

114TH CONGRESS
1ST SESSION

H. R. 2869

To amend title XXVII of the Public Health Service Act to permit cooperative governing of public entity health benefits through local governments in secondary States.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2015

Mr. MARCHANT (for himself, Mr. THORNBERRY, and Mr. OLSON) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XXVII of the Public Health Service Act to permit cooperative governing of public entity health benefits through local governments in secondary States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local and Municipal
5 Health Care Choice Act of 2015”.

6 **SEC. 2. COOPERATIVE GOVERNING OF PUBLIC ENTITY**
7 **GROUP HEALTH COVERAGE.**

8 Title XXVII of the Public Health Service Act (42
9 U.S.C. 300gg et seq.) is amended—

1 (1) by redesignating the section 2794 (42
 2 U.S.C. 300gg-95) relating to uniform fraud and
 3 abuse referral format as section 2795; and

4 (2) by adding at the end the following new sec-
 5 tion:

6 **“SEC. 2796. AUTHORITY TO OFFER PUBLIC ENTITY GROUP**
 7 **HEALTH COVERAGE TO LOCAL GOVERN-**
 8 **MENTS IN A SECONDARY STATE.**

9 “(a) IN GENERAL.—A local government in a sec-
 10 ondary State (as defined in subsection (i)(7)) may provide
 11 group health coverage to its officers, employees, or retirees
 12 (and their dependents) through a local government em-
 13 ployee health benefits pool or program authorized under
 14 the laws of a primary State, subject to the provisions of
 15 this section.

16 “(b) ELIGIBILITY FOR MULTISTATE ACTIVITY.—A
 17 local government employee health benefits pool or program
 18 shall be eligible to offer group health coverage to officials,
 19 employees, and retirees (and their dependents) of a local
 20 government located in a secondary State through an
 21 interlocal agreement with such local government, or as ap-
 22 proved by an applicable State authority in such secondary
 23 State, unless—

24 “(1) in the case of a pool or program that pri-
 25 marily serves municipal officers, employees, or retir-

1 ees (and their dependents), an objection is made to
 2 the offering of such coverage by the municipal
 3 league or association located in the secondary State
 4 within 90 days of the date on which the authority
 5 is granted or an interlocal agreement is executed; or

6 “(2) in the case of a pool or program that pri-
 7 marily serves county officers, employees, retirees
 8 (and their dependents), an objection is made to the
 9 offering of such coverage by the county association
 10 located in the secondary State within 90 days of the
 11 date on which the authority is granted or an
 12 interlocal agreement is executed.

13 “(c) APPLICATION OF COVERED LAWS OF PRIMARY
 14 STATE.—The covered laws (as defined in subsection
 15 (i)(2)) of the primary State shall apply to group health
 16 coverage offered by a local government employee health
 17 benefits pool or program in the primary State and in any
 18 secondary State, but only if the coverage and the pool or
 19 program comply with the conditions of this section with
 20 respect to the offering of coverage in any secondary State.

21 “(d) LIMITED APPLICATION OF SECONDARY STATE
 22 LAWS.—

23 “(1) IN GENERAL.—Except as provided in this
 24 section, a local government employee health benefits
 25 pool or program that offers group health coverage in

1 a secondary State to the officers, employees, or retir-
2 ees (and their dependents) of a local government lo-
3 cated in such secondary State, is exempt from any
4 covered laws of the secondary State (and any rules,
5 regulations, agreements, or orders sought or issued
6 by such State under or related to such covered
7 laws).

8 “(2) SECONDARY STATE AUTHORITY.—A sec-
9 ondary State may require a local government em-
10 ployee health benefits pool or program to do any or
11 all of the following:

12 “(A) REGISTRATION.—To register with an
13 applicable State authority in such State with
14 jurisdiction over local government employee
15 health benefits pools or programs and designate
16 such authority as its agent solely for the pur-
17 pose of receiving service of legal documents or
18 process.

