

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [HB 141](#)

**TITLE:** Florida Health Choices Program

**SPONSOR(S):** Yarkosky

**COMPANION BILL:** [SB 440](#) (Leek)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Health Care Facilities & Systems](#)

12 Y, 3 N



[Insurance & Banking](#)



[Health & Human Services](#)

## SUMMARY

### **Effect of the Bill:**

HB 141 creates the Florida Employee Health Choices Program, and creates the Florida Employee Health Choices, Inc., to administer the Program. The Program will administer a statewide online exchange for the purchase of individual health insurance coverage in the context of Individual Coverage Health Reimbursement Arrangements (ICHRA) established by employers for their employees. Under the bill, the Department of Management Services (DMS) will provide administrative support for the corporation until 2029, when the bill requires the corporation to be self-sustaining. The bill requires the corporation to competitively procure a vendor to build and operate the exchange platform, and requires the corporation to establish policies and procedures for including health policies in the exchange and managing premium contributions for the products available there.

### **Fiscal or Economic Impact:**

The bill will have a significant negative fiscal impact on state government of at least \$1.25 million as DMS expedites the development of an Invitation to Negotiate to prospective vendors to build the statewide online exchange, evaluates responsive offers, forms the corporation, and exercises administrative oversight until the corporation is self-sustaining.

The bill may have a positive economic impact on small and medium-sized employers and their employees, if the Program expands their ability to access affordable health care coverage.

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## ANALYSIS

### **EFFECT OF THE BILL:**

#### **Individual Coverage Health Reimbursement Arrangements**

An [Individual Coverage Health Reimbursement Arrangement \(ICHA\)](#) is a health insurance model that allows employers to reimburse their employees for health insurance premiums or qualified medical expenses, on a tax-free basis. ICHRA are commonly used with an online exchange, or marketplace, where employees may purchase individual health coverage products for later reimbursement by their employers.

State statutory authority is not required for employers to use ICHRA, as the individual policies available for reimbursement in the exchange would already be regulated under the Florida Insurance Code. Private entities may currently offer exchanges for these products; however, the state has not established such a marketplace as a government function.

**STORAGE NAME:** h0141a.HFS

**DATE:** 12/3/2025

## Florida Employee Health Choices Program

HB 141 authorizes employers to offer ICHRAs to their employees by creating the Florida Employee Health Choices Program (Program). The Program creates a centralized platform for employees enrolled in ICHRAs to purchase individual health insurance plans. The bill uses the statutory structure of a pre-existing, similar, now-defunct program ([the Florida Health Choices Program](#)) in [s. 408.910, F.S.](#), as the base for the Program, and modifies the language to fit the federal criteria for ICHRAs.

The bill creates the Florida Employee Health Choices, Inc., (corporation) to manage the Florida Employee Health Choices Program. The Department of Management Services (DMS) oversees the corporation's creation and administration until January 1, 2029; after this date, the corporation must be self-sustaining. (Section [1](#)).

### Corporation Governance

The bill requires DMS, in its administrative support role, to facilitate the formation of the corporation and provide other such administrative assistance as may be needed by the board for its statutory functions.

The bill establishes a governance structure for the corporation, in a board of directors comprised of eight-members who serve three-year terms. Members may be reappointed, granted they do not serve more than nine consecutive years. The Governor will appoint three members, the President of the Senate two members, the Speaker of the House of Representatives two members, and the DMS Secretary, or a designee, will serve as an ex officio, non-voting, member. The DMS designee must have experience in state employee benefits and procurement practices.

The bill requires the board to establish bylaws to govern itself, including:

- Procedures for selecting the corporation's officers;
- Qualifications for reappointing members;
- Procedures for selecting the corporation's chief executive officer;
- An annual meeting for Program participants to express feedback;
- Procedures to adopt an annual budget; and
- Procedures to address conflicts of interest and public disclosure of conflicts of interest.

The bill authorizes reimbursement for travel expenses, subject to the standards for travel reimbursement for state employees in [s. 112.061, F.S.](#) Travel expenses must be paid for from corporation funds; not state funds.

The bill provides liability protection for board members, and their employees or agents, for actions taken in the performance of their duties in administering the program.

