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HOUSE BILL NO. 2522

Offered January 16, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 2.2-2820.2, relating to coverage for employees of small employers under the health insurance plan for state employees.*

Patrons—Nichols and Tyler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 2.2-2820.2 as follows:**

§ 2.2-2820.2. *Purchase of health insurance coverage by small employers and nonprofit entities.*

A. *As used in this section:*

"Department" means the Department of Human Resource Management.

"Eligible employee" means an individual who resides in the Commonwealth employed by a small employer on a full-time basis for an average of not less than 35 hours per week.

"Participating employer" means a small employer that applies and is approved for participation in the program allowing its eligible employees to obtain health insurance coverage under a state plan as provided in this section.

"Small employer" means any employer, as defined in § 40.1-2, that on at least 50 percent of its working days during the preceding 12 months, employed no more than 50 employees, the majority of whom were employed within the Commonwealth.

"State plan" means any plan established by the Department for the provision of health insurance coverage in accordance with § 2.2-2818.

B. The Department shall permit any eligible employee to obtain health insurance coverage under a state plan as provided in this section, provided that the small employer employing the eligible employee submits an application to the Department in a form approved by the Department and the application is approved in accordance with the provisions of this section. Such applications shall require an employer to disclose whether the employer will offer any other health coverage to the employees who are offered the state plan. The Department shall not approve an application for coverage under a state plan if the Department determines that such coverage would cause the plan to be subject to the requirements of the Employee Retirement Income Security Act of 1974.

C. If a small employer submits an application to cover all its eligible employees, the Department shall provide such coverage no later than the first day of the third calendar month following approval of the application. If a small employer submits an application for less than all of its eligible employees or indicates in the application that the employer will offer other health plans to employees who are offered the state health plan, the Department shall determine not later than 30 days after receiving such application, whether approval of such application will shift a significantly disproportional part of an employer's medical risks to the state employee plan. If such determination is in the negative then the application shall not be approved. If such determination is in the affirmative, the Department shall provide coverage no later than the first day of the third calendar month following the 30 days from the date of such determination.

D. Any eligible employee who obtains health insurance coverage under a state plan through his participating employer shall be pooled with the state employees. A participating employer shall remit premium payments for coverage provided for its eligible employees under this section to the Department.

E. The Department shall allow small employers to participate in a state plan for no shorter than three-year intervals. At the end of any interval, a participating employer may apply for coverage for an additional interval. The Department shall develop procedures by which participating employers receiving coverage for their eligible employees may withdraw from state plans. Nothing in this section shall (i) require the Department to offer coverage to every small employer seeking coverage from every vendor providing coverage under a state plan or (ii) prevent the Department from procuring coverage for nonstate employees from vendors other than those providing coverage to state employees.

F. The amount of any premium or other charge for coverage provided under a state plan shall be the same as that paid by the Commonwealth inclusive of any premiums paid by state employees, except as otherwise provided in this section. The Department may charge each participating employer an administrative fee calculated on a per employee per month basis. Premium rates for participating employers shall be the total premium rate paid by the Commonwealth inclusive of any premiums paid by state employees for a particular state plan offered by the Department, except that the rate for insurance coverage under the state plan may be adjusted to reflect one or more of the following characteristics:

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59 1. Age, provided age brackets of less than five years shall not be utilized;
60 2. Gender;
61 3. Geographic area, provided an area smaller than a city or county shall not be utilized;
62 4. Industry, provided the rate factor associated with any industry classification shall not vary from
63 the arithmetic average of the highest and lowest rate factors associated with all industry classifications
64 by greater than 15 percent of such average, and provided further that the rate factors associated with
65 any industry shall not be increased by more than five percent per year;
66 5. Group size, provided the highest rate factor associated with group size shall not vary from the
67 lowest rate factor associated with group size by a ratio of greater than 1.25 to 1.0; and
68 6. Family composition, utilizing only one or more of the following billing classifications: employee;
69 employee plus family; employee and spouse; employee and child; employee plus one dependent; and
70 employee plus two or more dependents.
71 G. Each participating employer shall pay monthly the amount determined by the Department
72 pursuant to the provisions of this section, for coverage of its eligible employees obtaining coverage
73 under the state plan. A participating employer may require each covered employee to contribute a
74 portion of the cost of his coverage under the state plan. If any payment due by an employer under this
75 section is not paid after the date due, interest shall be added to such payment at the prevailing rate of
76 interest, as determined by the Department. Such interest shall be paid by the participating employer.