19 “(B) DOCUMENTATION.—To file with an
20 applicable state authority in such State—

21 “(i) a written intent to do business in
22 that State;

23 “(ii) copies of the membership or
24 interlocal agreements entered into between
25 the local government employee health bene-

1 fits pool or program and a local govern-
2 ment of that State; and

3 “(iii) copies of annual audited finan-
4 cial statements of the local government
5 employee health benefits pool or program
6 filed with the primary State.

7 “(C) COMPLIANCE WITH INJUNCTIONS.—

8 To comply with an injunction issued by a court
9 of competent jurisdiction, upon a petition by an
10 applicable State authority in such State alleging
11 that the pool or program is in hazardous finan-
12 cial condition.

13 “(D) COMPLIANCE WITH STATE FRAUD

14 AND ABUSE LAWS.—To comply with any State
15 law regarding fraud and abuse, except that if
16 the State seeks an injunction regarding the con-
17 duct described in this subparagraph, such in-
18 junction must be obtained from a court of com-
19 petent jurisdiction.

20 “(E) COMPLIANCE WITH STATE UNFAIR

21 CLAIMS SETTLEMENT PRACTICES LAWS.—To
22 comply with any State law regarding unfair
23 claims settlement practices.

24 “(3) LIMITATIONS ON SECONDARY STATE AU-

25 THORITY.—If a local government employee health

1 benefits pool or program offers group health insur-
2 ance coverage to officials, employees, and retirees
3 (and their dependents) of a local government located
4 in a secondary State pursuant to subsection (b),
5 such secondary State may not do any of the fol-
6 lowing:

7 “(A) COUNTERSIGNED BY LOCAL AGENT
8 OR BROKER.—Require any group health cov-
9 erage issued by the pool or program to be
10 countersigned by an insurance agent or broker
11 residing in that secondary State.

12 “(B) SUBMIT TO DUPLICATIVE FINANCIAL
13 EXAMINATIONS.—Require the pool or program
14 to submit to an examination of its financial
15 condition by an applicable State authority in
16 such State, unless—

17 “(i) an applicable State authority of
18 the primary State has not done an exam-
19 ination within the period recommended by
20 the National Association of Insurance
21 Commissioners; and

22 “(ii) any such examination by the sec-
23 ondary State is conducted in accordance
24 with the examiners’ handbook of the Na-
25 tional Association of Insurance Commis-

1 sioners and is coordinated to avoid unjusti-
2 fied duplication and unjustified repetition.

3 “(C) DISCRIMINATE AGAINST POOL OR
4 PROGRAM.—Otherwise discriminate against the
5 pool or program issuing group health coverage
6 in both the primary State and in any secondary
7 State.

8 “(e) BENEFIT REQUIREMENTS.—Group health cov-
9 erage offered by a local government employee health bene-
10 fits pool or program shall be at least as comprehensive
11 as the coverage of the essential health benefits under sec-
12 tion 1302(b) of the Patient Protection and Affordable
13 Care Act (42 U.S.C. 18022(b)).

14 “(f) DISCLOSURE REQUIREMENT.—Prior to pro-
15 viding group health coverage to the officers, employees,
16 or retirees (and their dependents) of a local government
17 located in a secondary State, a local government employee
18 health benefits pool or program shall provide notice to
19 such individuals that the health coverage is governed by
20 the covered laws and regulations of the primary State, as
21 well as by any applicable Federal laws and regulations.

22 “(g) STATUS OF GROUP HEALTH COVERAGE IN SEC-
23 ONDARY STATE.—A local government employee health
24 benefits pool or program that is not regulated as an in-
25 surer in its primary State, and whose group health plans

1 are not regulated as insurance in its primary State, shall
2 not be subject to the jurisdiction of a State insurance reg-
3 ulatory agency in any secondary State.

