

Regular Session, 2014

HOUSE BILL NO. 335

BY REPRESENTATIVE RICHARD

HEALTH CARE: Provides relative to enforcement of the Patient Protection and Affordable Care Act of 2010

1 AN ACT

2 To enact Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 40:1300.381 through 1300.386, relative to the Patient
4 Protection and Affordable Care Act of 2010; to enact the "La. Freedom of Health
5 Care Protection Act"; to provide for authority; to prohibit enforcement by the state
6 of the Patient Protection and Affordable Care Act of 2010; to authorize the attorney
7 general to seek an injunction; to prohibit the establishment of a state health care
8 exchange; to prohibit certain involuntary in-home visits; to provide for an effective
9 date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part LXXV of Chapter 5 of Title 40 of the Louisiana Revised Statutes of
12 1950, comprised of R.S. 40:1300.381 through 1300.386, is hereby enacted to read as
13 follows:

14 PART LXXV. LOUISIANA FREEDOM OF HEALTH CARE PROTECTION ACT

15 §1300.381. Short title

16 This Part shall be known and may be cited as the "Louisiana Freedom of
17 Health Care Protection Act".

18 §1300.382. Authority

19 The legislature declares that authority for the provisions of this Part is the
20 following:

1 (1) The Tenth Amendment to the United States Constitution provides that
2 the federal government of the United States is authorized to exercise only those
3 powers delegated to it in the constitution.

4 (2) Article VI, Clause 2 of the Constitution of the United States provides that
5 laws of the United States are the supreme law of the land provided that they are made
6 in pursuance of the powers delegated to the federal government in the constitution.

7 (3) The provisions of the Patient Protection and Affordable Care Act of 2010
8 which exceed the limited powers granted to the congress pursuant to the constitution
9 cannot and should not be considered the supreme law of the land.

10 (4) The Legislature of Louisiana has the absolute and sovereign authority to
11 interpose and refuse to enforce the provisions of the Patient Protection and
12 Affordable Care Act of 2010 that exceed the authority of the congress.

13 (5) The Fourteenth Amendment provides that the people are to be free from
14 deprivation of life, liberty, or property, without due process of law.

15 §1300.383. Enforcement prohibited; state agency, officer, or employee; authority
16 of legislature

17 A. No agency, officer, or employee of this state, acting on behalf of the state,
18 shall engage in an activity that aids any agency in the enforcement of those
19 provisions of the Patient Protection and Affordable Care Act of 2010 and any
20 subsequent federal act that amends the Patient Protection and Affordable Care Act
21 of 2010 that exceed the authority of the United States Constitution.

22 B. The Legislature of Louisiana may take all necessary actions to ensure that
23 the provisions of Subsection A of this Section are adhered to by all agencies,
24 departments, and political subdivisions of the state.

25 §1300.384. Injunction; attorney general; notice; costs

26 A. Whenever the attorney general has reasonable cause to believe that a
27 person or business in this state is being harmed by implementation of the Patient
28 Protection and Affordable Care Act of 2010 and that proceedings would be in the
29 public interest, the attorney general may bring an action in the name of the state

1 against the person or entity causing the harm to restrain by temporary restraining
2 order, temporary injunction, or permanent injunction the use of the method, act, or
3 practice.

4 B. Unless the attorney general determines in writing that the purposes of this
5 Section will be substantially impaired by delay in instituting legal proceedings, the
6 attorney general shall, at least three days before instituting a legal proceeding
7 pursuant to this Section, give notice to the person or entity against whom the
8 proceeding is contemplated and give the person or entity an opportunity to present
9 reasons to the attorney general why a proceeding should not be instituted.

10 C. An action brought by the attorney general pursuant to this Section may
11 be brought in a court of competent jurisdiction.

12 D. Whenever the court issues a permanent injunction in connection with an
13 action brought pursuant to this Section, which has become final, the court shall
14 award reasonable costs to the state.

15 §1300.385. Health care exchange; establishment prohibited; participation prohibited

16 A. For the purposes of this Section, "health care exchange" means an
17 American Health Benefit Exchange established by any state or political subdivision
18 of a state, as provided for in the Patient Protection and Affordable Care Act of 2010.

19 B. Neither the state of Louisiana nor a political subdivision including but not
20 limited to parishes, municipalities, or special districts of the state shall establish a
21 health care exchange for the purchase of health insurance.

