

State Corporation Commission

2019 Fiscal Impact Statement

1. Bill Number: SB1717

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed
Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Dunnavant

3. Committee: Commerce and Labor

4. Title: State Corporation Commission; Commonwealth Care Division; Commonwealth Care Health Benefits.

5. Summary: Directs the Joint Legislative Audit and Review Commission (JLARC), as part of its review and evaluation of the agencies and programs under the Secretary of Health and Human Services, to examine and review the implications of the establishment, implementation, and administration of a program, to be known as the Commonwealth Care Health Benefits Program (the Program), under which a division of the State Corporation Commission (the Commission), or nonprofit corporation established by the Commission, will be the sponsor of association health plans through which it will sell individual health insurance coverage in the Commonwealth. The bill provides that JLARC shall request and consider information and input from the Commission's Bureau of Insurance and the Secretary of Health and Human Resources. The measure provides that elements of the Program to be reviewed and examined by JLARC shall include: (i) implementation of the Program would be contingent on the approval of the U.S. Secretary of Health and Human Services of a state innovation waiver under § 1332 of the Affordable Care Act (ACA); (ii) the Commission will retain staff sufficient to establish and implement the Program; (iii) the Program will arrange for a number of third-party administrators, sufficient to ensure competition but in no event fewer than two; (iv) the Program will design and implement health plans that those currently sold through the federal exchange; (v) the covered benefits provided under a plan offered through the Program would provide coverage that a large group plan or association health plan subject to ERISA is required to provide so long as one or more health plans provide additional benefits as may be required to provide coverage that is at least as comprehensive and affordable as plans currently offered on the exchange pursuant to the ACA or otherwise to comply with the Guardrail requirements of the ACA; (vi) the Program will address the establishment of a reinsurance program; (vii) health plan premiums for individuals with a household income between 100 percent and 400 percent of the federal poverty level would be subsidized; (viii) the Program will offer a cost-sharing reduction feature that removes disincentives to Program participation by low-income individuals who are enrolled in the Medicaid program; (ix) individuals will still be able to purchase individual health insurance coverage outside of the Program; (x) premiums for the plans offered through the Program will be set by the third-party administrators, subject to approval by the Commission with assistance of qualified actuaries; (xi) the Program would be designed and operated in order to ensure that any shortfall in revenues is addressed by the reinsurance program and by self-funding a reserve that is determined by the Corporation's actuary to be adequate, and (xii) the Program will include premium incentives for compliance with wellness or chronic disease management benefit programs. The bill requires JLARC to report its findings and conclusions to the Joint Committee for Health and Human Resources Oversight.

6. Budget Amendment Necessary: No

- 7. Fiscal Impact Estimates:** There is no fiscal impact on the State Corporation Commission. However, according to the Joint Legislative Audit and Review Commission (JLARC), the fiscal impact on JLARC is indeterminant. See Item 8.
- 8. Fiscal Implications:** The amendment in the nature of a substitute to Senate Bill 1717 has no fiscal impact on the State Corporation Commission, whose staff would provide technical expertise to JLARC as needed as JLARC conducts its review of the implications of the establishment, implementation, and administration of a Commonwealth Care Health Benefits Program (the Program), under which a division of the State Corporation Commission (the Commission), or nonprofit corporation established by the Commission, would sponsor association health plans through which individual health insurance coverage would be sold in the Commonwealth.. According to the Joint Legislative Audit and Review Commission, the fiscal impact on JLARC is indeterminant. The agency may need to contract with consultants to provide actuarial or other services as part of the proposed study, but the extent of any potential contract support would depend on what questions need to be answered and the depth of the analysis required to answer them.

The Commission agrees with this analysis by JLARC. In the fiscal impact statement for the introduced version of Senate Bill 1717, the Commission sought an appropriation of \$300,000 to complete an initial analysis as to what would be needed for establishment of the Program and outlined the need for additional appropriations in future biennia as needed for the implementation and operation of the Program. Concurrently with the JLARC review contemplated in the Senate Bill 1717 substitute, actuarial and economic analyses in support of a state innovation waiver application, which the Commission estimated to be an additional \$250,000, would be necessary, since establishment of the Program is contingent upon approval of the U.S. Secretary of Health and Human Services of a state innovation waiver under § 1332 of the Affordable Care Act (ACA). Additional appropriations beyond the initial recommendation for a total of an estimated \$550,000 could be necessary depending on the findings of this review.

- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission and its Bureau of Insurance; Joint Legislative Audit and Review Commission
- 10. Technical Amendment Necessary:** No
- 11. Other Comments:** The Commission shared with the patron of Senate Bill 1717 its concerns regarding the necessary funding to operate the Program, to maintain the solvency of such a Program and what resources would be available for its adequate capitalization.

Date: 02/12/19/V. Tompkins