

## State Corporation Commission 2010 Fiscal Impact Statement

**1. Bill Number:** HB 1377

House of Origin	<u>  X  </u>	Introduced	<u>      </u>	Substitute	<u>      </u>	Engrossed
Second House	<u>      </u>	In Committee	<u>      </u>	Substitute	<u>      </u>	Enrolled

**2. Patron:** Sickles

**3. Committee:** Commerce and Labor

**4. Title:** **Health services plan; program for residents of other state.**

**5. Summary:** Authorizes the Commission to conduct a hearing and an investigation to determine the impact of another state's laws on health services plans issued or delivered in Virginia. Specifically, the Commission shall consider the impact on surplus, premiums rates for policies issued or delivered in Virginia, and solvency. If the Commission determines that there is a harmful impact on the subscribers covered by policies issued or delivered in Virginia then, the Commission may issue an order to protect the subscribers of such policies. The order may prohibit the health services plan from subsidizing a program that benefits residents of another state through (i) premiums charged for policies issued or delivered in Virginia, or (ii) the use of surplus earned through policies issued or delivered in Virginia.

**6.** Fiscal Impact on the State Corporation Commission (see Item 8).

**7. Budget amendment necessary:** No

**8. Fiscal implications:** The State Corporation Commission may need to contract with a third party to conduct the study, the associated costs of which are unknown at this time. (Also see Item 11.)

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

**10. Technical amendment necessary:** On Line 26, the Bureau of Insurance suggested consideration of substituting "surplus earned through policies" with "earned surplus attributable to policies" in the interest of clarity.

**11. Other comments:** The Bureau of Insurance offered the following amendments to the patron of House Bill 1377:

- Line 14 of HB 1377 addresses "a program or benefits for the residents of the other state." This language could seem inconsistent with the bill's directive applying to "subscribers covered by policies issued or delivered in the Commonwealth." The issuance or delivery of policies in Virginia does represent the general basis of Virginia's assertion of jurisdiction for regulatory purposes. However, such policies would likely cover subscribers

residing in other states, including subscribers residing in a state whose statutes the Commission may deem to be harmful. A likely example would be a group health plan issued in Virginia, but having covered employees residing in another state or states.

In addition, the bill requires the Commission to take regulatory action against a health plan to counteract the perceived adverse effects of another state's statutes. Failure to comply with the Commission's order would presumably subject the health plan to penalties pursuant to Title 38.2 of the Code of Virginia. The Commission could then be penalizing a health plan for complying with the laws of another state even if that state were its domiciliary, i.e. organizational jurisdiction.

The requirement for the Commission to conduct an impact study prompts additional considerations, such as:

- The Commission may need to contract with a third party to conduct the study, the associated costs of which are unknown at this time. Since HB 1377 does not provide funding for the study, the Bureau of Insurance suggested to the patron the following amendment to clarify that the study would be conducted and funded in accordance with Article 4 of Chapter 13 of Title 38.2. On Line 15, after "plan":

*The Commission shall direct the Commissioner to conduct an examination of the health service plan in accordance with Article 4 (§ 38.2-1317 et seq.) of Chapter 13 of this title and report its findings to the Commission, including the impact on (i) surplus; (ii) premium rates for policies issued or delivered in the Commonwealth; and (iii) solvency.*

B. Based on the ~~review and evaluation under subsection A~~ report of the Commissioner, the Commission shall determine whether the impact on the health service plan is harmful to the interests of subscribers covered by policies issued or delivered in the Commonwealth.

**Date:** 02/10/10 V. Tompkins  
**cc:** Secretary of Health and Human Resources