

By the Committee on Budget; and Senators Haridopolos, Lynn, Wise, Gaetz, Dean, Benacquisto, Hays, Fasano, Bennett, Diaz de la Portilla, Oelrich, Negron, Storms, Evers, Flores, Simmons, Jones, Gardiner, Garcia, Alexander, Latvala, Altman, Thrasher, Detert, Norman, Richter, Dockery, and Bogdanoff
 576-02040-11 20112c1

Senate Joint Resolution

A joint resolution proposing the creation of Section 28 of Article I of the State Constitution, relating to health care services.

Be It Resolved by the Legislature of the State of Florida:

That the following 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.-

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

(1) A law or rule may not compel, directly or indirectly, any person or employer to purchase, obtain, or otherwise provide for health care coverage.

(2) A person or an employer may pay directly for lawful health care services and may not be required to pay penalties or taxes for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and may not be required to pay penalties or taxes for accepting direct payment from a person or an employer for lawful health care services.

(b) The private market for health care coverage of any lawful health care service may not be abolished by law or rule.

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30 (c) This section does not:

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

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

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

36 (4) Affect laws or rules in effect as of March 1, 2010.

37 (5) Affect the terms or conditions of any health care
38 system to the extent that those terms and conditions do not have
39 the effect of punishing a person or an employer for paying
40 directly for lawful health care services or a health care
41 provider for accepting direct payment from a person or an
42 employer for lawful health care services, except that this
43 section may not be construed to prohibit any negotiated
44 provision in any insurance contract, network agreement, or other
45 provider agreement contractually limiting copayments,
46 coinsurance, deductibles, or other patient charges.

47 (6) Affect any general law passed by a two-thirds vote of
48 the membership of each house of the legislature after the
49 effective date of this section, if the law states with
50 specificity the public necessity that justifies an exception
51 from this section.

52 (d) As used in this section, the term:

53 (1) "Compel" includes the imposition of penalties or taxes.

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

58 (3) "Health care system" means any public or private entity

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59 whose function or purpose is the management of, processing of,
60 enrollment of individuals for, or payment, in full or in part,
61 for health care services, health care data, or health care
62 information for its participants.

63 (4) "Lawful health care services" means any health-related
64 service or treatment, to the extent that the service or
65 treatment is permitted or not prohibited by law or regulation at
66 the time the service or treatment is rendered, which may be
67 provided by persons or businesses otherwise permitted to offer
68 such services.

69 (5) "Penalties or taxes" means any civil or criminal
70 penalty or fine, tax, salary or wage withholding or surcharge,
71 or named fee with a similar effect established by law or rule by
72 an agency established, created, or controlled by the government
73 which is used to punish or discourage the exercise of rights
74 protected under this section. For purposes of this section only,
75 the term "rule by an agency" may not be construed to mean any
76 negotiated provision in any insurance contract, network
77 agreement, or other provider agreement contractually limiting
78 copayments, coinsurance, deductibles, or other patient charges.

79 BE IT FURTHER RESOLVED that the following title and
80 statement be placed on the ballot:

81 CONSTITUTIONAL AMENDMENT

82 ARTICLE I, SECTION 28

83 HEALTH CARE SERVICES.—Proposing an amendment to the State
84 Constitution to prohibit laws or rules from compelling any
85 person or employer to purchase, obtain, or otherwise provide for
86 health care coverage; permit a person or an employer to purchase
87 lawful health care services directly from a health care

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88 provider; permit a health care provider to accept direct payment
89 from a person or an employer for lawful health care services;
90 exempt persons, employers, and health care providers from
91 penalties and taxes for paying directly or accepting direct
92 payment for lawful health care services; and prohibit laws or
93 rules from abolishing the private market for health care
94 coverage of any lawful health care service. Specifies that the
95 amendment does not affect which health care services a health
96 care provider is required to perform or provide; affect which
97 health care services are permitted by law; prohibit care
98 provided pursuant to general law relating to workers'
99 compensation; affect laws or rules in effect as of March 1,
100 2010; affect the terms or conditions of any health care system
101 to the extent that those terms and conditions do not have the
102 effect of punishing a person or an employer for paying directly
103 for lawful health care services or a health care provider for
104 accepting direct payment from a person or an employer for lawful
105 health care services; or affect any general law passed by two-
106 thirds vote of the membership of each house of the Legislature,
107 passed after the effective date of the amendment, provided such
108 law states with specificity the public necessity justifying the
109 exceptions from the provisions of the amendment. The amendment
110 expressly provides that it may not be construed to prohibit
111 negotiated provisions in insurance contracts, network
112 agreements, or other provider agreements contractually limiting
113 copayments, coinsurance, deductibles, or other patient charges.