

File No. 140243

Committee Item No. \_\_\_\_\_

Board Item No. 30

# COMMITTEE/BOARD OF SUPERVISORS

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Committee: \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date March 18, 2014

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- Senate Bill 1005 \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Completed by: John Carroll Date March 13, 2014

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Supporting California Senate Bill 1005 (Lara) - Expanding Access to Health Care Coverage  
2 for All Californians Regardless of Immigration Status]

3 **Resolution supporting California Senate Bill 1005, introduced by Senator Ricardo Lara,**  
4 **which authorizes enrollment in the Medi-Cal program or in insurance offered through a**  
5 **health benefit exchange to individuals who would otherwise qualify for enrollment in**  
6 **those programs but are denied access based on their immigration status.**

7  
8 WHEREAS, Implementation of the Affordable Care Act (ACA) expands health care  
9 coverage to millions of Californians and affords individuals several important consumer  
10 protections, including requirements to cover essential health benefits, to provide coverage for  
11 individuals with pre-existing conditions, and to subsidize insurance costs based on income;  
12 and

13 WHEREAS, The ACA specifically excludes undocumented immigrants; and

14 WHEREAS, After implementation of the ACA, it is estimated that more than one million  
15 Californians will remain uninsured and not eligible for coverage due to their immigration  
16 status; and

17 WHEREAS, Quality health coverage is a basic human right and all Californians should  
18 have access to affordable health care and insurance coverage; and

19 WHEREAS, Immigration status should not bar individuals from access to health care  
20 and insurance coverage; and

21 WHEREAS, Senate Bill (SB) 1005 would create the California Health Exchange  
22 Program For All Californians that would facilitate the enrollment into qualified health plans of  
23 individuals who are not eligible for Medi-Cal coverage and would have been eligible to  
24 purchase coverage through the Exchange but for their immigration status; and  
25

1           WHEREAS, The California Health Exchange Program For All Californians would  
2 provide premium subsidies and cost-sharing reductions to eligible individuals that are the  
3 same as the premium assistance and cost-sharing reductions the individuals would have  
4 received through the Exchange; and

5           WHEREAS, SB 1005 would extend eligibility for full-scope Medi-Cal benefits to  
6 individuals who are otherwise eligible for those benefits but for their immigration status; now,  
7 therefore, be it

8           RESOLVED, That, because the Board of Supervisors believes that all people should  
9 have access to basic health care and insurance coverage and that immigration status should  
10 not bar individuals from receiving health care or insurance coverage, the Board of Supervisors  
11 supports and encourages the passage of California Senate Bill 1005; and, be it

12           FURTHER RESOLVED, That the Clerk of the Board of Supervisors forward a copy of  
13 this resolution to California Senator Ricardo Lara with a request he take all action necessary  
14 to achieve the objectives of this resolution.

**Introduced by Senator Lara****(Coauthors: Senators Block, Calderon, De León, Mitchell, Padilla,  
and Torres)****(Coauthors: Assembly Members Bocanegra, Bonta, Dickinson, Fong,  
Gonzalez, Roger Hernández, Jones-Sawyer, Pan, Rendon, and  
Yamada)**February 13, 2014

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An act to add Title 22.5 (commencing with Section 100530) to the Government Code, and to add Section 14102.1 to the Welfare and Institutions Code, relating to health care coverage, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1005, as introduced, Lara. Health care coverage: immigration status.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, and meets certain other requirements. PPACA specifies that an individual who is not a citizen or national of the United States or an alien lawfully present in the United States shall not be treated as a qualified individual and may not be covered under a qualified health plan offered through an Exchange. Existing law creates the California Health Benefit Exchange for the purpose of facilitating the enrollment of qualified individual and qualified small employers in qualified health plans as required under PPACA.

This bill would create the California Health Exchange Program For All Californians within state government and would require that the

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) It is the intent of the Legislature that all  
2 Californians, regardless of immigration status, have access to  
3 affordable health coverage and care.

4 (b) It is the intent of the Legislature that all Californians who  
5 are eligible for Medi-Cal, a qualified health plan offered through  
6 the California Health Benefits Exchange, or affordable  
7 employer-based health coverage enroll in that coverage and obtain  
8 the care that they need.

9 (c) It is further the intent of the Legislature, in enacting this  
10 measure, to ensure that all Californians be included in eligibility  
11 for coverage without regard to immigration status.

12 SEC. 2. Title 22.5 (commencing with Section 100530) is added  
13 to the Government Code, to read:

14  
15  
16  
17

TITLE 22.5. CALIFORNIA HEALTH EXCHANGE  
PROGRAM FOR ALL CALIFORNIANS

18 100530. (a) There is in state government the California Health  
19 Exchange Program for All Californians, an independent public  
20 entity not affiliated with an agency or department.

