



119904

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2010	.	
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The Committee on Health Regulation (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

That the creation of Section 28 of Article I of the State
Constitution is agreed to and shall be submitted to the electors
of this state for approval or rejection at the next general
election or at an earlier special election specifically
authorized by law for that purpose:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 28. Health care services.-



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13 (a) To preserve the freedom of all residents of the state
14 to provide for their own health care:

15 (1) A law or rule may not compel, directly or
16 indirectly, any person, employer, or health care provider to
17 participate in any health care system.

18 (2) A person or employer may pay directly for lawful health
19 care services and may not be required to pay penalties or fines
20 for paying directly for lawful health care services. A health
21 care provider may accept direct payment for lawful health care
22 services and may not be required to pay penalties or fines for
23 accepting direct payment from a person or employer for lawful
24 health care services.

25 (b) Subject to reasonable and necessary rules that do not
26 substantially limit a person's options, the purchase or sale of
27 health insurance in private health care systems shall not be
28 prohibited by law or rule.

29 (c) This section does not:

30 (1) Affect which health care services a health care
31 provider is required to perform or provide.

32 (2) Affect which health care services are permitted by law.

33 (3) Prohibit care provided pursuant to general law relating
34 to workers' compensation.

35 (4) Affect laws or rules in effect as of January 1, 2010.

36 (5) Affect the terms or conditions of any health care
37 system to the extent that those terms and conditions do not have
38 the effect of punishing a person or employer for paying directly
39 for lawful health care services or a health care provider for
40 accepting direct payment from a person or employer for lawful
41 health care services.



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42 (d) For purposes of this section:

43 (1) "Compel" includes the imposition of penalties or fines.

44 (2) "Direct payment" or "pay directly" means payment for
45 lawful health care services without a public or private third
46 party, not including an employer, paying for any portion of the
47 service.

48 (3) "Health care system" means any public or private entity
49 whose function or purpose is the management of, processing of,
50 enrollment of individuals for, or payment, in full or in part,
51 for health care services, health care data, or health care
52 information for its participants.

53 (4) "Lawful health care services" means any health-related
54 service or treatment, to the extent that the service or
55 treatment is permitted or not prohibited by law or regulation,
56 which may be provided by persons or businesses otherwise
57 permitted to offer such services.

58 (5) "Penalties or fines" means any civil or criminal
59 penalty or fine, tax, salary or wage withholding or surcharge,
60 or any named fee with a similar effect established by law or
61 rule by an agency established, created, or controlled by the
62 government which is used to punish or discourage the exercise of
63 rights protected under this section.

64 BE IT FURTHER RESOLVED that the following statement be
65 placed on the ballot:

66 CONSTITUTIONAL AMENDMENT

67 ARTICLE I, SECTION 28

68 HEALTH CARE SERVICES.—Proposing an amendment to the State
69 Constitution to prohibit laws or rules from compelling any
70 person, employer, or health care provider to participate in any



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71 health care system; permit a person or employer to purchase
72 lawful health care services directly from a health care
73 provider; permit a health care provider to accept direct payment
74 from a person or employer for lawful health care services;
75 exempt persons, employers, and health care providers from
76 penalties and fines for paying or accepting direct payment for
77 lawful health care services; and permit the purchase or sale of
78 health insurance in private health care systems. Specifies that
79 the amendment does not affect which health care services a
80 health care provider is required to perform or provide; affect
81 which health care services are permitted by law; prohibit care
82 provided pursuant to general law relating to workers'
83 compensation; affect laws or rules in effect as of January 1,
84 2010; or affect the terms or conditions of any health care
85 system to the extent that those terms and conditions do not have
86 the effect of punishing a person or employer for paying directly
87 for lawful health care services or a health care provider for
88 accepting direct payment from a person or employer for lawful
89 health care services.

90
91 ===== T I T L E A M E N D M E N T =====

92 And the title is amended as follows:

93 Delete everything before the resolving clause
94 and insert:

95 Senate Joint Resolution
96 A joint resolution proposing the creation of Section
97 28 of Article I of the State Constitution, relating to
98 health care services.