

Introduced by Senator Lara

February 22, 2013

An act to amend Section 100500 of the Government Code, relating to the California Health Benefit Exchange, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 800, as introduced, Lara. California Health Benefit Exchange: membership.

Existing law establishes the California Health Benefit Exchange, which is governed by a board composed of 5 members, including the Secretary of California Health and Human Services, or his or her designee, 2 members appointed by the Governor, and 2 members appointed by the Legislature in a specified manner. Existing law requires that appointments by the Governor made after January 2, 2011, be subject to confirmation by the Senate.

This bill would instead require that the board consist of 7 members, of which 4 would be appointed by the Governor.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 100500 of the Government Code is
- 2 amended to read:
- 3 100500. (a) There is in state government the California Health
- 4 Benefit Exchange, an independent public entity *that is* not affiliated

1 with an agency or department, which shall be known as the
2 Exchange. The Exchange shall be governed by an executive board
3 consisting of ~~five~~ *seven* members who are residents of California.
4 Of the members of the board, ~~two~~ *four* shall be appointed by the
5 Governor, one shall be appointed by the Senate Committee on
6 Rules, and one shall be appointed by the Speaker of the Assembly.
7 The Secretary of California Health and Human Services or his or
8 her designee shall serve as a voting, ex officio member of the
9 board.

10 (b) Members of the board, other than an ex officio member,
11 shall be appointed for a term of four years, except that the initial
12 appointment by the Senate Committee on Rules shall be for a term
13 of five years, and the initial appointment by the Speaker of the
14 Assembly shall be for a term of two years. Appointments by the
15 Governor made after January 2, 2011, shall be subject to
16 confirmation by the Senate. A member of the board may continue
17 to serve until the appointment and qualification of his or her
18 successor. Vacancies shall be filled by appointment for the
19 unexpired term. The board shall elect a chairperson on an annual
20 basis.

21 (c) (1) Each person appointed to the board shall have
22 demonstrated and acknowledged expertise in at least two of the
23 following areas:

- 24 (A) Individual health care coverage.
- 25 (B) Small employer health care coverage.
- 26 (C) Health benefits plan administration.
- 27 (D) Health care finance.
- 28 (E) Administering a public or private health care delivery
29 system.
- 30 (F) Purchasing health plan coverage.

31 (2) Appointing authorities shall consider the expertise of the
32 other members of the board and attempt to make appointments so
33 that the board's composition reflects a diversity of expertise.

34 (d) Each member of the board shall have the responsibility and
35 duty to meet the requirements of this title, the federal act, and all
36 applicable state and federal laws and regulations, to serve the public
37 interest of the individuals and small businesses seeking health care
38 coverage through the Exchange, and to ensure the operational
39 well-being and fiscal solvency of the Exchange.

1 (e) In making appointments to the board, the appointing
2 authorities shall take into consideration the cultural, ethnic, and
3 geographical diversity of the state so that the board's composition
4 reflects the communities of California.

5 (f) (1) A member of the board or of the staff of the Exchange
6 shall not be employed by, a consultant to, a member of the board
7 of directors of, affiliated with, or otherwise a representative of, a
8 carrier or other insurer, an agent or broker, a health care provider,
9 or a health care facility or health clinic while serving on the board
10 or on the staff of the Exchange. A member of the board or of the
11 staff of the Exchange shall not be a member, a board member, or
12 an employee of a trade association of carriers, health facilities,
13 health clinics, or health care providers while serving on the board
14 or on the staff of the Exchange. A member of the board or of the
15 staff of the Exchange shall not be a health care provider unless he
16 or she receives no compensation for rendering services as a health
17 care provider and does not have an ownership interest in a
18 professional health care practice.

19 (2) A board member shall not receive compensation for his or
20 her service on the board but may receive a per diem and
21 reimbursement for travel and other necessary expenses, as provided
22 in Section 103 of the Business and Professions Code, while
23 engaged in the performance of official duties of the board.

24 (3) For purposes of this subdivision, "health care provider"
25 means a person licensed or certified pursuant to Division 2
26 (commencing with Section 500) of the Business and Professions
27 Code, or licensed pursuant to the Osteopathic Act or the
28 Chiropractic Act.

29 (g) No member of the board shall make, participate in making,
30 or in any way attempt to use his or her official position to influence
31 the making of any decision that he or she knows or has reason to
32 know will have a reasonably foreseeable material financial effect,
33 distinguishable from its effect on the public generally, on him or
34 her or a member of his or her immediate family, or on either of
35 the following:

36 (1) Any source of income, other than gifts and other than loans
37 by a commercial lending institution in the regular course of
38 business on terms available to the public without regard to official
39 status aggregating two hundred fifty dollars (\$250) or more in

1 value provided to, received by, or promised to the member within
2 12 months prior to the time when the decision is made.

3 (2) Any business entity in which the member is a director,
4 officer, partner, trustee, employee, or holds any position of
5 management.

6 (h) There shall not be any liability in a private capacity on the
7 part of the board or any member of the board, or any officer or
8 employee of the board, for or on account of any act performed or
9 obligation entered into in an official capacity, when done in good
10 faith, without *the* intent to defraud, and in connection with the
11 administration, management, or conduct of this title or affairs
12 related to this title.

13 (i) The board shall hire an executive director to organize,
14 administer, and manage the operations of the Exchange. The
15 executive director shall be exempt from civil service and shall
16 serve at the pleasure of the board.

17 (j) The board shall be subject to the Bagley-Keene Open Meeting
18 Act (Article 9 (commencing with Section 11120) of Chapter 1 of
19 Part 1 of Division 3 of Title 2), except that the board may hold
20 closed sessions when considering matters related to litigation,
21 personnel, contracting, and rates.

22 (k) (1) The board shall apply for planning and establishment
23 grants made available to the Exchange pursuant to Section 1311
24 of the federal act. If an executive director has not been hired under
25 subdivision (i) when the United States Secretary of Health and
26 Human Services makes the planning and establishment grants
27 available, the California Health and Human Services Agency shall,
28 upon request of the board, submit the initial application for
29 planning and establishment grants to the United States Secretary
30 of Health and Human Services.

31 (2) If a majority of the board has not been appointed when the
32 United States Secretary of Health and Human Services makes the
33 planning and establishment grants available, the California Health
34 and Human Services Agency shall submit the initial application
35 for planning and establishment grants to the United States Secretary
36 of Health and Human Services. Any subsequent applications shall
37 be made as described in paragraph (1) once a majority of the
38 members have been appointed to the board.

39 (3) The board shall be responsible for using the funds awarded
40 by the United States Secretary of Health and Human Services for

1 the planning and establishment of the Exchange, consistent with
2 subdivision (b) of Section 1311 of the federal act.

3 SEC. 2. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the Constitution and shall go into
6 immediate effect. The facts constituting the necessity are:

7 Health care coverage through the California Health Benefit
8 Exchange, known as Covered California, will be made available
9 beginning in January 2014. To ensure equitable access to, and
10 representative governance of, the California Health Benefit
11 Exchange prior to that date, it is necessary that this bill take effect
12 immediately.