

State Corporation Commission 2010 Fiscal Impact Statement

1. **Bill Number:** HB89

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

2. **Patron:** Kilgore

3. **Committee:** Commerce and Labor

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

5. **Summary: Establishes the Virginia Wind Underwriting Association.** The Association will provide wind coverage for the coastal area (Accomack and Northampton Counties as well as the Cities of Chesapeake, Hampton, Norfolk, and Virginia Beach). All private insurers authorized to write property insurance or other insurance that contains a property component (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. Rates used in writing wind coverage are subject to § 38.2-2001 (prior approval). Wind policies written by the Association are considered “residual market mechanisms” with respect to Chapter 6 of Title 38.2, are not subject to the minimum standards set forth in § 38.2-1343, and are not subject to the provisions of §§ 38.2-2113 and 38.2-2114 with respect to cancellation and nonrenewal of the policies.

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:** No

11. **Other comments:** The Bureau of Insurance offered the patron of House Bill 89 background of the establishment of a wind pool in Virginia:

- In 1997, HB 1956 would have allowed homeowners insurers to exclude coverage for wind losses (for new business written in the coastal areas of the state) and

would have authorized the Virginia Property Insurance Association to write a stand-alone wind policy. This bill did not pass.

- In 2002, HB 902 would have established a catastrophic event reinsurance fund with the purpose of disbursing money to participating insurers when a catastrophic event (either man-made or natural disaster) raised claims above a certain level in order to reduce the potential for insolvencies resulting from the catastrophic event. This bill did not pass.
- In 2004, HB 439 and SB 433 would have allowed homeowners insurers to exclude coverage for wind losses (for new business written in the coastal areas of the state) and would have authorized the Virginia Property Insurance Association to write a stand-alone wind policy. These bills did not pass.
- In 2008, SB 318 was introduced which would have established 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). The bill was carried over to 2009. As a result of this bill, the Bureau of Insurance agreed to study the issue for Senator Wagner. The Bureau held several meetings and received feedback from agents, licensed insurers, surplus lines insurers, and reinsurers. The following summarizes our findings:
 - Virginia agents in the coastal areas of Virginia indicated that there did not appear to be an availability problem, that the market was very competitive, and that there was no problem finding coverage.
 - Agents in coastal areas also expressed concern that once a wind pool is established, it is difficult to get standard insurance carriers back into a state's insurance market and a wind pool is difficult to disband it once established.
 - Surplus lines insurers indicated they are actively writing in the coastal areas of Virginia.
 - Reinsurers indicated that their capacity was increasing and their rates have dropped since 2006.
 - The manager of the Virginia Property Insurance Association (VPIA), the residual market for property owners, indicated that the VPIA writes everywhere in Virginia and could accommodate Virginia citizens if insurance carriers pulled out of Virginia following a major catastrophe.
 - Licensed insurers explained that the existence of a wind pool enters into insurers' decision as to whether or not to do business in a state and adversely affects small niche writers.

- One insurer explained that it made the decision to pull out of North Carolina because the wind pool assessment in that state would have put them out of business.
- The manager of the South Carolina Wind and Hail Underwriting Association cautioned that a wind pool can grow very quickly and become the primary insurer of wind and hail coverage in the area. He also said that if insurers are allowed to exclude wind and hail coverage under their homeowners policy (currently prohibited in Virginia), they will very likely do that. He also mentioned that consumers are often shocked by the overall increase in the cost of their property insurance when they have to purchase a separate wind policy in addition to their homeowners' policy.

There are arguments for and against the establishment of wind pools. If an insurance coverage availability problem existed in Virginia, a wind pool would increase the *availability* of coverage beyond what is currently available in the *voluntary market* (consisting of licensed insurance companies as well as surplus lines insurance companies, which are insurance companies that are not licensed but are approved to do business in Virginia) as well as what is currently available in the VPIA, which is Virginia's *residual market* for property insurance.

The Bureau of Insurance offers the following information regarding wind pools and the affordability of coverage:

1. The consumer would have to purchase both a homeowners policy and a wind policy.
 2. In addition, wind or hurricane deductibles would still likely be required even in a wind pool.
 3. Any premium offset under the homeowners' policy (because of a wind exclusion under the homeowners policy) may not equal the cost of a separate wind policy.
- When insurers are assessed for shortfalls in the wind pool, these costs are passed on to policyholders throughout a state, so policyholders throughout a state subsidize the policies of the state's wind pool.
 - Insurers may be discouraged from writing in the state because of the possibility of additional assessments from the wind pool.
 - Coverage in Virginia is already available through the surplus lines market and in the VPIA. In addition, a number of licensed 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.

cc: Secretary of Commerce and Trade