### Program Administration

The bill requires the corporation to administer the Program, including enrolling and assisting employers, assisting individuals with information about products, recruiting health plan vendors, certifying plan vendor eligibility, and monitoring plan performance. To that end, the bill requires the corporation to create policies and procedures, including:

- Criteria for Program participation;
- Procedures for determining eligibility for employers, employees, plan vendors, and health insurance agents;
- Procedures to ensure vendors are licensed to sell health insurance policies or health maintenance contracts and do not use deceptive or predatory practices;
- Processes for collecting employer and individual contributions, premium payments and other payments based on the employee's chose insurance plan; and

- Policies for an employee’s disenrollment for the employee’s failure to pay premiums.

The bill requires the corporation to create a plan to promote the Program and establish a toll-free hotline to assist employers and employees. The bill also authorizes the corporation to evaluate additional options for employers to participate in the Program, and implement them, if they conform with common insurance practices.

Platform Procurement

The bill requires DMS to conduct the procurement of the platform vendor. Within 90 days of the corporation’s formation, DMS must issue an invitation to negotiate (ITN) to procure that vendor, as directed by the board. The bill requires DMS to include the requirement that bidders demonstrate the ability to establish a fully operational platform in time for open enrollment by January 1, 2028. The platform vendor must be able to accommodate initial enrollment periods, open enrollment periods and special enrollment periods.

DMS must evaluate and score the bids, and enter into negotiations at the board’s direction. DMS must also make recommendations to the board related to the contract award, but will not make the final award decision. The bill requires the corporation to award the platform contract within 180 days of DMS issuing the ITN.

Public Records Exemption

Current law includes a public records exemption for the prior Florida Health Choices Program. That exemption applies to personal identifying information of plan enrollees or participants; client and customer lists of buyer representatives held by the original Florida Health Choices corporation; and proprietary, confidential business information held by the original Florida Health Choices corporation.

The bill reenacts the existing public records exemption to apply to the new Florida Employee Health Choices Program established by the bill.

The bill makes numerous conforming changes. (Sections [2](#), [3](#), and [4](#)).

The bill provides an effective date of July 1, 2026. (Section [5](#)).

**FISCAL OR ECONOMIC IMPACT:**

STATE GOVERNMENT:

The bill will have a significant fiscal impact on state government because the bill directs the Florida Employee Health Choices, Inc. to assess an annual 2.5% administrative surcharge on each premium or price set by vendors to generate funds for administrative services and to pay buyers’ representatives. However, the corporation cannot collect surcharges until the online marketplace exchange is live. Until there are vendors on the exchange, DMS estimates it needs \$1.25 million for contracted legal and consulting services to expedite the development of an Invitation to Negotiate (ITN) procurement and to evaluate the ITN offers while ensuring compliance with statutory requirements and mitigating risk. In addition to ITN costs, DMS will need to advance vendor costs (unless the parties agree to a contingency fee arrangement). DMS will also incur costs as it exercises administrative oversight over the corporation until the corporation is self-sustaining, which must happen by January 1, 2029 at the latest.<sup>1</sup>

PRIVATE SECTOR:

The bill may have a positive economic impact on small and medium-sized employers and their employees, if the Program expands their ability to access affordable health care coverage.

<sup>1</sup> Department of Management Services, Agency Analysis for House Bill 141 (2026), pp. 12-15 (Nov. 7, 2025).

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Health Reimbursement Arrangements

A health reimbursement arrangement (HRA) is a tax-advantaged arrangement where an employer reimburses an employee for out-of-pocket spending for qualified health care costs. If an employer offers an HRA benefit to its employees, the employer contributes money to each employee's HRA and then reimburses the employee for any qualified medical expenses that he or she incurs, as long as there is a balance. Employer contributions are not subject to income or payroll taxes and reimbursement for qualified medical expenses are tax-free. Only employers can contribute to HRAs. There are five types of HRAs: group health plan HRAs, qualified small employer HRAs (QSEHRAs), individual coverage HRAs (ICHRAs), excepted benefit HRAs, and retiree-only HRAs.<sup>2</sup>

#### **Patient Protection and Affordable Care Act**

The Patient Protection and Affordable Care Act (PPACA) of 2010 introduced market regulatory changes affecting group health plans like HRAs. PPACA deemed employer payment plans that reimbursed employees for individual health insurance premiums non-compliant with PPACA requirements.<sup>3</sup> Under PPACA, an employer could not establish an HRA for employees to use to pay premiums for individual policies and maintain the tax-free status of the employer contribution.

