the AV Calculator described in 45
15 CFR 156.135.

16 (c) Notwithstanding any provision of the general statutes, a health
17 carrier, as defined in section 38a-591a of the general statutes, may offer
18 or sell a low option benefit design plan either through the Connecticut
19 Health Insurance Exchange, established pursuant to section 38a-1081
20 of the general statutes, as amended by this act, or independent of the
21 exchange.

22 Sec. 2. (NEW) (*Effective October 1, 2018*) Notwithstanding any
23 provision of the general statutes, the Connecticut Health Insurance
24 Exchange, established pursuant to section 38a-1081 of the general
25 statutes, as amended by this act, shall not establish any requirements
26 concerning low option benefit design plans, as defined in section 1 of
27 this act.

28 Sec. 3. Subdivision (1) of subsection (c) of section 38a-1081 of the
29 2018 supplement to the general statutes is repealed and the following
30 is substituted in lieu thereof (*Effective October 1, 2018*):

31 (c) (1) All initial appointments shall be made not later than July 1,
32 2011. Following the expiration of such initial terms, subsequent board
33 member terms shall be for four years, except that no member shall
34 serve more than eight years. Any member appointed to the board
35 before October 1, 2018, who has served eight or more years on the
36 board may complete such member's term. Any vacancy shall be filled
37 by the appointing authority for the balance of the unexpired term. If an
38 appointing authority fails to make an initial appointment, or an
39 appointment to fill a vacancy within ninety days of the date of such
40 vacancy, the appointed board members may make such appointment
41 by a majority vote. Any board member previously appointed to the
42 board or appointed to fill a vacancy may be reappointed in accordance
43 with this section unless such reappointment would cause the member
44 to serve on the board for more than eight years. Any board member
45 may be removed for misfeasance, malfeasance or wilful neglect of duty

46 at the sole direction of the appointing authority.

47 Sec. 4. Section 38a-1083 of the 2018 supplement to the general
48 statutes is repealed and the following is substituted in lieu thereof
49 (*Effective October 1, 2018*):

50 (a) For purposes of sections 38a-1080 to 38a-1093, inclusive, as
51 amended by this act, "purposes of the exchange" means the purposes
52 of and the pursuit of the goals of the exchange expressed in and
53 pursuant to this section and the performance of the duties and
54 responsibilities of the exchange set forth in sections 38a-1084 to 38a-
55 1087, inclusive, as amended by this act, which are hereby determined
56 to be public purposes for which public funds may be expended. The
57 powers enumerated in this section shall be interpreted broadly to
58 effectuate the purposes of the exchange and shall not be construed as a
59 limitation of powers.

60 (b) The goals of the exchange shall be to reduce the number of
61 individuals without health insurance in this state and assist
62 individuals and small employers in the procurement of health
63 insurance by, among other services, offering easily comparable and
64 understandable information about health insurance options.

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

66 (1) Have perpetual succession as a body politic and corporate and to
67 adopt bylaws for the regulation of its affairs and the conduct of its
68 business;

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

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

72 (4) Employ such assistants, agents, managers and other employees
73 as may be necessary or desirable, except that the exchange shall not
74 approve any severance package or other compensation associated with
75 termination of employment, including compensation for accrued sick

76 time, vacation time and compensatory time, that exceeds the lesser of
77 the employee's pay for (A) two weeks for each year the employee was
78 employed by the exchange, or (B) eight weeks;

79 (5) Acquire, lease, purchase, own, manage, hold and dispose of real
80 and personal property, and lease, convey or deal in or enter into
81 agreements with respect to such property on any terms necessary or
82 incidental to the carrying out of these purposes, provided all such
83 acquisitions of real property for the exchange's own use with amounts
84 appropriated by this state to the exchange or with the proceeds of
85 bonds supported by the full faith and credit of this state shall be
86 subject to the approval of the Secretary of the Office of Policy and
87 Management and the provisions of section 4b-23;

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

90 (7) Charge assessments or user fees to health carriers that are
91 capable of offering a qualified health plan through the exchange, [or]
92 implement and change methods of calculating such assessments or
93 fees and otherwise generate funding necessary to support the
94 operations of the exchange, [and impose] provided any increase in the
95 amount of such assessments or fees or change in any method used to
96 calculate such assessments or fees shall be subject to prior legislative
97 approval under subsection (d) of this section;

