

## State Corporation Commission 2006 Fiscal Impact Statement

**1. Bill Number** HB1437

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron**        Melvin

**3. Committee**    Commerce and Labor

**4. Title**            Small employer health insurance associations.

**5. Summary/Purpose:** Authorizes employers with no more than 100 eligible employees to form associations for the purpose of obtaining group health insurance coverage for their employees. The small employers that are members of such an association shall be deemed to constitute a single entity for purposes of premium rates and issuance and renewal of coverage. The small employer association shall not condition membership in the small employer association on any health status-related factor relating to an individual (including an employee of a small employer or a dependent of an employee); shall make health insurance coverage offered through the small employer association available to all employees or dependents of employees of members regardless of any health status-related factor relating to individuals eligible for coverage through a member; shall not make health insurance coverage offered through the small employer association available other than in connection with a member of the small employer association; and shall meet such additional requirements as may be imposed under the laws of this Commonwealth. The policy may insure employees of members of the small employer association, or all of any class or classes thereof for the benefit of persons other than the employee's employer. The premium for the policy shall be paid from funds contributed by the small employer association, or by small employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association or employer members. Except as provided in subdivision 4 of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance shall insure all eligible persons, except those who reject such coverage in writing. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title. An insurer issuing coverage to such a small employer association shall give the association the same consideration and privileges as a single entity in pricing and other terms of coverage under a group benefit plan, including any provision relating to premium rates and issuance and renewal of coverage. ("Small employer" means an employer who employed an average of at least two employees but not more than 100 eligible employees on business days during the preceding calendar year.)

**6. No Fiscal Impact on the State Corporation Commission**

**7. Budget amendment necessary:** No

**8. Fiscal implications:** None on the State Corporation Commission

**9. Specific agency or political subdivisions affected:** State Corporation Commission Bureau of Insurance

**10. Technical amendment necessary:** The State Corporation Commission of Insurance offered technical comments to the patron on House Bill 1437:

- Under existing law, the same results (an association formed of small employers) may be achieved under the provisions of § 38.2-3522.1 A of the Code of Virginia. Section 38.2-3522.1 provides for groups that are not otherwise defined in § 38.2-3521.1 to acquire group accident and sickness insurance provided the insurance policies issued to the groups meet the criteria enumerated in the statute. The Bureau of Insurance has seen a relatively small number of filings under this statute, but would have no reason to disapprove a health insurance policy or plan used in connection with such an arrangement, provided, of course, the policy or plan complied with all other applicable laws. The Bureau did not object to defining the small employer association group under § 38.2-3521.1, and recognized that in doing so, the additional step of ensuring compliance under § 38.2-3522.1 is removed, but wanted to point to the patron that, in theory, the results contemplated by this bill are achievable under existing Virginia law.
- In order to comply with Virginia's laws concerning guaranteed issue and non-discrimination, and to ensure that the plans issued to small employer associations comply with any applicable federal requirements, the Bureau of Insurance suggested the following technical changes to subsection H (Lines 143 through 170) of the bill:

*H. 1. A policy issued to an association of small employers formed for the purpose of obtaining insurance, which association shall be deemed the policyholder. The small employer association shall:*

*a. Not condition membership in the small employer association on any health status-related factor relating to an individual (including an employee of a small employer or a dependent of an employee);*

*b. Make health insurance coverage offered through the small employer association available to all employees or dependents of employees of members regardless of any health status-related factor relating to individuals eligible for coverage through a member;*

*c. Not make health insurance coverage offered through the small employer association available other than in connection with a member of the small employer association; and*

*d. Meet such additional requirements as may be imposed under the laws of this Commonwealth **as well as any and all applicable federal laws and regulations.***

*2. The policy shall be subject to the following requirements:*

*a. The policy ~~may~~ shall insure all employees of members of the small employer association, subject to an individual employee's right to reject coverage in writing, ~~or all of any class or classes thereof~~ for the benefit of persons other than the employee's employer.*

*b. The premium for the policy shall be paid from funds contributed by the small employer association, or by small employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association or employer members.*

*~~3. Except as provided in subdivision 4 of this subsection, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance shall insure all eligible persons, except those who reject such coverage in writing.~~*

*~~4. An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer, except as otherwise prohibited in this title.~~*

*~~5.~~ 3. An insurer issuing coverage to such a small employer association shall give the association the same consideration and privileges as a single entity in pricing and other terms of coverage under a group benefit plan, including any provision relating to premium rates and issuance and renewal of coverage.*

*~~6.~~ 4. As used in this subsection, "small employer" means an employer who employed an average of at least two employees but not more than 100 eligible employees on business days during the preceding calendar year.*

- The Bureau of Insurance also advised the patron that the definition of small employer used in the bill (2 to 100 employees) is inconsistent with the definition of small employer already identified in § 38.2-3431 B, (2 to 50 employees), though acknowledged that it may have been the patron's intention to use a different definition for purposes of this proposal.

**11. Other comments:** House Bills 478 and 761 create similar opportunities for small employers to collectively purchase health benefit plans. In addition House Bill 403 creates a health insurance risk pool for any eligible individual in Virginia.

House Bill 1437 has been assigned to the Insurance Subcommittee of the House Committee on Commerce and Labor.

**Date:** 01/22/06 / V. Tompkins

cc: Secretary of Health and Human Resources