21 (b) The program shall be governed by the executive board  
22 established pursuant to Section 100500. The board shall be subject  
23 to Section 100500.

24 (c) It is the intent of the Legislature in enacting this program to  
25 provide affordable coverage for Californians who would be eligible  
26 for coverage and premium subsidies under the California Health  
27 Benefit Exchange established under Title 22 (commencing with  
28 Section 100500) but for their immigration status. It is further the  
29 intent of the Legislature that Californians eligible under this title  
30 be offered the same premiums and cost sharing that they would  
31 be offered through the California Health Benefit Exchange but for  
32 their immigration status.

33 100531. For purposes of this title, the following definitions  
34 shall apply:

35 (a) "Board" means the board described in subdivision (b) of  
36 Section 100530.

37 (b) "Carrier" means either a private health insurer holding a  
38 valid outstanding certificate of authority from the Insurance

1 board shall require health plans seeking certification as qualified  
2 health plans to do all of the following:

3 (1) Submit a justification for any premium increase prior to  
4 implementation of the increase consistent with Article 6.2  
5 (commencing with Section 1385.01) of Chapter 2.2 of Division 2  
6 of the Health and Safety Code and Article 4.5 (commencing with  
7 Section 10181) of Chapter 1 of Part 2 of Division 2 of the Insurance  
8 Code.

9 (2) (A) Make available to the public and submit to the board  
10 accurate and timely disclosure of the following information:

11 (i) Claims payment policies and practices.

12 (ii) Periodic financial disclosures.

13 (iii) Data on enrollment.

14 (iv) Data on disenrollment.

15 (v) Data on the number of claims that are denied.

16 (vi) Data on rating practices.

17 (vii) Information on cost sharing and payments with respect to  
18 any out-of-network coverage.

19 (viii) Information on enrollee and participant rights under state  
20 law.

21 (B) The information required under subparagraph (A) shall be  
22 provided in plain language.

23 (3) Permit individuals to learn, in a timely manner upon the  
24 request of the individual, the amount of cost sharing, including,  
25 but not limited to, deductibles, copayments, and coinsurance, under  
26 the individual's plan or coverage that the individual would be  
27 responsible for paying with respect to the furnishing of a specific  
28 item or service by a participating provider. At a minimum, this  
29 information shall be made available to the individual through an  
30 Internet Web site and through other means for individuals without  
31 access to the Internet.

32 (d) Provide for the operation of a toll-free telephone hotline to  
33 respond to requests for assistance.

34 (e) Maintain an Internet Web site through which enrollees and  
35 prospective enrollees of qualified health plans may obtain  
36 standardized comparative information on those plans.

37 (f) Assign a rating to each qualified health plan offered through  
38 the program in accordance with the criteria developed by board.

39 (g) Utilize a standardized format for presenting health benefits  
40 plan options in the program.

1 (c) Determine the minimum requirements a carrier must meet  
2 to be considered for participation in the program, and the standards  
3 and criteria for selecting qualified health plans to be offered  
4 through the program that are in the best interests of qualified  
5 individuals. The board shall consistently and uniformly apply these  
6 requirements, standards, and criteria to all carriers. In the course  
7 of selectively contracting for health care coverage offered to  
8 qualified individuals through the program, the board shall seek to  
9 contract with carriers so as to provide health care coverage choices  
10 that offer the optimal combination of choice, value, quality, and  
11 service.

12 (d) Provide, in each region of the state, a choice of qualified  
13 health plans at each of the five levels of coverage contained in  
14 subsections (d) and (e) of Section 1302 of the federal act.

15 (e) Require, as a condition of participation in the program,  
16 carriers to fairly and affirmatively offer, market, and sell in the  
17 program at least one product within each of the five levels of  
18 coverage contained in subsections (d) and (e) of Section 1302 of  
19 the federal act. The board may require carriers to offer additional  
20 products within each of those five levels of coverage. This  
21 subdivision shall not apply to a carrier that solely offers  
22 supplemental coverage in the program under paragraph (10) of  
23 subdivision (a) of Section 100534.

24 (f) (1) Except as otherwise provided in this section, require, as  
25 a condition of participation in the program, carriers that sell any  
26 products outside the program to fairly and affirmatively offer,  
27 market, and sell all products made available to individuals in the  
28 program to individuals purchasing coverage outside the program.

