

State Corporation Commission

2020 Fiscal Impact Statement

1. Bill Number: SB 732

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

2. Patron: McClellan

3. Committee: Passed Senate

4. Title: Virginia Health Benefit Exchange.

5. Summary: Creates the Virginia Health Benefit Exchange, which will be established and operated by a new division within the State Corporation Commission (SCC). The Exchange shall facilitate the purchase and sale of qualified health plans and qualified dental plans to qualified individuals and qualified employers. The Exchange shall make qualified plans available to qualified individuals and qualified employers by July 1, 2023, unless the SCC postpones this date. The measure authorizes the SCC to review and approve accident and sickness insurance premium rates applicable to health benefit plans in the individual and small group markets and health benefit plans providing health insurance coverage in the individual market through certain non-employer group plans. The Exchange will be funded by assessments on health insurers. The measure requires the Department of Taxation to include on the appropriate individual tax return forms a checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, (i) is an uninsured individual at the time the return is filed and (ii) consents to the Department of Taxation providing the individual's tax information to the Department of Medical Assistance Services for purposes of determining the uninsured individual's or spouse's eligibility for medical assistance. Finally, the measure requires the Secretary of Health and Human Resources to convene a work group that includes representatives from the SCC, the Department of Medical Assistance Services, the Department of Social Services, and the Department of Taxation to develop systems, policies, and practices to leverage state income tax returns to facilitate the enrollment of eligible individuals in insurance affordability programs through the Virginia Health Benefit Exchange established in this measure. The Secretary shall report the work group's recommendations to the Governor and the General Assembly by September 15, 2020.

The bill requires the Virginia Department of Taxation (Taxation) to include on individual income tax returns a checkoff box or similar mechanism for indicating whether the individual or spouse in the case of a married taxpayer filing jointly:

- Is an uninsured individual at the time the return is filed; and
- Consents to the Department providing certain taxpayer information to the Department of Medical Assistance Services ("DMAS") for purposes of determining the uninsured individual's or spouse's eligibility for medical assistance.
- Taxation notes that the bill is effective for individual income tax returns filed for Taxable Year 2021.

6. Budget Amendment Necessary: Yes. See Item #8.

7. Fiscal Impact Estimates: Fiscal impact estimates are preliminary. See Item #8.

7a. Expenditure Impact:

| Fiscal Year | Dollars | Positions | Fund |
|--------------------|----------------|------------------|-------------|
| 2020 | \$350,000 | 0 | GF |
| 2021 | \$7,720,000 | 10 | GF |
| 2022 | \$12,249,000 | 20 | GF |
| 2023 | \$42,208,270 | 20 | GF |
| 2024 | \$40,667,818 | 0 | GF |
| 2025 | TBD | | |
| 2026 | TBD | | |

7b. Revenue Impact:

| Fiscal Year | Dollars | Positions | Fund |
|--------------------|----------------|------------------|-------------|
| 2020 | \$0 | | GF |
| 2021 | \$2,599,235 | | GF |
| 2022 | \$7,953,659 | | GF |
| 2023 | \$24,387,409 | | GF |
| 2024 | \$57,763,712 | | GF |
| 2025 | TBD | | |
| 2026 | TBD | | |

8. Fiscal Implications: The Virginia Health Benefit Exchange will be created as a division of the State Corporation Commission and will be funded by assessments on health insurers. The Commission may contract with appropriate entities to perform some of the administrative functions of the Exchange.

Virginia's Exchange would use the federal platform for its first year and second year and transition to its own website and platform in the third year of operation for functions including shopping, enrollment and eligibility determinations.

Revenue estimates are based on the 2020 approved premiums and the carriers' enrollment estimates. The revenue estimate assumes that the Exchange will receive .5% of premiums assessed of health insurers in its first year while the Exchange makes use of the federal platform, and 3% of premiums in its second year when the Exchange transitions to its own website and platform. Revenue estimates are based on trends which project an average 6% increase in premiums annually. Assumptions around changes in premium and membership have not been estimated beyond FY 2024.

According to the Virginia Department of Taxation, Senate Bill 732 is “routine and does not require additional funding” as to Administrative Costs. Further, “this bill would not have a direct impact on General Fund revenues.”

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission, the Department of Taxation and Health & Human Resources

10. Technical Amendment Necessary: According to the Virginia Department of Taxation, Senate Bill 732, as currently drafted, would require Taxation to include the checkoff box or other mechanism authorizing the disclosure of taxpayer information on individual income tax returns for Taxable Year 2021. Such returns will not be filed until May 2022. If the intent was to make information available to the Department of Medical Assistance Services (DMAS) sooner, Taxation recommends making this requirement effective for taxable years beginning on and after January 1, 2020.

11. Other Comments: The State Corporation Commission has offered substantive and technical comments to stakeholders on the February 6, 2020 amendment in the nature of a substitute to Senate Bill 732 to be included in the next substitute to the bill.

Five bills creating an Exchange were introduced in the 2020 Session, including Senate Bill 732. Delegate Sickles has stricken House Bill 1018, and he has House Bill 1428, which is similar to Senate Bill 732. There were also two other similar bills, Senate Bill 226 and Senate Bill 598, which were incorporated into Senate Bill 732.

The Virginia Department of Taxation offers the following comments for Item #11:

Current Law

Unless an exception applies, the Tax Commissioner, commissioner of the revenue, treasurer, and their staff may not divulge any information acquired in the performance of their duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation (“confidential tax information”). It is also unlawful for any person to disseminate any confidential tax document which he knows or has reason to know is a confidential tax document. Any person who violates these provisions is guilty of a Class 1 misdemeanor.

Proposed Legislation

This bill would require the Department of Taxation to include on individual income tax returns a checkoff box or similar mechanism for indicating whether the individual or spouse in the case of a married taxpayer filing jointly:

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- Is an uninsured individual at the time the return is filed; and
- Consents to the Department providing certain taxpayer information to the Department of Medical Assistance Services (“DMAS”) for purposes of determining the uninsured individual's or spouse's eligibility for medical assistance.

If the individual, or spouse in the case of a married taxpayer filing jointly, voluntarily consents, Taxation would be authorized to disclose the individual’s or spouse’s:

- Name;
- Address;
- Social Security number;
- Number and type of personal exemptions;
- Tax-filing status; and
- Adjusted gross income.

Taxation would only be authorized to disclose such information to DMAS upon entering a written agreement with the agency regarding the disclosure of taxpayer information.

The bill would require the Secretary of Health and Human Resources to convene a work group that includes representatives from the State Corporation Commission, DMAS, the Department of Social Services, and the Department to develop systems, policies, and practices to leverage state income tax returns to facilitate the enrollment of eligible individuals in insurance affordability programs through the Virginia Health Benefit Exchange established by this bill. The Secretary would be required to report the work group's recommendations to the Governor and the General Assembly by September 15, 2020.

This bill would be effective for individual income tax returns filed for Taxable Year 2021.

Date: 2/13/20/V.Tompkins