

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/2/15
A Bill

SENATE BILL 343

By: Senators J. Hendren, *Rapert*
By: Representative *Collins*

For An Act To Be Entitled

AN ACT TO PROHIBIT THE ESTABLISHMENT THROUGH STATE
LAW OF A STATE-BASED HEALTH INSURANCE EXCHANGE IN
THIS STATE UNDER THE PATIENT PROTECTION AND
AFFORDABLE CARE ACT AND THE HEALTH CARE AND EDUCATION
RECONCILIATION ACT OF 2010; AND FOR OTHER PURPOSES.

Subtitle

TO PROHIBIT THE ESTABLISHMENT THROUGH
STATE LAW OF A STATE-BASED HEALTH
INSURANCE EXCHANGE IN THIS STATE UNDER
THE PATIENT PROTECTION AND AFFORDABLE
CARE ACT AND THE HEALTH CARE AND
EDUCATION RECONCILIATION ACT OF 2010.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Findings and intent.

(a) On March 4, 2015, the United States Supreme Court shall hear oral arguments in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S. ___, 135 S. Ct. 475 (2014), that could potentially change the landscape for implementation of a state-based health insurance exchange and a health insurance exchange operated by the federal government for states without a state-based health insurance exchange under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

(b) The health insurance marketplace developed through a federally



facilitated exchange partnership model is expected to transfer to the control of the Arkansas Health Insurance Marketplace on July 1, 2015, if the Board of Directors of the Arkansas Health Insurance Marketplace determines that the implementation of a state-based health insurance marketplace is approved by the United States Department of Health and Human Services on or before July 1, 2015.

(c) The purpose of this act is to prohibit the implementation through state law of a state-based health insurance exchange in this state under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, before the United States Supreme Court issues a ruling in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S., 135 S. Ct. 475 (2014).

(d)(1) It is the intent of this act that until a ruling is issued in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S., 135 S. Ct. 475 (2014), that is expected before July 1, 2015, this state should not implement through state law a state-based health insurance exchange in this state.

(2) If a ruling in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S., 135 S. Ct. 475 (2014), modifies the eligibility requirements for subsidies in a health insurance exchange operated by the federal government under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, a state-based health insurance exchange should not be implemented in this state without the legal authority to establish and operate an exchange under state law and the approval of the General Assembly.

SECTION 2. DO NOT CODIFY. Implementation of state-based health insurance exchange.

(a) A state-based health insurance exchange shall not be implemented in this state until after the decision of the United States Supreme Court in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S., 135 S. Ct. 475 (2014).

(b) If the Board of Directors of the Arkansas Health Insurance Marketplace determines that the decision in King v. Burwell, 759 F.3d 358 (4th Cir.), cert. granted, U.S., 135 S. Ct. 475 (2014):

(1) Allows subsidies under the Patient Protection and

Affordable Care Act, Pub. L. No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, for a state-based health insurance exchange, but not for a health insurance exchange operated by the federal government, then implementation of an appropriate health insurance exchange for the State of Arkansas shall be determined by a future act of the General Assembly; or

(2) Allows subsidies under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, for both a state-based health insurance exchange and a health insurance exchange operated by the federal government, then the authority of the Arkansas Health Insurance Marketplace to implement a state-based health insurance exchange shall not be affected by this act.

/s/J. Hendren

APPROVED: 03/12/2015