

HEALTH CARE FOR MASSACHUSETTS CAMPAIGN

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The Moore “Voter Approval” Amendment To the Health Care Constitutional Amendment

The Health Care Constitutional Amendment contains a provision specifying that comprehensive health reform legislation is subject to voter approval. Referred to as “the Moore amendment” after its sponsor, Senator Richard Moore, the provision was added to the ballot initiative during the July 14, 2004 Constitutional Convention debate. Since then there has been confusion about its impact.

The Amendment Language

“Upon ratification of this amendment and thereafter, it shall be the obligation and duty of the Legislature and executive officials, on behalf of the Commonwealth, to enact and implement such laws, subject to approval by the voters at a statewide election, as will ensure that no Massachusetts resident lacks comprehensive, affordable and equitably financed health insurance coverage for all medically necessary preventive, acute and chronic health care and mental health care services, prescription drugs and devices.”

The Issue

Some have raised a concern that the “voter approval”/Moore amendment will require every incremental reform and/or appropriation to go to the voters before it takes effect. Two main arguments are offered for this view. The first is legal – that the language is vague enough to allow, if not require, that interpretation. The second is political – that legislators could and therefore will send every incremental reform or spending increase to the voters.

The Campaign Response

The “voter approval”/Moore amendment will almost certainly not be interpreted to apply to future incremental reforms. The much more likely interpretation is that it will only apply to a reform plan that is a comprehensive restructuring of the health coverage system, particularly of a scope that would require a significant revenue increase for its implementation.

For the “voter approval”/Moore amendment to apply to all incremental reforms **ALL** of the following must occur.

- The Supreme Judicial Court (SJC) must ignore or abandon the rules it has used for over 50 years to interpret constitutional language.
- The SJC must ignore the statement in the Constitutional Convention of the amendment’s sponsor, Senator Moore.
- The SJC must ignore the interpretation of the amendment’s proponent, Associated Industries of Massachusetts, that it included in its Legislative Bulletin to members.
- The SJC must ignore the voters’ understanding of the provision based on Campaign materials and the Secretary of State’s Voter Information Pamphlet as they cast their votes.
- The Legislature must be willing to give opponents of health care coverage expansions the ability to obstruct even small legislative steps to address one of their constituents’ biggest worries – affordable health coverage.

The Campaign, after consulting with a constitutional law expert and a variety of political advisors, believes that it is unlikely that any of the above will occur. It is highly unlikely that all of them will occur. We have concluded, therefore, that the “voter approval” amendment will almost certainly not apply to future incremental reforms or to appropriations.

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