State Corporation Commission
2008 Fiscal Impact Statement

1. **Bill Number:** SB318

House of Origin	X	Introduced	___	Substitute	___	Engrossed
Second House	___	In Committee	___	Substitute	___	Enrolled

2. **Patron:** Wagner

3. **Committee:** Commerce and Labor

4. **Title:** **Virginia Wind Underwriting Association.**

5. Summary: Establishes a wind underwriting association for property in the coastal areas of Virginia (Accomack and Northampton Counties, and the cities of Chesapeake, Hampton, Norfolk, and Virginia Beach). All insurers authorized to write property insurance in Virginia (excluding mutual assessment companies) are members of the Association. The Association has the authority to issue policies of essential property insurance, assume reinsurance from members, and cede reinsurance. Essential property insurance is defined as insurance against direct loss to property from the risk of windstorm. Gives the State Corporation Commission the authority to promulgate a plan of operation if the association fails to submit such a plan. Member companies will receive an annual credit for essential property insurance written voluntarily in the coastal areas of the state.

6. **Fiscal Impact Estimates:** No Fiscal Impact on the State Corporation Commission. See Item 11.

7. **Budget amendment necessary:** No

8. **Fiscal implications:** None on the State Corporation Commission. See Item 11.

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

10. **Technical amendment necessary:** The Bureau of Insurance offered the following technical comments on Senate Bill 318:

- Line 450 – Losses insured under the Virginia Wind Underwriting Association would be paid on an actual cash value basis (which is replacement cost minus depreciation). This means that policyholders would lose replacement cost coverage on their structure for wind losses (as well as on their contents if their homeowners policy provides replacement cost coverage on their contents). In addition, most wind coverage includes hail. This may complicate the claims settlement process. For example, damage to a roof may be partly due to wind and partly due to hail, thus requiring two adjusters to settle the claim (one representing the homeowners insurer and one representing the Wind Association). Any excess insurer could also be involved in the claims settlement process as provided for on line 512.

- Lines 460 through 465 - in the definition of "net direct premiums written," there appears to be a technical problem with the wording in the sentence "excluding reinsurance assumed...." The Bureau of Insurance staff does not understand the purpose of this sentence. Additionally, the word "less" should be added to line 463 as follows "less (i) all return premiums…."

- Line 471 – This line references all private insurers "authorized" to write property insurance. Line 474, however, refers to a member's license. If the intent is to refer to "licensed" insurers, the Bureau staff would suggest that line 471 be modified accordingly.

- Lines 476 through 485 - If the law is adopted, it would go into effect on July 1, 2008. The Association has to submit its plan of operation by September 1, 2008, but the Board is not established until after the plan of operation has been approved by the Commission. The Bureau of Insurance staff members have questions regarding this sequencing, and would suggest allowing for a delayed implementation date of at least January 1, 2009.

- Line 493 and Line 517 – The provision refers to agents and brokers. The term "broker" should be changed to "surplus lines broker" to be consistent with the Code of Virginia.

- Lines 583 through 586 - In setting forth financial reporting requirements, the proposal states that the report shall be filed four months after the end of each fiscal year for the preceding 12 months. Insurers report as of December 31, and they must submit their annual statements to the Bureau of Insurance by March 1.

- Line 595 – The provision states that reports are not public documents. This would include financial reports, which are public documents when filed by insurers. There is no apparent reason for differing treatment regarding public documents.

- This bill does not address any type of pre-funding of the association for start-up operating expenses. However, pre-funding would not be necessary if, rather than setting up a separate wind pool, the bill required the Virginia Property Insurance Association to issue wind policies. This would eliminate duplicative operational expenses.

- The bill does not allow for the peril of wind to be excluded under a homeowners policy. Unless the proposal allows for such an exclusion, there would be duplicate coverage for the peril of wind (i.e. under both the homeowners policy and the wind policy). On the other hand, once insurers are allowed to exclude wind coverage under the homeowners policy, the Bureau of Insurance staff members are concerned that insurers will begin excluding wind coverage from all of the homeowners policies eligible for coverage through the wind association. Insurers of commercial property do not have the same prohibition against excluding wind as homeowners insurers and are thus allowed to exclude coverage for the peril of wind.

- The bill does not contemplate an appeals provision for applicants or insureds who have been aggrieved by any action or decision made by the association.

11. Other comments: The Bureau of Insurance also offered general comments to the patron on Senate Bill 318. Arguments in favor of wind pools suggest that these types of residual market mechanisms make coverage more available. However, agencies and a surplus lines broker in the coastal area have advised Bureau staff that there does not appear to be an availability problem for coastal property owners seeking property insurance. In fact, they indicated that the market was competitive in the coastal areas and that there was no problem finding coverage. In addition, the residual market mechanism for property insurance in Virginia (the Virginia Property Insurance Association or VPIA), the property insurance market of last resort, writes a very small portion of the market and is currently only insuring 54 residential beachfront properties and 13 commercial beachfront properties. They also insure 9,997 residential seacoast properties and 306 commercial seacoast properties. The Bureau believes that these numbers support the fact that property insurance is being placed elsewhere. In addition, the Bureau receives very few complaints or requests from consumers needing coverage. A number of years ago, the Bureau set up a coastal hotline list that is provided to consumers who call looking for coverage for residential property. A number of licensed homeowners insurers are on the Bureau's coastal hotline list. These insurers have indicated a willingness (but are not obligated) to write coverage for consumers who use the Bureau's hotline list. Since May 1, 2007, the Bureau has received 13 calls from consumers seeking the hotline list. From May 1, 2006 to April 30, 2007, the coastal hotline received 23 calls.

The Bureau offered the patron some of the possible concerns with the creation of a wind pool:

- Wind pools do not necessarily make coverage more affordable because the consumer must purchase both a property insurance policy and a wind policy. Property owners in Virginia that currently have homeowners coverage may be concerned about having to purchase two separate policies. Plus, the coverage will likely cost more. For example, one insurer in North Carolina indicated that the premium for a $400,000 home is $2,380 under a traditional homeowners policy, but if the same home has wind coverage through the North Carolina Beach Plan, the wind policy costs $2,044 and the homeowners policy costs $688, thus increasing the cost to the homeowner by $352.

- Wind or hurricane deductibles would still likely be required even in a wind pool.

- If insurers are assessed for shortfalls in a wind pool, these costs will be passed on to policyholders throughout that state. This type of shortfall would create a subsidy by all policyholders in that state.

- Insurers may be discouraged from writing property insurance in the state or entering the state as a new carrier because of the possibility of additional assessments from the wind pool.

The Bureau suggested possible alternatives to the establishment of a wind pool. For example, coverage in the VPIA could be expanded by requiring the VPIA to write higher limits. (Coverage is currently available up to $500,000 for residential dwellings and $1,000,000 for commercial property.) Another alternative would be to require insurers to offer buy-back policies for their wind and hurricane deductibles or prohibit insurers from imposing mandatory wind or hurricane deductibles greater than 5%.

As far as the impact on insurers and consumers, insurers would likely be faced with start up costs and assessments which could then be passed on to policyholders. The consumer is impacted because they would have to purchase two policies instead of one and pay more premiums. For inland consumers a shortfall in the wind pool could create a situation in which insurers would, due to costs, pass along increases to all policyholders in the Commonwealth, not just those living on the coast.

Date: 01/19/08 / V. Tompkins

cc: Secretary of Commerce and Trade