98 (8) Impose interest and penalties on [such] health carriers for
99 delinquent payments of [such] assessments or user fees;

100 [(8)] (9) Procure insurance against loss in connection with its
101 property and other assets in such amounts and from such insurers as it
102 deems desirable;

103 [(9)] (10) Invest any funds not needed for immediate use or
104 disbursement in obligations issued or guaranteed by the United States
105 of America or the state and in obligations that are legal investments for
106 savings banks in the state;

107 ~~[(10)]~~ (11) Issue bonds, bond anticipation notes and other
108 obligations of the exchange for any of its corporate purposes, and to
109 fund or refund the same and provide for the rights of the holders
110 thereof, and to secure the same by pledge of revenues, notes and
111 mortgages of others;

112 ~~[(11)]~~ (12) Borrow money for the purpose of obtaining working
113 capital;

114 ~~[(12)]~~ (13) Account for and audit funds of the exchange and any
115 recipients of funds from the exchange;

116 ~~[(13)]~~ (14) Make and enter into any contract or agreement necessary
117 or incidental to the performance of its duties and execution of its
118 powers. The contracts entered into by the exchange shall not be subject
119 to the approval of any other state department, office or agency,
120 provided copies of all contracts of the exchange shall be maintained by
121 the exchange as public records, subject to the proprietary rights of any
122 party to the contract;

123 ~~[(14)]~~ (15) To the extent permitted under its contract with other
124 persons, consent to any termination, modification, forgiveness or other
125 change of any term of any contractual right, payment, royalty, contract
126 or agreement of any kind to which the exchange is a party;

127 ~~[(15)]~~ (16) Award grants to trained and certified individuals and
128 institutions that will assist individuals, families and small employers
129 and their employees in enrolling in appropriate coverage through the
130 exchange. Applications for grants from the exchange shall be made on
131 a form prescribed by the board;

132 ~~[(16)]~~ Limit the number of plans offered, and use selective criteria in
133 determining which plans to offer, through the exchange, provided
134 individuals and employers have an adequate number and selection of
135 choices;]

136 (17) Evaluate jointly with the [SustiNet] Health Care Cabinet
137 established pursuant to section 19a-725 the feasibility of implementing

138 a basic health program option as set forth in Section 1331 of the
139 Affordable Care Act;

140 (18) Establish one or more subsidiaries, in accordance with section
141 38a-1093, as amended by this act, to further the purposes of the
142 exchange;

143 (19) Make loans to each subsidiary established pursuant to section
144 38a-1093, as amended by this act, from the assets of the exchange and
145 the proceeds of bonds, bond anticipation notes and other obligations
146 issued by the exchange or assign or transfer to such subsidiary any of
147 the rights, moneys or other assets of the exchange, provided such
148 assignment or transfer is not in violation of state or federal law;

149 (20) Sue and be sued, plead and be impleaded;

150 (21) Adopt regular procedures, that are not in conflict with other
151 provisions of the general statutes, for exercising the power of the
152 exchange; and

153 (22) Do all acts and things necessary and convenient to carry out the
154 purposes of the exchange, provided such acts or things shall not
155 conflict with the provisions of the Affordable Care Act, regulations
156 adopted thereunder or federal guidance issued pursuant to the
157 Affordable Care Act.

158 (d) The exchange shall submit to the joint standing committee of the
159 General Assembly having cognizance of matters relating to insurance:

160 (1) Any proposed increase of more than fifteen per cent in any one-
161 year period or thirty-five per cent in any three-year period in the
162 amount of assessments or user fees charged to health carriers; and (2)
163 any proposed method or change in method used in calculating such
164 assessments or user fees. If the committee disapproves such proposed
165 increase, method or change in method, such proposed increase,
166 method or change in method shall not take effect. If the committee
167 does not act within fifteen days after receiving a submittal, the
168 proposed increase, method or change in method shall be deemed

169 approved by the committee.

170 [(d)] (e) (1) The chief executive officer of the exchange shall provide
171 to the commissioner the name of any health carrier that fails to pay any
172 assessment or user fee under subdivision (7) of subsection (c) of this
173 section to the exchange. The commissioner shall see that all laws
174 respecting the authority of the exchange pursuant to [said subdivision
175 (7)] subdivisions (7) and (8) of subsection (c) of this section are
176 faithfully executed. The commissioner has all the powers specifically
177 granted under this title and all further powers that are reasonable and
178 necessary to enable the commissioner to enforce the provisions of [said
179 subdivision (7)] subdivisions (7) and (8) of subsection (c) of this
180 section.

