

Utah lawmakers dig in on federal health reform

Politics » Herriman Republican says lengthy legal battle to defend states' rights is worth it.

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Calling national health reform "onerous" and an infringement on states' rights, Utah lawmaker Carl Wimmer is carrying a bill that would make it illegal for state agencies to implement any part of a new federal law without reporting to the Legislature first.

Utah is one of at least 20 other states that are digging in their heels on the issue, he said.

H.B. 67, Health System Amendments, purposely pits Utah against what the Herriman Republican said is a power-hungry federal government.

"I have no doubt whatsoever this bill will result in a lawsuit and will result in the state going to court against the federal government so we can enforce our law," said Wimmer, founder of the Patrick Henry Caucus, a group of 28 legislators in both parties who are unanimously behind it, he said.

While the bill does not yet have a fiscal note, a case that is heard by the U.S. Supreme Court can cost upward of \$2 million, he said. But a protracted legal battle is well worth it, he adds. Utah is already among those states with the lowest per capita health costs in the country and "it would be absurd for us to damage that or harm that."

Congress' health reform bills are expensive, burdensome -- and illegal, he said.

"It violates the principle of states being able to control their own destiny. It violates the authority the federal government actually has," he said.

Groups such as the Utah Medical Association and the Utah Hospitals and Health Systems Association have not yet weighed in on the legislation, their spokespeople said Tuesday.

Wimmer isn't the only lawmaker taking up the fight. Fruit Heights Republican Julie Fisher is sponsoring a concurrent resolution that "strongly urges" Congress and the federal government to "repeal and prohibit regulations and laws infringing" on states' 10th Amendment rights.

"The federal government has more intrusion in our lives than ever before," she said, "and this is push back time."

A costly legal battle, however, may not be feasible in the current economic climate.

"It's really difficult for states to put their money where their mouth is," Fisher said. "I believe what that bill is saying is we shouldn't be forced into health care reform. The challenge is how much money do we have to battle it in the court system? That will be the debate in the upcoming session. But I definitely support the concept."

The state is already implementing a strategic plan for health reform, the text of H.B. 67 says, one that is uniquely tailored to meet the state's needs. Federal health reform threatens this progress by imposing one, uniform solution for everyone, the bill adds.

And it tramples on the rights of individuals who would be required to get health insurance through a third-party payer or else pay a fine.

"We (Utah and the federal government) are going to have two laws that are in absolute, complete opposition to one another," said Wimmer, who has joined with Utah Attorney Mark Shurtleff in lambasting federal health reform and threatening legal action. "We're ready for that fight."

But how firm a legal ground the Legislature and Shurtleff stand on is unclear.

In a Dec. 22 statement, Vermont Sen. Patrick Leahy, chairman of the Senate Judiciary Committee, said Congress' powers are clearly laid out by Article I of the U.S. Constitution. Under the "general welfare clause," the "commerce clause" and the "necessary and proper clause," Congress has clear authority to reform health care "by containing spiraling costs and ensuring its availability for all Americans." A series of U.S. Supreme Court decisions, including three in 1937 that upheld the constitutionality of Social Security, have reaffirmed this.

A standoff in court will not be the only fallout from refusing to implement federal health reform, said Judi Hilman, executive director of the Utah Health Policy Project. Utah could also lose its funding for Medicaid, a safety net public health insurance program upon which thousands of poor and out-of-work Utahns depend.

"It [a lawsuit] is a waste of time from just sort of a government-bureaucracy-tying-up-the-courts perspective," she said, "but it's even more costly if you think about the longer-term consequences."

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What's next?

H.B. 67, Health System Amendments, will first be heard by the Legislature's Rules Committee. The 2010 session begins Jan. 25.

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