

# State Corporation Commission

## 2021 Fiscal Impact Statement

**1. Bill Number:** HB 2332

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

**2. Patron:** Sickles

**3. Committee:** Passed Senate (House rejected Senate Substitute; Bill is in conference)

**4. Title:** Commonwealth Health Reinsurance Program

**5. Summary:** Establishes the Commonwealth Health Reinsurance Program, which is to be administered by the State Corporation Commission, Bureau of Insurance. Establishment of the Program is contingent on the approval of a state innovation waiver request pursuant to § 1332 of the Affordable Care Act. The purpose of the Program is to stabilize premiums for health benefit plans in the individual market with a goal of decreasing premiums by up to 20%. The Program is to be funded through federal funding provided under the state innovation waiver and the fifth enactment clause requires the General Assembly to appropriate a sum sufficient to ensure the operation of the Reinsurance Program. The Commonwealth Health Reinsurance Program Special Fund shall be used to increase affordability in the individual market and for the establishment, operation, and administration of the Program. The Secretary of Health and Human Resources is required to convene a Work Group to develop recommendations for developing a state-based subsidy program to increase affordability of health plans to individuals, and to increase enrollment in the Virginia Health Benefit Exchange. The Work Group is required to provide its recommendations to the Governor, Health Benefit Exchange Advisory Committee and the General Assembly by September 15, 2021. After the second full year of operation of the Commonwealth Health Reinsurance Program the State Corporation Commission is required complete a study that evaluates (i) the Program's effect on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost-sharing reductions, and (ii) health plan affordability, including cost sharing and premiums. The Commission is required to issue a report of the study within 120 days after the end of the second full year of operation of the Program; post the report on the Commission's website; and submit the report to the Governor, the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations. Except for the requirement of the Commission to submit a state innovation waiver application, the provisions of the bill will become effective 30 days after notice of federal approval of the waiver request.

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

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

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	\$117,500	0	Fed/GF
2022	\$233,200	0	Fed/GF
2023	\$176,000	0	Fed/GF
2024	\$186,560	0	Fed/GF
2025	\$197,750	0	Fed/GF
2026	\$209,615	0	Fed/GF
2027	\$222,190	0	Fed/GF

**7b. \*Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2021	0	
2022	0	
2023	0	
2024	0	
2025	0	
2026	0	
2027	0	

\*SCC staff estimates, with a premium reduction of 20%, a revenue loss of (\$10 million) to (\$15 million) annually in assessment fees for the Health Benefit Exchange (Exchange) not reflected above. Please see Item 8.

- 8. Fiscal Implications:** Costs to the state for the reinsurance program will include, in addition, to start-up and annual administrative and actuarial costs, future annual costs to pay claims of the reinsurance program each year, estimated currently at \$27.5 - \$65.4 million, to be the expected annual costs to Virginia for a 10% - 20% premium reduction, respectively. This estimation could vary from \$20.4 - \$83.4 million or more for a 10-20% premium reduction, respectively. Updated actuarial assessments on the cost-range of a reduction would be required for 2023 and each year the Program is in effect thereafter to determine the actual appropriation necessary.

The Program will only be implemented if Virginia's waiver application is approved. An approved waiver application guarantees federal funding of the Program. Federal funding is necessary in addition to the state funding mentioned in this paragraph to fund the Program.

The anticipated federal contribution to pay claims of such a Reinsurance Program is estimated to be \$141.4 - \$293.1 million for a 10-20% premium reduction from what the rate would be without the Reinsurance Program. The latest estimate available is for calendar year 2022, and it would need to be updated for 2023 and each subsequent year to determine the entire state appropriation and funding necessary.

The total appropriation to be sought for the Program would equal the amount of administrative costs and the claims costs paid by the state and federal contribution, which could total more than \$350 million for a 20% premium reduction. The Commission is unable to estimate the amount that the state will pay for claim costs without knowing the amount of state funding appropriated and provided because the amount of claims paid would be adjusted to equal the federal and state contributions.

Based on data provided by the Centers for Medicare and Medicaid Services (CMS), SCC staff estimates, with a premium reduction of 20%, a revenue loss of (\$10 million) to (\$15 million) annually in assessment fees for the Health Benefit Exchange (Exchange). This estimate is based upon data provided by CMS as to Virginia plan selections through December 21, 2020, with the assumption that future rate changes, enrollment, and carrier participation will remain steady. This estimate does not reflect any impact of the recently announced special enrollment period, which is to occur from February 15-May 15, 2021. Updated enrollment information for Virginia from that special enrollment period should be provided around August 1, 2021. Assessment fee revenues are expected to decrease in an amount comparable to the percentage decrease in premiums.

The Exchange is in the nascent phase of preparing to issue requests for proposals (RFPs) to acquire the technology platform and other services needed to support the Exchange. Until that work is completed, and the full cost of operating the Exchange is known, the revenue loss described above will increase the risk of not having enough funds to administer the Exchange. An alternative source of funding that is not addressed in the bill or Chapter 65 of Title 38.2 of the Code of Virginia may be required to ensure that the Exchange is fully funded. It is also possible that the Commission may need to consider exceeding the 3% assessment cap as contemplated by subsection C of § 38.2-6510.

House Bill 2332 requires that the Commission file for a State Innovation Waiver for benefit years beginning in 2023 and for future years to establish the reinsurance program. Start-up costs for the Program would include the actuarial and economic analyses necessary for the Innovation Waiver request and are estimated at \$130,000 - \$180,000. The Commission anticipates that federal grant funds, if awarded, would cover much of the cost of submitting the waiver application. Additional administrative costs estimated at \$25,000 - \$85,000 would be incurred for administration of the program and either IT expenses or yearly contractual costs for use of the mechanism by which CMS can collect and transfer information on reinsurance eligible claims.

**9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission's Bureau of Insurance (Bureau) and Health Benefits Exchange (Exchange).

**10. Technical Amendment Necessary:** The State Corporation Commission offered the following technical comments to the patron:

- On Line 158, after "Waiver" delete "or" and insert "and"
- On Line 169, delete "Commissioner" and insert "Commission"

**11. Other Comments:** The fifth enactment clause added to House Bill 2332 S 1 provides for a sum sufficient to ensure the operation of the Commonwealth Health Reinsurance Program (§ 38.2-6600 et seq. of the Code of Virginia) in accordance with the provisions of the act and the State Innovation Waiver required by § 38.2-6606 of the Code of Virginia, as created by the act. It is not clear that funding is provided for costs of the waiver application, estimated at \$130,000 - \$180,000 as outlined in Item 8. The Commission requested that consideration be given to adding language in § 38.2-6606 to address funding for the waiver application or for the language of the fifth enactment clause to clarify that the sum appropriated shall include waiver application costs in addition to the other operational costs of the Program.

In addition, the Commission recommends wording similar to that of Lines 146-147 of the bill also be added to § 38.2-6606 as follows:

"The Commission is authorized to apply for, accept, administer and expend gifts, grants, and donations and any federal funds that become available for the implementation and operation of the Program, to include the use of amounts necessary to develop and submit the State Innovation Waiver and request for federal funding."

The House Bill 2332 H2 amendment in the nature of a substitute passed the House on February 5, 2021. The Senate passed the S1 substitute on February 19 by a vote of 26-13. The House rejected the Senate substitute, and conferees have been appointed to consider the bill.

**Date:** 2/22/2021/V. Tompkins