



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0894/P6
EKL:amn

DOA:.....Lessner, BB0285 - State-based marketplace

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

INSURANCE

State-based exchange

This bill directs OCI to establish and operate a state-based health insurance exchange. Under current law, the federal Affordable Care Act (ACA) requires that an exchange be established in each state to facilitate the purchase of qualified health insurance coverage by individuals and small employers. Under the ACA, a state must operate its own state-based exchange, use the federally facilitated exchange operated by the U.S. Department of Health and Human Services, or adopt a hybrid approach under which the state operates a state-based exchange but uses the federal platform, known as HealthCare.gov, to handle eligibility and enrollment functions. Wisconsin currently uses the federally facilitated exchange. The bill directs OCI to establish and operate a state-based exchange, first by using the federal platform and then transitioning to a fully state run exchange. The bill authorizes OCI to enter into any agreement with the federal government necessary to implement these provisions. The bill also requires that OCI impose a user fee on insurers offering plans through the state-based exchange. Under current law, the ACA imposes user fees on insurers offering plans through federally facilitated exchanges and state-based exchanges using the federal platform, which are currently 3 percent and 2.5 percent of total monthly premiums, respectively. The bill authorizes OCI to impose a user fee at the following rates:

1. For any plan year that OCI operates the state-based exchange using the federal platform, the rate is 0.5 percent.

2. For the first two plan years that OCI operates the fully state run exchange, the rate is 3 percent. For later plan years, the rate is set by OCI by rule.

The bill also creates an annual appropriation in state general purpose revenue for OCI's general program operations. Under the bill, OCI may spend up to \$900,000 in fiscal year 2021-22 for the development of a public option health insurance plan.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.145 (1) (a) of the statutes is created to read:

20.145 (1) (a) *State operations.* The amounts in the schedule for general program operations.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

***NOTE: This is reconciled s. 20.145 (1) (a). This SECTION has been affected by drafts with the following LRB numbers: LRB-0894/P4 and LRB-2006/P1.

SECTION 2. 20.145 (1) (g) (intro.) of the statutes is amended to read:

20.145 (1) (g) *General program operations.* (intro.) The amounts in the schedule for general program operations, including organizational support services and oversight of care management organizations, development of a public option health insurance plan, and operation of a state-based exchange under s. 601.59, and for transferring to the appropriation account under s. 20.435 (4) (kv) the amount allocated by the commissioner of insurance. Notwithstanding s. 20.001 (3) (a), at the end of each fiscal year, the unencumbered balance in this appropriation account that exceeds 10 percent of that fiscal year's expenditure under this appropriation shall lapse to the general fund. All of the following shall be credited to this appropriation account:

SECTION 3. 20.145 (1) (g) 5. of the statutes is created to read:

20.145 (1) (g) 5. All moneys received under s. 601.59.

SECTION 4. 601.59 of the statutes is created to read:

601.59 State-based exchange. (1) DEFINITIONS. In this section:

(a) “Exchange” has the meaning given in [45 CFR 155.20](#).

(b) “State-based exchange on the federal platform” means an exchange that is described in and meets the requirements of [45 CFR 155.200](#) (f) and is approved by the federal secretary of health and human services under [45 CFR 155.106](#).

(c) “State-based exchange without the federal platform” means an exchange, other than one described in [45 CFR 155.200](#) (f), that performs all the functions described in [45 CFR 155.200](#) (a) and is approved by the federal secretary of health and human services under [45 CFR 155.106](#).

(2) ESTABLISHMENT AND OPERATION OF STATE-BASED EXCHANGE. The commissioner shall establish and operate an exchange that at first is a state-based exchange on the federal platform and then subsequently transitions to a state-based exchange without the federal platform. The commissioner shall develop procedures to address the transition from the state-based exchange on the federal platform to the state-based exchange without the federal platform, including the circumstances that shall be met in order for the transition to occur.

(3) AGREEMENT WITH FEDERAL GOVERNMENT. The commissioner may enter into any agreement with the federal government necessary to facilitate the implementation of this section.

(4) USER FEES. The commissioner shall impose a user fee, as authorized under [45 CFR 155.160](#) (b) (1), on each insurer that offers a health plan through the state-based exchange on the federal platform or the state-based exchange without the federal platform. The user fee shall be applied at one of the following rates on

the total monthly premiums charged by an insurer for each policy under the plan where enrollment is through the exchange:

(a) For any plan year for which the commissioner operates a state-based exchange on the federal platform, the rate is 0.5 percent.

(b) For the first 2 plan years for which the commissioner operates a state-based exchange without the federal platform, the rate is 3 percent.

(c) Beginning with the 3rd plan year for which the commissioner operates a state-based exchange without the federal platform, the rate shall be set by the commissioner by rule.

(5) RULES. The commissioner may promulgate rules necessary to implement this section.

SECTION 9123. Nonstatutory provisions; Insurance.

(1) PUBLIC OPTION HEALTH INSURANCE PLAN. The office of the commissioner of insurance may expend from the appropriation under s. 20.145 (1) (a) in fiscal year 2021-22 not more than \$900,000 for the development of a public option health insurance plan.

(END)