

## State Corporation Commission 2013 Fiscal Impact Statement

**1. Bill Number:** HB1769

**House of Origin**    ☐ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☒ Substitute    ☐ Enrolled

**2. Patron:** Kilgore

**3. Committee:** Senate Floor

**4. Title:** Health insurance; plan management and rate review.

**5. Summary:** Health insurance; plan management and rate review. Authorizes the State Corporation Commission (SCC), with assistance from the Virginia Department of Health (VDH), to perform plan management functions required to certify health benefit plans for participation in a federally facilitated health benefit exchange in Virginia established by the Secretary of the U.S. Department of Health & Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act, codified as 42 U.S.C. §18041 (c). Adds § 38.2-316.1 which authorizes the Commission to review and approve premium rates applicable to comprehensive health insurance products issued by all types of carriers to individuals and to small employers, as well as for health benefit plans providing coverage to residents of Virginia through a group trust, association, purchasing cooperative or other non-employer group. The statute further directs the Commission to promulgate regulations to establish the applicable rate review requirements. Adds § 38.2-326, which authorizes the performance by the Commission (with assistance from VDH) of plan management functions required to certify health benefit plans for participation in a federally facilitated health benefits exchange in Virginia established by the Secretary of the U.S. Department of Health & Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act, codified as 42 U.S.C. §18041 (c), subject to specific conditions. "Plan management functions" includes analyses and reviews necessary to support the certification, decertification and recertification of qualified health plans and stand-alone dental plans for the federally facilitated health benefit exchange. The SCC may enter into memoranda of understanding with other state or federal agencies to fulfill these functions. Subsection C stipulates that the Commission's obligation to perform plan management functions is contingent upon receiving federal funding sufficient to pay the associated plan management expenses. Subsection D prohibits the Commission from using any special fund revenues to fund plan management functions. Subsection E clarifies that technology resources used by the Commission in performing plan management functions shall be limited to existing information technology (IT) support functions.

**6. Budget Amendment Necessary:** Yes, Item 473, General Fund appropriation of \$ 1.2 million in FY 2014. See 7a below.

**7. Fiscal Impact Estimates:** Fiscal Impact Estimates are Preliminary. See Item 8 below.

**7a. Expenditure Impact:**

	<i>Dollars</i>		
<i>Fiscal Year</i>	<i>GF</i>	<i>NGF</i>	<i>Positions</i>
2012-13	\$400,000		5
2013-14	\$1,200,000	\$87,000	14.00
2014-15	\$1,200,000	\$84,500	14.00
2015-16	\$1,200,000	\$84,500	14.00
2016-17	\$1,200,000	\$84,500	14.00
2017-18	\$1,200,000	\$84,500	14.00

**7b. Revenue Impact:**

	<i>Dollars</i>		
<i>Fiscal Year</i>	<i>GF</i>	<i>NGF</i>	<i>Positions</i>
2012-13			
2013-14		\$87,000	0.00
2014-15		\$84,500	0.00
2015-16		\$84,500	0.00
2016-17		\$84,500	0.00
2017-18		\$84,500	0.00

- 8. Fiscal Implications:** The Commission shall not use any special funds dedicated to its other functions and duties, such as revenues from utility consumer taxes or fees from licenses regulated by the Commission or fees paid to the Clerk's Office to fund any of the plan management functions. While the costs to perform plan management functions under a federally facilitated health benefit exchange are unknown, data provided in the Price Waterhouse Coopers study prepared in March 2012 for the Virginia Health Reform Initiative was used to calculate the SCC's annual operating costs, estimated to be, at a minimum, \$1.2 million. HB 1769 does not provide the SCC any general fund dollars to fund initial startup activities. The bill states that the SCC's obligation to perform these functions is contingent upon receiving federal funding sufficient to pay the operating expenses. As HB 1769 is currently drafted, with no startup funds available, the SCC will be prevented from performing plan management functions. Thus, the SCC recommended to the patron that a budget amendment is necessary to provide the SCC with initial funding until such time as a stable source of funding is made available to the SCC to pay the operational costs for plan management functions.

The SCC anticipates the need for 13 additional positions in Fiscal Year 2014 to implement the provisions of HB 1769. Technology resources are limited to those set forth in subsection E of § 38.2-326 (lines 135-137 of HB 1769).

In addition, HB 1769 gives the SCC the authority to contract with VDH to undertake the certification of the quality health plans (QHPs) participating in the federally facilitated health benefit exchange. Currently, there are currently 110 entities certified by the Virginia Department of Health (VDH) as managed care health insurance plans (MCHIPs). There are 17 stand alone dental plans among the 110 MCHIPs. VDH assumes that only the estimated 60 larger MCHIP entities will meet the more stringent certification requirements. Currently, VDH has two (2) VDH Medical Facilities Inspectors (MFIs) responsible for the certification and triennial onsite examination process for the existing 110 MCHIPs. Certifying an additional 60 QHPs would necessitate a third MFI. The average annual salary for OLC Medical Facilities Inspectors (MFI) is approximately \$58,000, or \$75,400 with benefits. There would be one-time costs of \$2,500 for office equipment, and annual operating costs of approximately \$600 for training, \$8,000 for travel, and \$500 for communications and supplies. Total start up costs in FY2014 would be \$87,000, with annual costs of approximately \$84,500 in FY15, and thereafter. HB 1769 permits VDH to utilize MCHIPs certification fees to "front-end" the costs for VDH's participation in the development and operation of the federally facilitated exchange. In FY14, VDH expects to be reimbursed for these expenditures from the federal Department of Health and Human Services (DHHS), under Section 1311(a) Exchange Establishment cooperative agreement funding.

After section 1311(a) funds are no longer available, Virginia expects to receive continued funding from DHHS under the establishment of a separate federal funding vehicle in FY15, and beyond.

**9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission and its Bureau of Insurance, and the Secretary of Health and Human Resources and VDH

**10. Technical Amendment Necessary:** No

**11. Other Comments:** The SCC advised the patron that proposed subsection C of § 38.2-326 (line 127) stipulates that the SCC's obligation to perform plan management functions is contingent upon its receipt of federal funding sufficient to pay the operating expenses necessary to carry out the plan management functions. Subsection D of § 38.2-326 (line 131) states that the SCC shall not use any special fund revenues dedicated to its other functions and duties to fund plan management functions. The SCC believes that federal funding, while available at this time, is dispensed after expenses have been incurred and is not available to fund "start-up" operations relating to plan management functions. Therefore, the lack of immediate funding for start-up costs associated with implementing plan management functions within the SCC will serve as an impediment to the SCC's performance of plan management in accordance with § 38.2-326 A (iii). The SCC, therefore, recommended to the patron a budget amendment to provide the SCC with start-up revenues to perform plan management functions.

HB 1769 is identical to SB 922, introduced by Senator Watkins. The February 11, 2013 amendment in the nature of a substitute to HB 1769 adds language at the request of the Office of Attorney General to specify that the plan management functions to be performed by the State Corporation Commission are being performed for the federal health benefit exchange established by the Secretary of the U.S. Department of Health & Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act, codified as 42 U.S.C. §18041 (c).

**Date:** 02/14/13/V. Tompkins

cc: Secretary of Commerce and Trade  
Secretary of Health and Human Resources