

1 SB220
2 156144-1
3 By Senator Fielding
4 RFD: Judiciary
5 First Read: 21-JAN-14

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8 SYNOPSIS: This bill would render null and void
9 certain provisions of the federal Patient
10 Protection and Affordable Care Act of 2010 that
11 exceed the limited powers of Congress.

12 This bill would authorize the Attorney
13 General to file a civil action in the name of the
14 state for injunctive relief on behalf of
15 individuals harmed by the implementation of the
16 Patient Protection and Affordable Care Act of 2010.

17 This bill would also preclude state
18 agencies, officers, and employees from conducting
19 or participating in involuntary home visits under
20 the maternal, infant, and early childhood in-home
21 visitation program under the act.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To render null and void certain provisions of the
2 Patient Protection and Affordable Care Act of 2010 that exceed
3 the limited powers of Congress; to authorize the Attorney
4 General to file an action on behalf of individuals harmed by
5 the implementation of the Patient Protection and Affordable
6 Care Act of 2010; to provide for injunctive relief; to provide
7 for an award of attorney's fees and court costs; to prohibit
8 the state and political subdivisions thereof from establishing
9 or participating in a health care exchange; and to preclude
10 involuntary participation in the maternal, infant, and early
11 childhood in-home visitation program under the act.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. This act shall be known and may be cited
14 as the Alabama Freedom of Health Care Protection Act.

15 Section 2. The Legislature finds and declares the
16 following:

17 (1) The Tenth Amendment to the United States
18 Constitution provides that the federal government is
19 authorized to exercise only those powers delegated to it in
20 the Constitution.

21 (2) Article VI, Clause 2 of the Constitution of the
22 United States provides that laws of the United States are the
23 supreme law of the land provided that they are made within the
24 powers delegated to the federal government in the
25 Constitution.

26 (3) It is the stated policy of the Legislature that
27 provisions of the Patient Protection and Affordable Care Act

1 of 2010 grossly exceed the powers delegated to the federal
2 government in the Constitution.

3 (4) The provisions of the Patient Protection and
4 Affordable Care Act of 2010 that exceed the limited powers
5 granted to Congress pursuant to the Constitution cannot and
6 should not be considered the supreme law of the land.

7 (5) The Legislature has the absolute and sovereign
8 authority to interpose and refuse to enforce the provisions of
9 the Patient Protection and Affordable Care Act of 2010 that
10 exceed the authority of Congress.

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

14 Section 3. (a) No agency, officer, or employee of
15 the state, or any political subdivision thereof, may engage in
16 an activity that aids any agency in the enforcement of those
17 provisions of the Patient Protection and Affordable Care Act
18 of 2010 or any subsequent federal act that amends the Patient
19 Protection and Affordable Care Act of 2010 that exceed the
20 authority of the United States Constitution.

21 (b) The Legislature is empowered to take all
22 necessary actions to ensure that all agencies, departments,
23 and political subdivisions of the state comply with subsection
24 (a).

25 Section 4. (a) If the Attorney General has
26 reasonable cause to believe that a person or business is being
27 harmed by implementation of the Patient Protection and

1 Affordable Care Act of 2010 and that proceedings would be in
2 the public interest, the Attorney General may bring an action
3 in a court of competent jurisdiction in the name of the state
4 against the person or entity causing the harm to restrain by
5 temporary restraining order, temporary injunction, or
6 permanent injunction the use of such method, act, or practice.

7 (b) Unless the Attorney General determines in
8 writing that the purposes of this section will be
9 substantially impaired by delay in initiating an action, the
10 Attorney General, at least three days before filing an action
11 as provided in this section, shall give notice to the person
12 or entity against whom the proceeding is contemplated and give
13 the person or entity an opportunity to present reasons to the
14 Attorney General why an action should not be filed.

15 (c) Whenever the court issues a permanent injunction
16 in connection with an action filed under subsection (a), which
17 has become final, the court shall award reasonable attorney's
18 fees and costs to the state.

19 Section 5. (a) For the purposes of this section,
20 "health care exchange" means an American Health Benefit
21 Exchange established by any state or political subdivision of
22 a state, as provided for in the Patient Protection and
23 Affordable Care Act of 2010.

24 (b) The state, or any political subdivision thereof,
25 may not establish a health care exchange for the purchase of
26 health insurance.

1 (c) The state, or any political subdivision thereof,
2 may not participate in or purchase insurance from a health
3 care exchange established by a nonprofit organization.

4 (d) A health insurance contract purchased or
5 established in violation of this section is void and may not
6 be enforced by the courts of this state.

7 Section 6. No agency, officer, or employee of the
8 state, or any political subdivision thereof, may authorize an
9 employee, contractor, vendor, or any other person acting on
10 behalf of the department to conduct or participate in an
11 involuntary maternal, infant, and early childhood in-home
12 visitation under Section 2951 of the Patient Protection and
13 Affordable Care Act of 2010 and any subsequent federal act
14 that amends that section or that may refer to an entity or a
15 process established under the Patient Protection and
16 Affordable Care Act of 2010.

17 Section 7. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.