



Written by [Daniel Sayani](#) on March 20, 2011

Fla. Senate Approves Health Care Freedom Amendment

The measure will be on the ballot in November 2012, once approved by the Florida House.

"This is about freedom," said Senate President Mike Haridopolos (R-Merritt Island), who sponsored the proposal and put it on a fast track for passage in the first week of the session. "This is about choice. Haridopolos elaborated,



This proposed constitutional amendment is about an individual's right to make his own health care decisions without interference from the federal government. It also sends a message to Washington D.C. that its one-size-fits-all approach to health care doesn't work. I'm thankful for the support of my Republican colleagues on this constitutional amendment. We believe in patient-centered, not government-centered health care. After approval from the House of Representatives, Floridians will have the opportunity to decide for themselves at the ballot box.

Haridopolos, who is running for the US Senate seat currently held by Democratic Senator Bill Nelson, maintains that no Floridian may be forced to buy insurance, or provide coverage to employees- a direct defiance of the national health care plan enacted by Congress last year.

The proposed state constitutional amendment (SJR 2) is aimed at blocking a requirement for most people to get insurance coverage or else face financial penalties.

Some legal experts say federal law prevails over such state measures. Opponents of the Health Care Freedom Act, though, also argued that it may prevent the Legislature in the future from enacting needed health care legislation regardless of whether the president's plan survives court challenges including one by Florida.

Sen. Don Gaetz, R-Niceville, disputed that contention and insisted the amendment would "not take Florida out of Obamacare."

"This legislation allows an individual, if agreed to by 60 percent of the voters of Florida, to decide for himself the kind of health care coverage that he wants," Gaetz said. "This legislation belongs in the constitution because it affirms an individual right."

The *Miami Herald* [reports](#) that the Senate voted 29-10 for the amendment with all Republicans and one



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Democrat, Sen. Bill Montford of Tallahassee, in favor. It now goes to the House, where Republicans also have more than enough votes to pass it.

Known as the Health Care Freedom Act, the bill is currently lagging in the house, according to the Tenth Amendment Center, an organization which “works to preserve and protect states rights and federalism” (the group is considered the main force behind the [Nullification Movement](#), which features the eminent [Dr. Thomas Woods](#)).

The center [says](#) that while the House is expected to pass this bill as well, the Florida House currently lists no committee actions to move its version of the same legislation forward. House Joint Resolution 1 on Health Care Services authored by Rep. Scott Plakon, who is listed only as “in the Health & Human Services Quality Subcommittee.” This committee met on Tuesday, March 8 but House Joint Resolution 1 was not on the agenda. The current meeting packet for March 15 makes no mention of House Joint Resolution 1 on the agenda.

If the proposal makes it through the Florida House, which is likely, it will be on the state ballot in November 2012. It will take 60 percent of voters to approve the amendment to become part of the Constitution. The amendment to ban ObamaCare’s individual mandate would need approval [by a three-fifths vote](#) in both the House and Senate.

ObamaCare, Florida, and the Courts

The so-called individual mandate addressed in the proposed amendment is being challenged by 26 states, led by Florida, in federal court. In January, Northern Florida U.S. District Judge [Roger Vinson](#) ruled the provision — and thus the entire federal act — unconstitutional. He was the first federal judge to declare the whole ObamaCare law unconstitutional, arguing against it on Tenth Amendment grounds, also arguing that forcing Americans to buy a particular product (health insurance) falls outside the scope of the Commerce Clause.

This is the same constitutional motivation for the Florida vote to allow for an amendment to its constitution to be considered on the ballot in November 2012. The U.S. Department of Justice has appealed the ruling. The matter is likely to ultimately be decided by the U.S. Supreme Court. It's unclear when that will happen. But it's possible Florida voters will have a chance to weigh in on the issue before the country's high court.

The Florida State Supreme Court, however, struck a similar amendment passed by the legislature last year from the November 2010 ballot, saying it was misleading. Much of the purportedly misleading language is absent from this proposal (which is considered a clean-up version of last year’s bill), [which begins](#), “To preserve the freedom of all residents of the state to provide for their own health care.... A law or rule may not compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system.”

This amendment was proposed as far back as 2009 by Florida Republicans, who wanted to do away with the individual mandate, in what liberal groups such as Think Progress have called “a preemptive undermining of the president’s efforts.”

Health Care Freedom and the Tenth Amendment Movement

The early co-sponsors of the 2009 Health Care Freedom Act, Rep. Plakon and State Sen. Carey Baker, are known for their commitment to constitutional causes, such as the Nullification Movement and state sovereignty. Baker and Plakon have participated in Tea Party protests, and are leaders in the Florida



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Tenth Amendment Sovereignty Movement, which seeks to protect states rights from federal government incursions, such as ObamaCare. They have been courted by groups such as Campaign for Liberty, and are known for having a libertarian streak, as they also previously led opposition to mandatory primary offense seat belt laws, on the grounds of the federal government dictating highway policy to the states.

Baker and Plakon are also active participants in Rep. Ron Paul's Florida Liberty Summit and the Republican Liberty Caucus, and have managed to develop widespread Republican support for their "freedom bills."

Also in the spirit of the Tenth Amendment, Baker and Plakon are resisting federal tyranny in the arena of [gun rights](#). They previously sponsored the [Florida Firearms Freedom Act](#), which seeks to "provide that specified firearms, firearm accessories, and ammunition for personal use manufactured in state are not subject to federal law or regulation in the state of Florida." They also sponsored House Memorial 19, which "urges Congress to honor provisions of U. S. Constitution & U. S. Supreme Court case law which limit scope & exercise of federal power, as a notice and a demand to the Federal Government...to cease and desist, effective immediately, from issuing mandates that are beyond the scope of [their] constitutionally delegated powers."

Other initiatives led by Baker and Plakon include measures to eliminate [absurd laws](#) still officially on the books, such as laws prohibiting clover cigarettes, coasting down hills in neutral, and riding a bicycle without two hands. Plakon views eliminating such legal anomalies as a part of his broader ethos of individual liberty and personal freedom."

Photo: Florida state capitol (old capitol in foreground)



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