

State Corporation Commission

2018 Fiscal Impact Statement

1. **Bill Number:** SB162

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

2. **Patron:** Edwards

3. **Committee:** Commerce and Labor

4. **Title:** Marketplace Virginia; health plans.

5. **Summary:** Creates Marketplace Virginia, which will be established and operated by a new division within the State Corporation Commission (SCC). Marketplace Virginia shall facilitate the purchase and sale of qualified health plans and qualified dental plans to qualified individuals and qualified employers, making qualified plans available to qualified individuals and qualified employers. The bill authorizes the SCC to review and approve accident and sickness insurance premium rates applicable to health benefit plans in the individual and small group market and health benefit plans providing health insurance coverage in the individual market through certain nonemployer group plans. Marketplace Virginia will be funded by assessments on health insurers offering plans in the Marketplace. A health plan will not be required to cover any state-mandated health benefit if federal law does not require it to be covered as part of the essential benefits package. The SCC may contract with other eligible entities and enter into memoranda of understanding with other agencies of the Commonwealth to carry out any of the functions of Marketplace Virginia, including agreements with other states or federal agencies to perform joint administrative functions. Such contracts are not subject to the Virginia Public Procurement Act (Â§ 2.2-4300 et seq.).

6. **Budget Amendment Necessary:** No

7. **Fiscal Impact Estimates:** The costs to carry out the provisions of this bill are not available without additional information on the scope of work and duties associated with the oversight and management of the new division of the State Corporation Commission. See Item 8 below.

8. **Fiscal Implications:** Significant additional resources will be needed to perform the functions of the new division responsible for operating the Marketplace. Without a more thorough understanding of the business requirements, people, processes and technology needed to operate the Marketplace, the State Corporation Commission cannot provide an estimate of the anticipated costs. However, if approved, the Commission is offering clarifying language to the assessment provision of the bill in proposed subsections A and B of § 38.2-6410 to ensure that the Commission has the necessary funding in the amount sufficient to support its ongoing operations (see also comments on Line 10).

At this time, there is not sufficient information to determine any potential impact on the Department of Medical Assistance Services and the Virginia Department of Health.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission, Virginia Department of Health and the Department of Medical Assistance Services.

10. Technical Amendment Necessary: In addition to the amendments discussed on Line 11, the State Corporation Commission offers the patron of Senate Bill 162 the following technical comments:

- § 38.2-326 (the Commission's plan management functions) appears to conflict with the provisions of Senate Bill 162. Consideration should be given regarding the repeal of § 38.2-326 along with removing references to § 38.2-326 in the sweep-in provisions of §§ 38.2-4214, 38.2-4319, and 38.2-4509. If the Virginia Department of Health (VDH) is to continue its current role in plan management that involves providing certificates of quality assurance required for health plans to be considered qualified health plans eligible to participate in federal or state exchanges, §32.1-16 would also need to be amended to reference the Marketplace Virginia.
- Section 38.2-6403 (Line 296) includes a provision that the Advisory Committee include "one representative of a *participating* qualified health plan". The Bureau of Insurance recommends striking the word "participating" given the fact that participation by carriers in the exchanges has changed annually based upon which carriers apply for and are approved to offer coverage.
- Section 38.2-6410 regarding assessments does not provide the rate or basis of the assessment or whether there would be a minimum assessed if no business was written. Consideration should be given regarding the addition of clarifying language around rate, basis, and minimum assessments, as well as inclusion of the following on Line 584 after "appropriate.":

"Such assessment shall be apportioned, assessed, and paid as prescribed by §38.2-403."

Subsection B of § 38.2-6410 B provides that the Marketplace shall have funding from the sources described in subsection A in an amount sufficient to support its ongoing operations beginning not later than the *January 1* that follows the date the Marketplace begins making health plans available. Insurer annual statements are due to the Bureau of Insurance on March 1. As a result, the Commission suggests the following amendment to allow the Bureau the time necessary to complete review of annual statements to ensure correct assessment amounts are collected. On Line 586, strike "January" and insert "March".

- On Line 456, after "Act", strike the remainder of Lines 456 and 457 since that provision of the federal law has now been repealed.
- On Line 461, after "coverage", insert "throughout each service area" due to a change in federal rules.
- On Lines 552 and 556, after "health benefit plans", insert "subject to § 2701 of the PHSA and" due to a change in federal rules.

11. Other Comments: The State Corporation Commission is directed to establish and operate the Marketplace Virginia. To facilitate that process, the Commission asks the patron to consider two amendments to Senate Bill 162 which it believes will increase the chances for a successful implementation of the new division within the Commission:

1. Beginning on Line 277, strike subsection E in its entirety. Also, on Line 341, after “website”, strike “developed and maintained by the Virginia Secretary of Health and Human Resources”. These amendments will ensure that responsibility for all aspects of technology infrastructure for the Marketplace Virginia, including its Internet website, will be under the direction of the Commission. As a result of the amendment on Line 341, on Line 363, after the words “subsidy program”, strike “and” insert “provide a link to” so that the Commission will inform individuals of the various programs listed in subdivision 8 of § 38.2-6405 and provide a link to these programs only.

Date: 01/15/18/V. Tompkins

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