22 C. Neither the state of Louisiana nor a political subdivision including but not
23 limited to parishes, municipalities, or special districts of the state shall participate in
24 or purchase insurance from a health care exchange established by a nonprofit
25 organization.

26 D. A health insurance contract purchased or established in violation of this
27 Section is void and shall not be enforced by the courts of this state.

1 §1300.386. Home visitations; prohibition

2 No agency, department, or other state entity, including but not limited to the
3 Department of Children and Family Services and the Department of Health and
4 Hospitals shall authorize an employee, contractor, vendor, or any other person acting
5 on behalf of the department to conduct or participate in an involuntary maternal,
6 infant, and early childhood in-home visitation pursuant to Section 2951 of the Patient
7 Protection and Affordable Care Act of 2010 and any subsequent federal act that
8 amends that section or that may refer to an entity or a process established pursuant
9 to the Patient Protection and Affordable Care Act of 2010.

10 Section 2. This Act shall become effective upon signature by the governor or, if not
11 signed by the governor, upon expiration of the time for bills to become law without signature
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
14 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Richard

HB No. 335

Abstract: Prohibits enforcement by the state of the Patient Protection and Affordable Care Act of 2010.

Proposed law may be cited as the "Louisiana Freedom of Health Care Protection Act".

Proposed law provides that authority for the provisions of proposed law is the following:

- (1) The 10th Amendment to the U. S. Constitution provides that the federal government of the U.S. is authorized to exercise only those powers delegated to it in the constitution.
- (2) Article VI, Clause 2 of the constitution provides that laws of the U.S. are the supreme law of the land provided that they are made in pursuance of the powers delegated to the federal government in the constitution.
- (3) The provisions of the Patient Protection and Affordable Care Act of 2010 (PPACA) which exceed the limited powers granted to the congress pursuant to the constitution cannot and should not be considered the supreme law of the land.
- (4) The Legislature of La. has the absolute and sovereign authority to interpose and refuse to enforce the provisions of PPACA that exceed the authority of the congress.

- (5) The 14th Amendment provides that the people are to be free from deprivation of life, liberty, or property, without due process of law.

Proposed law prohibits an agency, officer, or employee of this state, acting on behalf of the state, from engaging in an activity that aids any agency in the enforcement of those provisions of PPACA and any subsequent federal act that amends PPACA that exceed the authority of the United States Constitution.

Proposed law authorizes the Legislature of La. to take all necessary actions to ensure that the provisions of proposed law are adhered to by all agencies, departments, and political subdivisions of the state.

Proposed law authorizes the attorney general, whenever the attorney general has reasonable cause to believe that a person or business in this state is being harmed by implementation of PPACA and that proceedings would be in the public interest, to bring an action in the name of the state against the person or entity causing the harm to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of the method, act, or practice.

Proposed law requires the attorney general, unless the attorney general determines in writing that the purposes of proposed law will be substantially impaired by delay in instituting legal proceedings, to give notice, at least three days before instituting a legal proceeding, to the person or entity against whom the proceeding is contemplated and give the person or entity an opportunity to present reasons to the attorney general why a proceeding should not be instituted.

Proposed law authorizes an action brought by the attorney general to be brought in a court of competent jurisdiction.

Proposed law requires the court, whenever the court issues a permanent injunction which has become final, to award reasonable costs to the state.

Proposed law defines "health care exchange" as an American Health Benefit Exchange established by any state or political subdivision of a state, as provided for in PPACA.

Proposed law prohibits the state of La. or a political subdivision including but not limited to parishes, municipalities, or special districts of the state from establishing a health care exchange for the purchase of health insurance.

Proposed law prohibits the state of La. or a political subdivision including but not limited to parishes, municipalities, or special districts of the state from participating in or purchasing insurance from a health care exchange established by a nonprofit organization.

Proposed law provides that a health insurance contract purchased or established in violation of proposed law is void and shall not be enforced by the courts of this state.

Proposed law prohibits an agency, department, or other state entity including but not limited to the Dept. of Children and Family Services and the Dept. of Health and Hospitals from authorizing an employee, contractor, vendor, or any other person acting on behalf of the department to conduct or participate in an involuntary maternal, infant, and early childhood in-home visitation pursuant to §2951 of PPACA and any subsequent federal act that amends that section or that may refer to an entity or a process established pursuant to PPACA.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1300.381-1300.386)