29 (2) For purposes of this subdivision, "product" does not include  
30 contracts entered into pursuant to Chapter 7 (commencing with  
31 Section 14000) of, or Chapter 8 (commencing with Section 14200)  
32 of, Part 3 of Division 9 of the Welfare and Institutions Code  
33 between the State Department of Health Care Services and carriers  
34 for enrolled Medi-Cal beneficiaries. "Product" also does not  
35 include a bridge plan product offered pursuant to Section 100504.5.

36 (g) Determine when an enrollee's coverage commences and the  
37 extent and scope of coverage.

38 (h) Provide for the processing of applications and the enrollment  
39 and disenrollment of enrollees.

1 report made to the Legislature pursuant to this subdivision shall  
2 be submitted pursuant to Section 9795.

3 (2) In addition to the report described in paragraph (1), the board  
4 shall be responsive to requests for additional information from the  
5 Legislature, including providing testimony and commenting on  
6 proposed state legislation or policy issues. The Legislature finds  
7 and declares that activities including, but not limited to, responding  
8 to legislative or executive inquiries, tracking and commenting on  
9 legislation and regulatory activities, and preparing reports on the  
10 implementation of this title and the performance of the program,  
11 are necessary state requirements and are distinct from the  
12 promotion of legislative or regulatory modifications referred to in  
13 subdivision (c) of Section 100540.

14 (r) Maintain enrollment and expenditures to ensure that  
15 expenditures do not exceed the amount of revenue in the fund, and  
16 if sufficient revenue is not available to pay estimated expenditures,  
17 institute appropriate measures to ensure fiscal solvency.

18 (s) Exercise all powers reasonably necessary to carry out and  
19 comply with the duties, responsibilities, and requirements of this  
20 title.

21 (t) Consult with stakeholders relevant to carrying out the  
22 activities under this title, including, but not limited to, all of the  
23 following:

- 24 (1) Health care consumers who are enrolled in health plans.
- 25 (2) Individuals and entities with experience in facilitating
- 26 enrollment in health plans.
- 27 (3) The executive director of the Exchange.
- 28 (4) The State Medi-Cal Director.
- 29 (5) Advocates for enrolling hard-to-reach populations.

30 (u) Facilitate the purchase of qualified health plans in the  
31 program by qualified individuals no later than January 1, 2016.

32 (v) Require carriers participating in the program to immediately  
33 notify the program, under the terms and conditions established by  
34 the board when an individual is or will be enrolled in or disenrolled  
35 from any qualified health plan offered by the carrier.

36 (w) Ensure that the program provides oral interpretation services  
37 in any language for individuals seeking coverage through the  
38 program and makes available a toll-free telephone number for the  
39 hearing and speech impaired. The board shall ensure that written  
40 information made available by the program is presented in a plainly



1 the program as to whether a health care provider is accepting new  
2 patients for a particular health plan. The program may provide an  
3 integrated and uniform consumer directory of health care providers  
4 indicating which carriers the providers contract with and whether  
5 the providers are currently accepting new patients. The program  
6 may also establish methods by which health care providers may  
7 transmit relevant information directly to the program, rather than  
8 through a carrier.

9 (10) Make available supplemental coverage for enrollees of the  
10 program to the extent permitted by available funding. Any  
11 supplemental coverage offered in the program shall be subject to  
12 the charge imposed under subdivision (n) of Section 100533.

13 (b) The program shall only collect information from individuals  
14 or designees of individuals necessary to administer the program.

15 (c) The board shall have the authority to standardize products  
16 to be offered through the program.

17 100535. The board shall establish and use a competitive  
18 process to select participating carriers and any other contractors  
19 under this title. Any contract entered into pursuant to this title shall  
20 be exempt from Chapter 2 (commencing with Section 10100) of  
21 Division 2 of the Public Contract Code, and shall be exempt from  
22 the review or approval of any division of the Department of General  
23 Services.

24 100536. (a) The board shall establish an appeals process for  
25 prospective and current enrollees of the program.

26 (b) The board shall not be required to provide an appeal if the  
27 subject of the appeal is within the jurisdiction of the Department  
28 of Managed Health Care pursuant to the Knox-Keene Health Care  
29 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section  
30 1340) of Division 2 of the Health and Safety Code) and its  
31 implementing regulations, or within the jurisdiction of the  
32 Department of Insurance pursuant to the Insurance Code and its  
33 implementing regulations.

34 100537. (a) Notwithstanding any other provision of law, the  
35 program shall not be subject to licensure or regulation by the  
36 Department of Insurance or the Department of Managed Health  
37 Care.

38 (b) Carriers that contract with the program shall have a license  
39 or certificate of authority from, and shall be in good standing with,  
40 their respective regulatory agencies.