4 “(h) DESIGNATION OF PRIMARY STATE.—

5 “(1) DESIGNATION OF A SINGLE STATE.—A
6 local government employee health benefits pool or
7 program may only designate one State as its pri-
8 mary State with respect to all such coverage it offers
9 under this section.

10 “(2) INITIAL OPERATIONS IN PRIMARY
11 STATE.—Such pool or program may not offer group
12 health coverage in a secondary State until it is
13 deemed to be doing business in the primary State.

14 “(i) DEFINITIONS.—In this section:

15 “(1) APPLICABLE STATE AUTHORITY.—The
16 term ‘applicable State authority’ means, with respect
17 to a local government employee health benefits pool
18 or program in a State, any official or officials des-
19 ignated by the State to administer the requirements
20 of this section for the State with respect to such
21 pool or program, including the official or officials
22 with authority to approve interlocal agreements
23 under applicable State law, but shall not include any
24 State insurance regulatory agency.

25 “(2) COVERED LAWS.—

1 “(A) IN GENERAL.—The term ‘covered
2 laws’ means the laws, rules, regulations, agree-
3 ments, and orders pertaining to any of the fol-
4 lowing:

5 “(i) Group health coverage issued by
6 a local government employee health bene-
7 fits pool or program.

8 “(ii) The offer, sale, rating (including
9 medical underwriting), renewal, and
10 issuance of group health coverage to local
11 government officials, employees, and retir-
12 ees or their dependents.

13 “(iii) The management, operations,
14 and investment activities of a local govern-
15 ment employee health benefits pool or pro-
16 gram.

17 “(iv) Loss control and claims adminis-
18 tration for a local government employee
19 health benefits pool or program with re-
20 spect to liability for which the pool or pro-
21 gram provides coverage.

22 “(v) The payment, on a nondiscrim-
23 inatory basis, of applicable premium and
24 other taxes (including high risk pool as-
25 sessments) which are levied on health in-

1 surance issuers, brokers, or policyholders
2 under the laws of the State.

3 “(B) EXCEPTION.—Such term does not in-
4 clude any law, rule, regulation, agreement, or
5 order governing the use of care or cost manage-
6 ment techniques, including any requirement re-
7 lated to provider contracting, network access or
8 adequacy, health care data collection, or quality
9 assurance.

10 “(3) GROUP HEALTH COVERAGE.—The term
11 ‘group health coverage’ means medical care expense
12 reimbursement provided under a group health plan.

13 “(4) LOCAL GOVERNMENT.—The term ‘local
14 government’ means a county, municipality, special
15 district, school district, junior college district, hous-
16 ing authority, or other political subdivision or public
17 entity defined under State law.

18 “(5) LOCAL GOVERNMENT EMPLOYEE HEALTH
19 BENEFITS POOL OR PROGRAM.—The term ‘local gov-
20 ernment employee health benefits pool or program’
21 means a risk pool authorized or permitted by State
22 statute or otherwise regulated by a State agency
23 under which—

24 “(A) a local government or group of local
25 governments, directly or through a pool, provide

1 health care benefits primarily for local govern-
2 ment officials, employees, and retirees and their
3 dependents; and

4 “(B) such pool may provide health care
5 benefits from the assets of the pool or its mem-
6 ber local governments through any combination
7 of self-funded arrangements or fully insured
8 products;

9 and includes any other State authorized program de-
10 signed to provide health benefits to local government
11 officials, employees, and retirees and their depend-
12 ents.

13 “(6) PRIMARY STATE.—The term ‘primary
14 State’ means, with respect to group health coverage
15 offered by a local government employee health bene-
16 fits pool or program, the State designated by the
17 pool or program as the State whose covered laws
18 shall govern the pool or program in the issuance of
19 such coverage under this part.

20 “(7) SECONDARY STATE.—The term ‘secondary
21 State’ means, with respect to group health coverage
22 offered by a local government employee health bene-
23 fits pool or program, any State that is not the pri-
24 mary State.”.

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