181 (2) Any health carrier aggrieved by an administrative action taken
182 by the commissioner under subdivision (1) of this subsection may
183 appeal therefrom in accordance with the provisions of section 4-183,
184 except venue for such appeal shall be in the judicial district of New
185 Britain.

186 Sec. 5. Section 38a-1085 of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective October 1, 2018*):

188 (a) The exchange shall make qualified health plans available to
189 qualified individuals and qualified employers for coverage beginning
190 on or before January 1, 2014.

191 (b) (1) The exchange shall not make available any health benefit plan
192 that is not a qualified health plan, except that the exchange shall make
193 available any short-term health insurance policy that is not a qualified
194 health plan if the exchange is authorized to make available such policy
195 under a federal statute or regulation.

196 (2) The exchange shall allow a health carrier to offer a plan that
197 provides limited scope dental benefits meeting the requirements of
198 Section 9832(c)(2)(A) of the Internal Revenue Code through the
199 exchange, either separately or in conjunction with a qualified health

200 plan, if the plan provides pediatric dental benefits meeting the
201 requirements of Section 1302(b)(1)(J) of the Affordable Care Act.

202 (c) Neither the exchange nor a health carrier offering health benefit
203 plans through the exchange shall charge an individual a fee or penalty
204 for termination of coverage if the individual enrolls in another type of
205 minimum essential coverage because (1) the individual has become
206 newly eligible for that coverage, or (2) the individual's employer-
207 sponsored coverage has become affordable under the standards of
208 Section 36B(c)(2)(C) of the Internal Revenue Code.

209 Sec. 6. Subsection (b) of section 38a-1093 of the general statutes is
210 repealed and the following is substituted in lieu thereof (*Effective*
211 *October 1, 2018*):

212 (b) Each subsidiary shall have and may exercise the powers of the
213 exchange and such additional powers as are set forth in such
214 resolution, except the powers of the exchange set forth in subdivisions
215 (7), [(12), (15), (16),] ~~(8), (13), (16)~~, (17) and (21) of subsection (c) of
216 section 38a-1083, as amended by this act, shall be reserved to the
217 exchange and shall not be exercisable by any subsidiary of the
218 exchange.

219 Sec. 7. Subparagraph (C) of subdivision (23) of section 38a-1084 of
220 the 2018 supplement to the general statutes is repealed and the
221 following is substituted in lieu thereof (*Effective from passage*):

222 (C) Not use any funds in carrying out its activities under sections
223 38a-1080 to [38a-1089] 38a-1088, inclusive, as amended by this act, that
224 are intended for the administrative and operational expenses of the
225 exchange, for staff retreats, promotional giveaways, excessive
226 executive compensation or promotion of federal or state legislative and
227 regulatory modifications;

228 Sec. 8. Subsections (b) and (c) of section 38a-1090 of the 2018
229 supplement to the general statutes are repealed and the following is
230 substituted in lieu thereof (*Effective from passage*):

231 (b) The exchange shall be subject to the Freedom of Information Act,
 232 as defined in section 1-200, except that the following information
 233 under sections 38a-1081 to [38a-1089] 38a-1088, inclusive, as amended
 234 by this act, shall not be subject to disclosure under section 1-210: (1)
 235 The names and applications of individuals and employers seeking
 236 coverage through the exchange; (2) individuals' health information;
 237 and (3) information exchanged between the exchange and the (A)
 238 Departments of Social Services, Public Health and Revenue Services,
 239 (B) Insurance Department, (C) office of the Comptroller, or (D) any
 240 other state agency that is subject to confidentiality agreements under
 241 contracts entered into with the exchange.

242 (c) Unless expressly specified, nothing in this section or sections 38a-
 243 1080 to [38a-1089] 38a-1088, inclusive, as amended by this act, and no
 244 action taken by the exchange pursuant to said sections shall be
 245 construed to preempt, supersede or affect the authority of the
 246 commissioner to regulate the business of insurance in the state. All
 247 health carriers offering qualified health plans in the state shall comply
 248 with all applicable provisions of sections 38a-1083 to 38a-1093,
 249 inclusive, as amended by this act, and procedures adopted by the
 250 board pursuant to section 38a-1082.

