



ARIZONA STATE SENATE
Fifty-Second Legislature, First Regular Session

AMENDED

FACT SHEET FOR H.B. 2643

sovereign authority; affordable care act

Purpose

Prohibits the state and its political subdivisions from using any personnel or financial resources to enforce, administer or cooperate with the Affordable Care Act.

Background

Article II, Section 3, of the Arizona Constitution states that Arizona may exercise its sovereign authority to restrict the actions of its personnel and the use of its financial resources to purposes that are consistent with the Constitution by passing initiatives or referendums, passing bills or pursuing other available legal remedies. If the state exercises this authority, the state and its political subdivisions are prohibited from using any personnel or financial resources to enforce, administer or cooperate with the federal action or program (Arizona Constitution Article II, Section 3).

Enacted in March 2010, the Affordable Care Act (ACA) made a series of changes in federal programs and tax policies regarding health care, including changes affecting insurance coverage, affordability and accessibility. Among these changes, the ACA provides insurance for previously uninsured Americans (cbo.gov; hhs.gov).

Statute prohibits a health insurer subject to the ACA from issuing a contract, policy, certificate or evidence of coverage or otherwise transacting insurance if the coverage and benefits provided are inconsistent with the ACA (A.R.S. § 20-238).

The Arizona Health Care Cost Containment System (AHCCCS) is Arizona's Medicaid program that oversees health insurance plans for qualified individuals (azahcccs.gov). A.R.S. § 36-2901.08 allows the Director of the Department of Health Services to establish, administer and collect assessments on hospital revenues, discharges or bed days to fund the nonfederal share of costs of specified health care services.

The fiscal impact to the state General Fund associated with this legislation is unknown at this time.

Provisions

1. Prohibits the state and political subdivisions from using any personnel or financial resources to enforce, administer or cooperate with the ACA by:
 - a) funding or implementing a state-based health care exchange or marketplace;

- b) limiting the availability of self-funded health insurance programs or the reinsurance or other products that are traditionally used with self-funded health insurance programs; or
 - c) funding or aiding in the prosecution of any entity for a violation of the ACA, except to maintain the integrity of AHCCCS.
2. Prohibits the state and political subdivisions from using any personnel or financial resources to enforce, administer or cooperate with the ACA by funding or administering any program or provision of the ACA except for regulatory activities:
 - a) associated with the requirement that health insurers act consistently with the ACA as outlined in A.R.S. § 20-238;
 - b) associated with health insurance navigators and certified application counselors;
 - c) administered under the hospital assessment pursuant to A.R.S. § 36-2901.08 or the Hospital Assessment Fund pursuant to A.R.S. § 36-2901.09 ;
 - d) involving AHCCCS; or
 - e) associated with initiatives, grants or other funding related to public health treatment, preparedness, education or prevention programs authorized by the ACA which do not impose unrelated requirements on the state or its political subdivisions.
 3. Permits the state and its political subdivisions to use personnel and financial resources to provide employee health insurance benefits and specifies such benefits may be in compliance with provisions of the ACA.
 4. Specifies *Act* or *Affordable Care Act* refers to the Patient Protection and Affordable Care Act (P.L. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) and any rules adopted pursuant to those acts.
 5. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- Provides that regulatory activities related to health insurance navigators and certified application counselors are exempt from the proposed prohibition of using personnel or financial resources towards the ACA.
- Exempts regulatory activities associated with initiatives, grants or other funding related to public health treatment, preparedness, education or prevention programs authorized by the ACA from the bill.
- Permits the state and its political subdivisions to use personnel and financial resources to provide employee health insurance benefits.

Amendments Adopted by Conference Committee

- Allows employee health insurance benefits provided by the state and political subdivisions to be in compliance with provisions of the ACA.

FACT SHEET - Amended

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House Action

FSR	2/18/15	DPA	5-3-0
3 rd Read	3/11/15		36-21-3

Senate Action

FMFR	3/17/15	DP	4-0-3
3 rd Read	3/31/15		16-13-1-0

Prepared by Senate Research

April 2, 2015

JA/EK/jo