

SENATE BILL NO. 848

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

5294S.011

KRISTINA MARTIN, Secretary

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Section A. Section 376.1186, RSMo, is repealed, to read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

[376.1186. 1. No state-based health
2 benefit exchange may be established, created, or
3 operated within this state in order to implement
4 Section 1311 of the federal health care act, 42
5 U.S.C. Section 18031, or any other provision of
6 the federal health care act that relates to the
7 creation and operation of a state-based health
8 benefit exchange, unless the authority to create
9 or operate such an exchange is enacted into law
10 through:
11 (1) A bill as prescribed by Article III of
12 the Missouri Constitution;
13 (2) An initiative petition as prescribed
14 by Article III, Section 50 of the Missouri
15 Constitution; or
16 (3) A referendum as prescribed by Article
17 III, Section 52(a) of the Missouri Constitution.
18 2. In no case shall the authority for
19 establishing, administering, or operating a
20 state-based health benefit exchange in Missouri
21 be based upon an executive order issued by the
22 governor of Missouri.
23 3. No department, agency, instrumentality
24 or political subdivision of the state of
25 Missouri shall establish any program, promulgate
26 any rule, policy, guideline or plan or change
27 any program, rule, policy or guideline to

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

28 implement, establish, create, administer or
29 otherwise operate a state-based health benefit
30 exchange described in the federal health care
31 act unless such department, agency,
32 instrumentality or political subdivision has
33 received statutory authority to do so in a
34 manner consistent with subsection 1 of this
35 section. No department, agency, instrumentality
36 or political subdivision of the state of
37 Missouri shall act as an eligible entity as
38 described in Section 1311(f)(3)(B) of the
39 federal health care act to perform one or more
40 of the responsibilities of a state-based health
41 benefit exchange unless authorized by statute or
42 a regulation validly promulgated pursuant to
43 such statute.

44 4. No department, agency, instrumentality,
45 or political subdivision of this state shall
46 apply for, accept or expend federal moneys
47 related to the creation, implementation or
48 operation of a state-based health benefit
49 exchange or a federally facilitated health
50 benefit exchange unless such acceptance or
51 expenditure is authorized by statute or an
52 appropriations bill.

53 5. No department, agency, instrumentality,
54 political subdivision, public officer or
55 employee of this state shall enter into any
56 agreement or any obligation to establish,
57 administer, or operate a federally facilitated
58 health benefit exchange described in Section
59 1321(c)(1) of the federal health care act unless
60 such department, agency, instrumentality,
61 political subdivision, public officer or
62 employee of this state has received statutory
63 authority to enter into such agreements or
64 obligations. No department, agency,
65 instrumentality, political subdivision, public
66 officer or employee of this state shall provide
67 assistance or resources of any kind to any
68 department, agency, public official, employee or
69 agent of the federal government related to the
70 creation or operation of a federally facilitated
71 health benefit exchange unless such assistance

72 or resources are authorized by state statute or
73 a regulation promulgated thereto or such
74 assistance or resources are specifically
75 required by federal law.

76 6. Any taxpayer of this state or any
77 member of the general assembly shall have
78 standing to bring suit against the state of
79 Missouri or any official, department, division,
80 agency, or political subdivision of this state
81 which is in violation of this section in any
82 court with jurisdiction to enforce the
83 provisions of this section. The court shall
84 award attorney's fees, court costs, and all
85 reasonable expenses incurred by the taxpayer or
86 member of the general assembly if the court
87 finds that the provisions of this section have
88 been violated. Such attorney's fees, court
89 costs, and reasonable expenses shall be paid
90 from funds appropriated to the department,
91 division, agency, or any political subdivision
92 of this state determined to have violated, in
93 whole or in part, the provisions of this
94 section. In no case shall the award of
95 attorney's fees, court costs, or reasonable
96 expenses be paid from the legal defense fund,
97 nor shall any department, division, agency, or
98 political subdivision of this state request, or
99 be granted, additional appropriations in order
100 to satisfy an award made under this section.

101 7. As used in this section, the term
102 "federal health care act" shall mean the federal
103 Patient Protection and Affordable Care Act,
104 Public Law 111-148, as amended by the federal
105 Health Care and Education Reconciliation Act of
106 2010, Public Law 111-152, and any amendments
107 thereto, or regulations or guidance issued under
108 such federal acts.

109 8. As used in this section, the term
110 "state-based health benefit exchange" means a
111 governmental agency or nonprofit entity
112 established by the state of Missouri and not the
113 federal government that meets the applicable
114 requirements of Section 1311 of the federal
115 health care act and regulations promulgated

116 thereto and makes qualified health care plans
117 available to qualified individuals and qualified
118 employers. The term "state-based health benefit
119 exchange" includes regional or other interstate
120 exchanges and subsidiary exchanges as described
121 in Section 1311(f)(1) and (2) of the federal
122 health care act. The term "federally
123 facilitated health benefit exchange" means a
124 health benefit exchange established and operated
125 by the Secretary of Health and Human Services
126 under Section 1321(c)(1) of the federal health
127 care act, either directly or through agreement
128 with a not-for-profit entity.]

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