

Louisiana Can Sidestep and Delay ObamaCare Regulatory Requirements

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State Lawmakers Encouraged to Resist Grants with “Federal Strings” and Suspend Rulemaking

Instead of accommodating the regulatory directives associated with President Obama’s new health care law, Louisiana lawmakers have it within their authority to resist, delay and possibly scuttle key implementation measures, according to policy experts who spoke with The Pelican Institute. In fact, Louisiana has already earned recognition for acting decisively and across party lines to embrace an alternative policy measure that sharply contrasts with the major tenets of ObamaCare.

Last May, Louisiana’s House of Representatives voted 59-15 to cancel out the individual mandate included as part of ObamaCare. Rep. Kirk Talbot (R-River Ridge), who sponsored House bill 1474, has argued that it violates the Commerce Clause of the U.S. Constitution. In December, Virginia District Judge Henry Hudson invoked this same line of reasoning when he ruled against the insurance requirement in *Commonwealth v. Sebelius*.

14 House Democrats and 12 Senate Democrats supported Talbot’s bill, which was modeled after the American Legislative Exchange Council’s (ALEC) “Freedom of Choice in Health Care Act,” which can be passed either statutorily or by way of a constitutional amendment. Gov. Bobby Jindal signed off on the law last July making Louisiana the first state with a Democratic controlled legislature to approve the measure.

ALEC’s recently released “State Legislators Guide to Repealing Obamacare,” recommends that Talbot’s bill be used as part of a larger “pushback” strategy to protect the rights of individual consumer, employers and health care providers from federal encroachment. State lawmakers have it within their authority to deny ObamaCare the infrastructure and edifice needed to take root, ALEC policy specialists point out.

For starters Jindal and state lawmakers could enact a moratorium on ObamaCare rulemaking, which would enable the state to focus its limited resources on core functions of government.

“We hear a lot about the states as the 50 ‘laboratories of reform’ — and that’s important to show what works in health policy, and what doesn’t,” Christie Herrera, ALEC’s director of Health and Human Services Task Force wrote in an email to the Pelican Institute. “But there’s also a constitutional imperative for state legislators to get involved in the fight against ObamaCare, and for real patient-centered healthcare reform. The 10th Amendment affirms that states have a big role to play in policy matters ‘not delegated to the United States by the Constitution, nor prohibited to it by the States.’ And so if Congress won’t repeal ObamaCare or institute new reforms, then it’s up to state legislators to finish the job.”

Louisiana should also reject grants tied in with ObamaCare that come with “federal strings,” ALEC recommends. Although they may be attractive on the surface, grants could be used as a coercive tool.

“Many legislators, both Republicans and Democrats, are addicted to federal money,” Herrera observed. And it’s the federal stings, attached to that money that should concern them the most. It’s a temporary fix to accept federal grants, but it will be a long-term headache as states scramble to comply with the accompanying rules.

Michael Tanner, a senior fellow with the CATO Institute, encourages state office holders in Louisiana to refrain from allocating funds that can be used to advance the federal law. He also said state lawmakers should preclude state regulators from enforcing ObamaCare requirements.

“The idea here is to make feds do the enforcement,” he explained. “Do not let your own regulators get involved. Basically, this is about non-compliance and passive resistance.”

One upshot that follows from the consternation over ObamaCare has been a renewed interest in federalism on the part of elected officials and the public, Tanner noted.

“The whole federal overreach in this has stimulated a discussion of federalism in a way that we have not seen since the Reagan era. With the federal government reaching into areas that we always assumed were left to the states, this now has people thinking and asking themselves what other areas is the federal government reaching into that should be left to the states. This has been a very healthy discussion.”