#### **Promoting Healthcare Choice and Competition Across America**

In 2017, the Promoting Healthcare Choice and Competition Across America executive order directed the federal Departments of the Treasury, Labor, and Health and Human Services "to propose regulations to increase the useability of HRAs, to expand employers' ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with non-group coverage" to help employees finance their healthcare.<sup>4</sup>

In 2019, the federal Departments of the Treasury, Labor, and Health and Human Services adopted a final rule that expanded the usability of HRAs. These regulations aimed to allow HRAs to be integrated with individual health insurance coverage, thereby providing more flexibility for employers and employees. The rule established the framework for [ICHRAs](#), permitting employers to offer these arrangements starting January 1, 2020.<sup>5</sup>

#### **Individual Coverage Health Reimbursement Arrangement**

Unlike other HRAs, an ICHRA is a health insurance model that allows employers of any size to reimburse their employees for health insurance premiums and qualified medical expenses; reimbursements made through ICHRAs are exempt from federal income and payroll taxes for both employers and employees. This means employees can secure a qualified health plan on the marketplace exchange or another health plan through the private market, receive reimbursement for their premium payments, and benefit from the tax-free status of employer contributions. The joint final rule counters the provisions of PPACA that would prevent tax-free treatment of HRA when used to pay premiums, if an employer structures an ICHRA according to the rule. An ICHRA cannot be offered in connection with a group health plan and an ICHRA is not a form of group health insurance coverage. Also, an

<sup>2</sup> Ryan Russo, "Health Reimbursement Arrangements (HRAs): Overview and Related History," *Congressional Research Service* (Mar. 7, 2022) [https://www.congress.gov/crs\\_external\\_products/R/PDF/R47041/R47041.4.pdf](https://www.congress.gov/crs_external_products/R/PDF/R47041/R47041.4.pdf) (last visited Nov. 21, 2025).

<sup>3</sup> See Internal Revenue Service, Notice 2015-17; Notice 2013-54; Internal Revenue Bulletin 2013-40, 287, Sept. 30, 2013.

<sup>4</sup> United States, Presidential Documents, "Executive Order 13813 of October 12, 2017: Promoting Healthcare Choice and Competition Across the United States." 82 Fed. Reg. 48385 (Oct. 12, 2017) <https://www.govinfo.gov/content/pkg/FR-2017-10-17/pdf/2017-22677.pdf> (last visited Nov. 21, 2025).

<sup>5</sup> United States, Department of the Treasury, Department of Labor, and the Department of Health and Human Services, "Health Reimbursement Arrangements and Other Account-Based Group Health Plans." 84 Fed. Reg. 28888 (Jun. 20, 2019) <https://www.govinfo.gov/content/pkg/FR-2019-06-20/pdf/2019-12571.pdf> (last visited Nov. 21, 2025). See 26 CFR Parts 1 and 54; 29 CFR Parts 2510 and 2590; 45 CFR Parts 144-147 and 155.

employer may offer one class of employees the ICHRA option (e.g., part-time employees) and another class of employees a traditional group health plan (e.g., full-time employees).<sup>6, 7</sup>

The employee cannot contribute to the ICHRA; however, when selecting a plan for which ICHRA funds will be used, the employee is not limited by the amount of the ICHRA funds. The employee can choose an individual plan that may cost more, annually, than the employer’s ICHRA allowance. The ICHRA is used to reimburse the employee up to the amount of the allowance. If an employee opts out of an ICHRA, the employee will not be reimbursed for any medical care expenses that are incurred after the ICHRA has received notice of the cancellation or termination.<sup>8</sup>

Because the ICHRA allowance is essentially a pledge to pay made by the employer, the employer retains ownership of the allowance, and may determine how unspent amounts are handled. The joint final rule authorizes employers to allow unspent amounts, or a portion of unspent amounts, to carry over from year to year, at the employer’s discretion. Employees cannot retain unspent amounts.