1 (b) Any individual or entity who aids or abets another individual  
2 or entity in violation of this section shall also be in violation of  
3 this section.

4 100540. (a) The California Health Trust Fund For All  
5 Californians is hereby created in the State Treasury for the purpose  
6 of this title. Notwithstanding Section 13340, all moneys in the  
7 fund shall be continuously appropriated without regard to fiscal  
8 year for the purposes of this title. Any moneys in the fund that are  
9 unexpended or unencumbered at the end of a fiscal year may be  
10 carried forward to the next succeeding fiscal year.

11 (b) The board of the program shall establish and maintain a  
12 prudent reserve in the fund.

13 (c) The board or staff of the program shall not utilize any funds  
14 intended for the administrative and operational expenses of the  
15 program for staff retreats, promotional giveaways, excessive  
16 executive compensation, or promotion of federal or state legislative  
17 or regulatory modifications.

18 (d) Notwithstanding Section 16305.7, all interest earned on the  
19 moneys that have been deposited into the fund shall be retained  
20 in the fund and used for purposes consistent with the fund.

21 (e) Effective January 1, 2018, if at the end of any fiscal year,  
22 the fund has unencumbered funds in an amount that equals or is  
23 more than the board approved operating budget of the program  
24 for the next fiscal year, the board shall reduce the charges imposed  
25 under subdivision (n) of Section 100533 during the following fiscal  
26 year in an amount that will reduce any surplus funds of the program  
27 to an amount that is equal to the agency's operating budget for the  
28 next fiscal year.

29 100541. (a) The board shall ensure that the establishment,  
30 operation, and administrative functions of the program do not  
31 exceed the combination of state funds, private donations, and other  
32 non-General Fund moneys available for this purpose.

33 (b) The implementation of the provisions of this title, other than  
34 this section, Section 100530, and paragraphs (4) and (5) of  
35 subdivision (a) of Section 100534, shall be contingent on a  
36 determination by the board that sufficient financial resources exist  
37 or will exist in the fund. The determination shall be based on at  
38 least the following:

39 (1) Financial projections identifying that sufficient resources  
40 exist or will exist in the fund to implement the program.

1 (d) Notwithstanding Chapter 3.5 (commencing with Section  
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
3 the department, without taking any further regulatory action, shall  
4 implement, interpret, or make specific this section by means of  
5 all-county letters, plan letters, plan or provider bulletins, or similar  
6 instructions until the time regulations are adopted. The department  
7 shall adopt regulations by July 1, 2018, in accordance with the  
8 requirements of Chapter 3.5 (commencing with Section 11340) of  
9 Part 1 of Division 3 of Title 2 of the Government Code.  
10 Commencing July 1, 2015, and notwithstanding Section 10321.5  
11 of the Government Code, the department shall provide a status  
12 report to the Legislature on a semiannual basis, in compliance with  
13 Section 9795 of the Government Code, until regulations have been  
14 adopted.

15 SEC. 4. The Legislature finds and declares that Section 2 of  
16 this act, which adds Section 100538 to the Government Code,  
17 imposes a limitation on the public's right of access to the meetings  
18 of public bodies or the writings of public officials and agencies  
19 within the meaning of Section 3 of Article I of the California  
20 Constitution. Pursuant to that constitutional provision, the  
21 Legislature makes the following findings to demonstrate the interest  
22 protected by this limitation and the need for protecting that interest:

23 In order to ensure that the California Health Exchange Program  
24 for All Californians is not constrained in exercising its fiduciary  
25 powers and obligations to negotiate on behalf of the public, the  
26 limitations on the public's right of access imposed by Section 2  
27 of this act are necessary.

28 SEC. 5. If the Commission on State Mandates determines that  
29 this act contains costs mandated by the state, reimbursement to  
30 local agencies and school districts for those costs shall be made  
31 pursuant to Part 7 (commencing with Section 17500) of Division  
32 4 of Title 2 of the Government Code.

O

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An Ordinance, Resolution, Motion, or Charter Amendment.
- 2. Request for next printed agenda Without Reference to Committee or as Special Order at Board.
- 3. Request for hearing on a subject matter at Committee or as Special Order at Board.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Reactivate File No. [ ]
- 11. Board to Sit as A Committee of the Whole.
- 12. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form:**

**Sponsor(s):**

Campos

**Subject:**

Supporting California Senate Bill 1005 (Lara) that Expands Access to Health Care Coverage for all Californians Regardless of Immigration Status

**The text is listed below or attached:**

[ ]

Signature of Sponsoring Supervisor: David Campos

For Clerk's Use Only: