

## State Corporation Commission 2011 Fiscal Impact Statement

**1. Bill Number:** HB1928

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Marshall, D.W.

**3. Committee:** Passed Both Houses

**4. Title:** Health insurance; independent external reviews.

**5. Summary:** Expands the scope of Virginia's process for independent reviews of a health carrier's adverse decision regarding covered health care benefits, in order to comply with requirements of the federal Patient Protection and Affordable Care Act. (PPACA). The measure (i) eliminates the minimum eligibility threshold, (ii) eliminates the \$50 filing fee, and (iii) expands situations for which an independent external review may be requested to include covered persons of all licensed health carriers. Insurers are required to incur the full cost of every review, and health carriers with no such process in existence must establish an internal appeals process for review of adverse determinations. An adverse determination is defined as a determination by a health carrier that the request for payment of benefit does not meet established requirements or is experimental or investigational, which results in the denial, reduction or termination of the requested benefit. The provisions of this measure expire July 1, 2014.

**6. Budget amendment necessary:** No

**7. Fiscal Impact Estimates:** No Fiscal Impact on the State Corporation Commission

**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:** House Bill 1928 was introduced by the patron at the request of the State Corporation Commission Bureau of Insurance. The bill revises the existing independent external review statute to track the Uniform Health Carrier External Review Model Act prepared by the National Association of Insurance Commissioners, the standard required by the federal PPACA to be adopted for all state external review programs by July 1, 2011. The failure of a state to meet the federal standard would result in insurers and health plans being required to use a federal program for external reviews. Moreover, the Bureau of Insurance

would be without regulatory enforcement authority in this area, limiting our ability to assist consumers fully with complaints in this area.

Interested parties and the Bureau of Insurance worked jointly on the amendment in the nature of a substitute to House Bill 1928. The federal PPACA requires state external appeals processes be applicable to all licensed health carriers. The current external appeals statute established regulatory authority jointly in the Virginia Department of Health (VDH) and the State Corporation Commission. The regulatory authority of VDH is, however, limited to managed care health insurance plans only. The State Corporation Commission has regulatory authority over insurers. Under House Bill 1928, no current functions performed by the Virginia Department of Health are being removed, but the proposed § 38.2-3556 requires the Bureau of Insurance to promulgate a regulation by which all the new requirements for an internal appeals process which conforms with federal Department of Labor standards as required by PPACA will be promulgated for all licensed health carriers to use in developing their new internal appeal processes.

**Date:** 02/21/11 V. Tompkins

cc: Secretary of Commerce and Trade

Secretary of Health and Human Resources