**Health Coverage Exchanges**

A health coverage exchange is an online platform, or marketplace, populated by health plan offerings where individual consumers can compare plans and purchase coverage. Exchange operators fund the functions by charging fees to participate; fees may be charged to the insurers or health maintenance organizations which offer products on an exchange, or to the employers or individual coverage purchasers.

**PPACA Marketplace Exchange**

PPACA established a federal program to subsidize health insurance coverage for people with incomes from 133 percent to 400 percent of the federal poverty level.<sup>9</sup> To facilitate the use of PPACA-created federal subsidies for health coverage, PPACA required each state to establish a state exchange to host plans offering products for use with the subsidy.<sup>10</sup> Many states declined to comply<sup>11</sup>, and the federal government established a federal exchange, called the Health Insurance Marketplace.<sup>12</sup>

The federal Marketplace hosts individual policies for purchase by individual (or family) consumers; it has no nexus with employer-sponsored coverage, under PPACA.<sup>13</sup>

**Florida Health Choices Program**

<sup>6</sup> To prevent adverse selection in the individual market, a minimum class size rule applies if an employer chooses to offer a traditional group health plan to some employees and an ICHRA to others. United States, Department of the Treasury, Department of Labor, and the Department of Health and Human Services, “FAQs on New Health Coverage Options for Employers and Employees,” pp. 3 (Jun. 13, 2019) [https://www.irs.gov/pub/newsroom/health\\_reimbursement\\_arrangements\\_faqs.pdf](https://www.irs.gov/pub/newsroom/health_reimbursement_arrangements_faqs.pdf) (last visited Nov. 21, 2025).

<sup>7</sup> *Supra*, FN 5. United States, Department of the Treasury, Department of Labor, and the Department of Health and Human Services, “FAQs on New Health Coverage Options for Employers and Employees,” (Jun. 13, 2019) [https://www.irs.gov/pub/newsroom/health\\_reimbursement\\_arrangements\\_faqs.pdf](https://www.irs.gov/pub/newsroom/health_reimbursement_arrangements_faqs.pdf) (last visited Nov. 21, 2025). U.S. Centers for Medicare and Medicaid Services, “Individual Coverage HRAs,” <https://www.healthcare.gov/job-based-help/ichra/> (last visited Nov. 21, 2025); Internal Revenue Services, “Health Reimbursement Arrangements,” (last updated May 29, 2025) <https://www.irs.gov/newsroom/health-reimbursement-arrangements-hras> (last visited Nov. 21, 2025).

<sup>8</sup> *Supra*, FN 1 at 1.

<sup>9</sup> 26 U.S.C. 36B. The federal poverty level (FPL) is \$32,000 for a family of four; 138% of the FPL is \$44,367 for a family of four; 400% of the FPL is \$128,600 for a family of four. PPACA subsidies are scaled to income level. U.S. Dept. of Health and Human Services, 2025 Poverty Guidelines for the 48 Contiguous States and the District of Columbia, available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines> (last visited Nov. 21, 2025).

<sup>10</sup> 42 U.S.C. § 18031.

<sup>11</sup> 21 states established state-based marketplaces; two have state-based exchanges on the federal platform; and 28 states use the federal marketplace including Florida. KFF, State Health insurance Marketplace Types, 2014-2026, available at <https://www.kff.org/affordable-care-act/state-indicator/state-health-insurance-marketplace-types/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last visited Nov. 21, 2025).

<sup>12</sup> The exchange is available at <https://www.healthcare.gov/> (last visited Nov. 21, 2025).

<sup>13</sup> However, employers subject to the mandated coverage offering under PPACA are penalized if one of their employees goes to the marketplace and obtains subsidized coverage. *See* 26 U.S.C. § 4980H.

In 2008, the legislature established the [Florida Health Choices Program](#) as health coverage exchange available to small employers. The program created a single, centralized marketplace for the sale and purchase of various products that enable individuals to pay for health care, and created the Florida Health Choices Corporation to administer the program. The program complied with Sec. 125 of the Internal Revenue Code regarding cafeteria plans, which enabled the employers’ contributions and the employees’ contributions to be made using pre-tax dollars.<sup>14</sup>

Under this program, several types of employers were eligible to use the marketplace as their employer-sponsored health plan:

- Employers with 1-50 employees;
- Fiscally constrained counties;
- Municipalities with populations less than 50,000; and
- School districts in fiscally constrained counties.

