

AMENDED IN SENATE MAY 6, 2014

**SENATE BILL**

**No. 972**

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**Introduced by Senator Torres**

**(Coauthors: Senators Anderson, Beall, Calderon, Correa, De León,  
Evans, Gaines, Galgiani, Hueso, Lara, Lieu, Liu, and Yee)**

February 10, 2014

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An act to amend Section 100500 of the Government Code, relating to the California Health Benefit Exchange.

LEGISLATIVE COUNSEL'S DIGEST

SB 972, as amended, Torres. California Health Benefit Exchange: board: membership.

Existing law created the California Health Benefit Exchange (Exchange) as an independent public entity in the state government, not affiliated with an agency or department. The Exchange is governed by an executive board consisting of 5 members who are residents of California. Of the members of the board, 2 are appointed by the Governor, one is appointed by the Senate Committee on Rules, and one is appointed by the Speaker of the Assembly. The Secretary of California Health and Human Services or his or her designee serves as a voting, ex officio member of the board. Each person is required to have demonstrated and acknowledged expertise in at least 2 listed areas, including, but not limited to, individual health care coverage, health care finance, and purchasing health plan coverage.

This bill would ~~increase the number of board members from 5 to 7, with the 2 additional board members being appointed by the Governor. The bill would also add marketing of health insurance products, information technology system management, management information systems, and consumer service delivery research and best practices~~

*enrollment counseling assistance, with priority to cultural and linguistic competency, to the list of areas of expertise.*

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
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 not affiliated with  
5 an agency or department, which shall be known as the Exchange.  
6 The Exchange shall be governed by an executive board consisting  
7 of ~~seven~~ *five* members who are residents of California. Of the  
8 members of the board, ~~four~~ *two* shall be appointed by the Governor,  
9 one shall be appointed by the Senate Committee on Rules, and one  
10 shall be appointed by the Speaker of the Assembly. The Secretary  
11 of California Health and Human Services or his or her designee  
12 shall serve as a voting, ex officio member of the board.

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

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

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

- 1 (G) Marketing of health insurance products.
- 2 (H) Information technology system management.
- 3 (I) Management information systems.
- 4 ~~(J) Consumer service delivery research and best practices.~~
- 5 (J) *Enrollment counseling assistance, with priority to cultural*
- 6 *and linguistic competency.*
- 7 (2) Appointing authorities shall consider the expertise of the
- 8 other members of the board and attempt to make appointments so
- 9 that the board’s composition reflects a diversity of expertise.
- 10 (d) Each member of the board shall have the responsibility and
- 11 duty to meet the requirements of this title, the federal act, and all
- 12 applicable state and federal laws and regulations, to serve the public
- 13 interest of the individuals and small businesses seeking health care
- 14 coverage through the Exchange, and to ensure the operational
- 15 well-being and fiscal solvency of the Exchange.
- 16 (e) In making appointments to the board, the appointing
- 17 authorities shall take into consideration the cultural, ethnic, and
- 18 geographical diversity of the state so that the board’s composition
- 19 reflects the communities of California.
- 20 (f) (1) A member of the board or of the staff of the Exchange
- 21 shall not be employed by, a consultant to, a member of the board
- 22 of directors of, affiliated with, or otherwise a representative of, a
- 23 carrier or other insurer, an agent or broker, a health care provider,
- 24 or a health care facility or health clinic while serving on the board
- 25 or on the staff of the Exchange. A member of the board or of the
- 26 staff of the Exchange shall not be a member, a board member, or
- 27 an employee of a trade association of carriers, health facilities,
- 28 health clinics, or health care providers while serving on the board
- 29 or on the staff of the Exchange. A member of the board or of the
- 30 staff of the Exchange shall not be a health care provider unless he
- 31 or she receives no compensation for rendering services as a health
- 32 care provider and does not have an ownership interest in a
- 33 professional health care practice.
- 34 (2) A board member shall not receive compensation for his or
- 35 her service on the board, but may receive a per diem and
- 36 reimbursement for travel and other necessary expenses, as provided
- 37 in Section 103 of the Business and Professions Code, while
- 38 engaged in the performance of official duties of the board.
- 39 (3) For purposes of this subdivision, “health care provider”
- 40 means a person licensed or certified pursuant to Division 2

1 (commencing with Section 500) of the Business and Professions  
2 Code, or licensed pursuant to the Osteopathic Act or the  
3 Chiropractic Act.

4 (g) A member of the board shall not make, participate in  
5 making, or in any way attempt to use his or her official position  
6 to influence the making of any decision that he or she knows or  
7 has reason to know will have a reasonably foreseeable material  
8 financial effect, distinguishable from its effect on the public  
9 generally, on him or her or a member of his or her immediate  
10 family, or on either of the following:

11 (1) Any source of income, other than gifts and other than loans  
12 by a commercial lending institution in the regular course of  
13 business on terms available to the public without regard to official  
14 status aggregating two hundred fifty dollars (\$250) or more in  
15 value provided to, received by, or promised to the member within  
16 12 months prior to the time when the decision is made.

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

20 (h) There shall not be any liability in a private capacity on the  
21 part of the board or any member of the board, or any officer or  
22 employee of the board, for or on account of any act performed or  
23 obligation entered into in an official capacity, when done in good  
24 faith, without intent to defraud, and in connection with the  
25 administration, management, or conduct of this title or affairs  
26 related to this title.

27 (i) The board shall hire an executive director to organize,  
28 administer, and manage the operations of the Exchange. The  
29 executive director shall be exempt from civil service and shall  
30 serve at the pleasure of the board.

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

36 (k) (1) The board shall apply for planning and establishment  
37 grants made available to the Exchange pursuant to Section 1311  
38 of the federal act. If an executive director has not been hired under  
39 subdivision (i) when the United States Secretary of Health and  
40 Human Services makes the planning and establishment grants

1 available, the California Health and Human Services Agency shall,  
2 upon request of the board, submit the initial application for  
3 planning and establishment grants to the United States Secretary  
4 of Health and Human Services.

5 (2) If a majority of the board has not been appointed when the  
6 United States Secretary of Health and Human Services makes the  
7 planning and establishment grants available, the California Health  
8 and Human Services Agency shall submit the initial application  
9 for planning and establishment grants to the United States Secretary  
10 of Health and Human Services. Any subsequent applications shall  
11 be made as described in paragraph (1) once a majority of the  
12 members have been appointed to the board.

13 (3) The board shall be responsible for using the funds awarded  
14 by the United States Secretary of Health and Human Services for  
15 the planning and establishment of the Exchange, consistent with  
16 subdivision (b) of Section 1311 of the federal act.