



# Ohio Legislative Service Commission

## Resolution Analysis

Katie Bentley

### H.J.R. 3

128th General Assembly  
(As Introduced)

**Reps.** Maag and Sears, J. Adams, R. Adams, Amstutz, Bacon, Baker, Balderson, Batchelder, Blair, Blessing, Boose, Bulp, Burke, Combs, Daniels, Derickson, Evans, Goodwin, Hackett, Hall, Hite, Hottinger, Huffman, Jordan, Lehner, Martin, Mecklenborg, McClain, Morgan, Ruhl, Snitchler, Stautberg, Stebelton, Uecker, Wachtmann, Wagner, Zehringer

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## RESOLUTION SUMMARY

- Submits to the voters at the February 2, 2010, general election a proposal to enact Section 43 of Article II of the Constitution of the State of Ohio to prohibit a law or rule from compelling a person, employer, or health care provider to participate in a health care system.

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## CONTENT AND OPERATION

### Prohibitions

The proposed constitutional amendment prohibits a law or rule from compelling, directly or indirectly, any person, employer, or health care provider to participate in any health care system. Under the amendment, a person or employer may pay directly for lawful health care services and may not be required to pay penalties or fines for paying directly for lawful health care services. Additionally, a health care provider may accept direct payment for lawful health care services and may not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

Lastly, the proposed constitutional amendment prohibits laws or rules from prohibiting the purchase or sale of health insurance in private health care systems, subject to reasonable and necessary rules that do not substantially limit a person's options.

The proposed constitutional amendment specifies that its purpose is to preserve the freedom of Ohioans to provide for their health care.

## **Exclusions**

The proposed constitutional amendment specifies that it does not do any of the following:

- (1) Affect which health care services a health care provider or hospital is required to perform or provide;
- (2) Affect which health care services are permitted by law;
- (3) Prohibit care provided through any statutes enacted by the General Assembly relating to workers' compensation;
- (4) Affect laws or rules in effect as of January 1, 2009;
- (5) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

## **Definitions**

For purposes of the proposed constitutional amendment:

**"Compel"** includes penalties or fines.

**"Direct payment"** or **"pay directly"** means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

**"Health care system"** means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants.

**"Lawful health care services"** means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or rules that may be provided by persons or businesses otherwise permitted to offer such services.

"Penalties or fines" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge, or any named fee with a similar effect established by law or rule by a government-established, -created, or -controlled agency that is used to punish or discourage the exercise of rights protected under the proposed constitutional amendment.

### **Election and effective date**

The resolution provides that the proposed constitutional amendment will be submitted to the electors at the general election to be held on February 2, 2010. If approved by a majority of the electors voting on it, the proposed amendment will take effect immediately.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	08-26-09

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