Employees authorized to purchase coverage included:

- Employees of employers choosing the marketplace as the employer-sponsored health plan;
- State employees not eligible for state employee health benefits;
- State retirees;
- Medicaid recipients who choose to use their Medicaid benefits to purchase coverage in the marketplace; and
- Employees of statutory rural hospitals.

Products authorized for inclusion in the program marketplace included insurance and HMO policies and contracts, limited benefit policies, prepaid clinic service providers and contracts and provider organization contracts, among other products.

The program struggled to attract enough enrollees and enough products to support a diverse marketplace and be self-sustaining. Ultimately, the enactment of PPACA and the creation of its federal exchange for individual coverage eclipsed the program, despite the different target populations (employer-based individual coverage populations under Florida Health Choices and individual, non-employment based coverage under the PPACA exchange). Upon the 2017 gubernatorial veto of a \$250,000 appropriation for marketing,<sup>15</sup> the board dismantled the program and dissolved the corporation.<sup>16</sup> Member Benefits, the acting administrator for the program at the time, acquired the assets and continued operations as a private venture.<sup>17</sup>

<sup>14</sup> Department of Management Services, Agency Analysis for House Bill 141 (2026), pp. 1 (Nov. 7, 2025); Office of Insurance Regulation, Agency Analysis for House Bill 141 (2026), pp. 1 (Oct. 31, 2025).

<sup>15</sup> Fiscal Year 2017-2018 General Appropriations Act, Conference Report on SB 2500, Line 166.

<sup>16</sup> Division of Corporations, “Detail by Entity Name: Florida Health Choices, Inc.” Department of State, <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FLORIDAHEALTHCHOICES%20N080000104870&aggregateId=domnp-n08000010487-84af74d8-5d17-4b2a-b13e-f286934f670c&searchTerm=florida%20health%20choices&listNameOrder=FLORIDAHEALTHCHOICES%20N080000104870> (last visited Nov. 21, 2025). See Internal Revenue Service, “Tax Exempt Organization Search,” <https://apps.irs.gov/app/eos/> (last visited Nov. 21, 2025). A search for “Florida Health Choices, Inc.” records that the IRS revoked corporation’s tax exempt status in 2019.

<sup>17</sup> *Supra*, FN 14. See Health Choices Florida, “About Us,” <https://myfloridachoice.org/about/> (last visited Nov. 21, 2025). See Chief Financial Officer, “Licensee Search” Department of Financial Services, <https://licenseesearch.fldfs.com/Licensee/827032> (last visited Nov. 21, 2025). A search for “Business Planning Concepts, Inc DBA Member Benefits” in the Agency/Firm Name search box records the licensee information. See United States Patent and Trademark Office, “Trademark Status & Document Retrieval: HealthChoices” [https://tsdr.uspto.gov/#caseNumber=86515931&caseSearchType=US\\_APPLICATION&caseType=DEFAULT&searchType=statusSearch](https://tsdr.uspto.gov/#caseNumber=86515931&caseSearchType=US_APPLICATION&caseType=DEFAULT&searchType=statusSearch) (last visited Nov. 21, 2025). Under “Current Owner(s) Information,” Member Benefits maintains the HealthChoices: The Health Insurance Marketplace as a protected trademark.



BILL HISTORY

| COMMITTEE REFERENCE   | ACTION    | DATE      | STAFF<br>DIRECTOR/<br>POLICY CHIEF | ANALYSIS<br>PREPARED BY |
|---|-----------|-----------|------------------------------------|-------------------------|
| <a href="#">Health Care Facilities &amp; Systems<br/>Subcommittee</a> | 12 Y, 3 N | 12/2/2025 | Lloyd                              | DesRochers              |
| <a href="#">Insurance &amp; Banking<br/>Subcommittee</a>              |           |           |                                    |                         |
| <a href="#">Health &amp; Human Services<br/>Committee</a>             |           |           |                                    |                         |