

## **BILL ANALYSIS**

C.S.H.J.R. 109  
By: Laubenberg  
Federalism & Fiscal Responsibility, Select  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties report that single-payer health care systems, such as the system that currently exists in Canada, typically make it illegal for citizens to contract for medical services outside of the system constructed by the government. Such parties report that a physician in the nation's federal Medicare program must opt-out of the Medicare system before he or she is permitted to privately contract to provide services to enrolled patients. However, the Medicare Patient Empowerment Act currently pending in the U.S. Congress would establish a Medicare payment option for patients and physicians to freely contract, without penalty, for Medicare fee-for-service physician services, while allowing patients to use their Medicare benefits and physicians to bill patients for amounts not covered by Medicare. Interested parties assert that Texas needs to introduce similar legislation to ensure there is always a free market for medical services, and that such a free market must permit patients to freely purchase medical care. C.S.H.J.R. 109 seeks to preserve a free market for patients to seek care from the physicians of their choice.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.J.R. 109 proposes an amendment to the Texas Constitution to prohibit the state, an agency of the state, or a health care system from imposing a fine or penalty on an individual or the individual's employer for direct payment for a health care service; from prohibiting a health care provider from, or fining or penalizing a health care provider for, billing for or accepting direct payment for a health care service; or from directly or indirectly requiring an individual, employer, or health care provider to participate in a health care system, including imposing a fine or penalty for failure to participate. The resolution specifies that its provisions do not affect which health care services a health care provider or hospital is required to provide or which health care services are permitted by law and do not prohibit health care provided pursuant to a workers' compensation claim. The resolution prohibits its provisions from being construed to prohibit a negotiated provision in any insurance contract, network agreement, or other provider agreement contractually limiting copayments, coinsurance, deductibles, or other patient charges.

### **ELECTION DATE**

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 5, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.J.R. 109 differs from the original in minor or nonsubstantive ways and by conforming to certain bill drafting conventions.