

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: SJR 340

INTRODUCER: Senator Diaz

SUBJECT: Supermajority Vote Required to Enact a Single-payor Healthcare System

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

I. Summary:

SJR 340 proposes an amendment to the Florida Constitution to prohibit the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval.

The amendment proposed in the joint resolution will take effect on January 3, 2023, if approved by sixty percent of voters during the 2022 general election or an earlier special election specifically authorized by law for that purpose.

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted. There are indeterminate general publication costs associated with amendments appearing on the ballot.

II. Present Situation:

The Florida Constitution grants the Legislature authority (with some specific exceptions) to enact legislation by a majority vote in each house.¹ A bill to enact general law passed by the Legislature must be presented to the Governor for approval, and the bill becomes law if the Governor signs it or fails to veto it.² Vetoes can be overcome by a two-thirds vote of each house of the Legislature.³

¹ FLA. CONST. art. III, s. 7.

² FLA. CONST. art. III, s. 8(a).

³ FLA. CONST. art. III, s. 8(c).

Similar Initiatives in Other States

In a single-payor health care system, only one entity bears the financial responsibility of health care – the government. Since the Affordable Care Act was passed in 2010 through 2019, sixty-six different single-payor bills have been proposed by legislators in twenty-one states.⁴ Vermont is the first and only U.S. state that has passed such legislation.⁵

The Demise of Vermont’s Green Mountain Care

On December 17, 2014, Vermont Governor Peter Shumlin publicly ended his administration’s four-year initiative to develop, enact, and implement a single-payor health care system in Vermont.⁶ Shumlin was first elected in 2010, promising a government-financed system, called Green Mountain Care, to provide universal coverage, replacing most private health insurance in Vermont. In 2011, a law was enacted to establish Green Mountain Care by 2017.⁷

Vermont’s per capita income was rising and was projected to continue to rise,⁸ meaning the federal matching rate for state dollars spent on Medicaid was decreasing.⁹ Projected federal revenues from an anticipated State Innovation Waiver (under Section 1332 of the Affordable Care Act) dropped from \$420 million in 2011 to \$106 million in 2014.¹⁰ To bankroll the \$4.3 billion dollar cost of Green Mountain Care and substitute for the loss of private health insurance premiums, the Vermont Legislature would have had to approve an 11.5-percent payroll tax and an income tax on households as high as 9.5 percent.¹¹ These new taxes would have been glaringly evident on every Vermonter’s tax bill, unlike employer-based health insurance premiums, which sometimes go unnoticed.¹² The funding challenges were met with a decline in public support for the program¹³ and the Governor ended his attempt to enact Green Mountain Care.

⁴ Erin C. Fuse Brown and Elizabeth Y. McCuskey, *Federalism, ERISA, and State Single-Payer Health Care*, University of Pennsylvania Law Review, Vol. 168 (Mar. 31, 2020) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3395462 (last visited Jan. 29, 2021).

⁵ *Id.*

⁶ Sarah Wheaton, *Vermont Bails on single-payer health care*, Politico (Dec. 17, 2014) available at <https://www.politico.com/story/2014/12/vermont-peter-shumlin-single-payer-health-care-113653> (last visited Jan. 29, 2021).

⁷ *Id.*

⁸ Audio Interview with John E. McDonough, Dr.P.H., M.P.A., on Vermont’s attempt to implement a single-payer health system – and why it failed, *Supplement to the N Engl J Med* 2015; 372:1584-1585 available at <https://www.nejm.org/doi/full/10.1056/NEJMp1501050> (last visited Jan. 29, 2021).

⁹ For every dollar a state spends on Medicaid, the federal government matches a rate that varies year to year. The Federal Medical Assistance Percentage (FMAP) is the percentage at which the federal government matches each state dollar spent on Medicaid. When a state’s per capita income increases, it causes the FMAP to decrease.

¹⁰ John E. McDonough, Dr.P.H., M.P.A., *The Demise of Vermont’s Single-Payer Plan*, *N Engl J Med* 2015; 372:1584-1585 available at <https://www.nejm.org/doi/full/10.1056/NEJMp1501050> (last visited Jan. 29, 2021).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* See also Morgan True, *Special Report: What went wrong with the state’s health care exchange (website), and why*, VTDigger (Mar. 16, 2014) available at <https://vtdigger.org/2014/03/16/special-report-went-wrong-states-health-care-exchange/> (last visited Jan. 29, 2021).

III. Effect of Proposed Changes:

SJR 340 prohibits the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval pursuant to Article III, Section 8 of the Florida Constitution.

It defines the term “comprehensive health care services” to mean the full range of personal health services for diagnosis, treatment, follow-up, and rehabilitation of patients.

It defines the term “single-payor” to mean an entity that has been designated by the Legislature as the sole administrator, collector, and payor of funds for comprehensive health care services.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted because the

amendment does not impact baseline revenue forecasts, which are based on current law and do not contain assumptions regarding future legislative changes.

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the sixth week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State paid approximately \$351,834.45 to advertise six constitutional amendments in 2020.¹⁴ Full publication costs for advertising a single constitutional amendment, on average, was approximately \$58,639.08. This cost was paid from non-recurring General Revenue funds.¹⁵ Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.¹⁶ The statewide average cost to the division to advertise constitutional amendments, in English and Spanish,¹⁷ in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document.¹⁸

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution creates section 22, Article III of the Florida Constitution.

¹⁴ E-mail from Legislative Affairs Director, Department of State, to staff of Senate Committee on Health Policy (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

¹⁵ See Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.

¹⁶ *Id.*

¹⁷ Pursuant to *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)*.

¹⁸ *Supra*, note 14.

¹⁹ Section 100.371(13)(e)4., F.S. See also Chapter 2019-64, s. 3, Laws of Fla.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