251 Sec. 9. Section 38a-1089 of the 2018 supplement to the general
 252 statutes is repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	New section
Sec. 2	<i>October 1, 2018</i>	New section
Sec. 3	<i>October 1, 2018</i>	38a-1081(c)(1)
Sec. 4	<i>October 1, 2018</i>	38a-1083
Sec. 5	<i>October 1, 2018</i>	38a-1085
Sec. 6	<i>October 1, 2018</i>	38a-1093(b)
Sec. 7	<i>from passage</i>	38a-1084(23)(C)
Sec. 8	<i>from passage</i>	38a-1090(b) and (c)
Sec. 9	<i>from passage</i>	Repealer section

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: None

Municipal Impact: None

Explanation

The bill has no fiscal impact to the state or municipalities because the Insurance Department would review low option benefit designs and rates and short-term health insurance policies offered through the Connecticut Health Insurance Exchange (the Exchange) in the course of its normal business and because the Exchange is funded through an assessment¹ on health and dental insurance carriers.

The bill results in a potential savings to the Exchange, to the extent that the restrictions on severance pay reduce costs, and a potential revenue impact to the Exchange, to the extent that legislative committee disapprovals limit the amount of rate increases or method changes the Exchange would otherwise make to its assessment or user fees.

The Out Years

State Impact: None

Municipal Impact: None

Sources: Connecticut Health Insurance Exchange Financial Statements, June 30, 2017
Connecticut Insurance Department

¹ The total assessment for FY 17 was \$32.1 million.

OLR Bill Analysis**sSB 373*****AN ACT CONCERNING THE CONNECTICUT HEALTH INSURANCE EXCHANGE, LOW OPTION BENEFIT DESIGN PLANS AND SHORT-TERM HEALTH INSURANCE POLICIES.*****SUMMARY**

This bill allows health carriers (i.e., insurers and HMOs) to offer, on or off the Connecticut Health Insurance Exchange (i.e., Access Health CT), a low option benefit design health insurance plan. These plans must cover minimum federal and state health insurance benefits but may offer alternative levels of cost-sharing, including deductibles, coinsurance, and copayments, within ranges allowed by the federal actuarial value calculator.

Under the bill, “low option benefit design plan” is any individual or group health insurance policy or plan that (1) covers the state’s essential health benefits as required by the federal Affordable Care Act (ACA); (2) covers all state health benefit mandates; and (3) complies with all state laws and regulations, including network adequacy requirements and any administrative guidance. The bill prohibits Access Health CT from establishing any requirements for low option benefit design plans.

The bill requires legislative approval for certain increases and modifications to user and assessment fees that Access Health CT charges health carriers. It also makes several other changes to Access Health CT, including (1) establishing term limits for directors, (2) limiting the size of any severance package for terminated employees, and (3) requiring it to offer certain short-term health insurance policies if authorized to do so by federal law or regulation.

The bill also eliminates a requirement that Access Health CT’s chief

executive officer annually report to the governor and General Assembly on a plan to establish and run the exchange.

The bill also makes several minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2018, except for the repeal of the reporting requirement and certain technical and conforming changes, which are effective upon passage.

ACCESS HEALTH CT

Term Limits for Board of Directors

The bill limits the total time any director may serve on Access Health CT's board to eight years. But, it allows members with more than eight years on the board to complete their terms if they were appointed before October 1, 2018.

Severance Packages

The bill prohibits Access Health CT from approving any severance package or other termination compensation, including accrued sick, vacation, and compensatory time, that exceeds the lesser of the employee's pay for (1) two weeks for each year he or she was employed by the exchange or (2) eight weeks.

Assessments and Fees

Current law allows Access Health CT to assess user fees on health carriers to fund its operations. The bill (1) specifically allows Access Health CT to implement and change how they calculate the fee and (2) requires legislative approval for certain fee increases.

Under the bill, the exchange must submit to the Insurance and Real Estate Committee any (1) proposed increase of more than 15% in any one year period or more than 35% over a three year period and (2) any proposed change to how the exchange calculates such fees.

If the committee does not act within 15 days of receiving a proposed fee increase or calculation methodology change, it is deemed

approved. If the committee disapproves the proposal, it will not take effect.

Short-Term Health Insurance

Current law prohibits Access Health CT from making any short-term health insurance plan that is not a qualified health plan (i.e., ACA compliant) available on the exchange. The bill requires it to make such a plan available if it is authorized to do so under federal law or regulation.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 13 Nay 8 (03/20/2018)