

State Corporation Commission 2009 Fiscal Impact Statement

1. Bill Number: HB1829

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Fralin

3. Committee: Commerce and Labor

4. Title: **Health insurance, individual; requires SCC establish, by regulation, etc., for underwriting thereof.**

5. Summary/Purpose: Requires the State Corporation Commission (SCC) to establish underwriting ratings for individual health insurance policies. Any classification, tier placement, or other rating of individuals under any policy or contract providing accident or health insurance in the individual market shall comply with the requirements of § 38.2-3406:1, and regulations adopted by the SCC pursuant thereto. Section 38.2-3430.6:1 provides that a health insurer that offers individual health insurance must underwrite, including premiums and cost-sharing, that coverage according to the provisions of House Bill 1829. An individual obtaining health coverage in the individual market must be rated in a manner that ensures that the individual is underwritten in the same manner as individuals of the same class and of essentially the same hazard. The ratings must determine the appropriate class or tier of a class, established by the SCC into which an individual must be placed. Ratings cannot be based on current or previous diagnosis or treatment for a specific illness, disease or condition without taking into account available information on (B1) the individual's current health conditions and diagnosis; (B2) current severity of the illness, disease or condition and prognosis for severity during term of coverage; (B3) projections of medical treatments and services and their costs expected during the term of coverage; (B4) the extent to which the symptoms or pathologies are controlled by medication, diet, exercise and like measures; and (B5) the anticipated cost of future medical treatment during the term of coverage based on B1 through B4 above. The SCC must establish by regulation, a "reasonable" number of classes and tiers within the classes for individual health insurance underwriting. The classes and tiers must provide appropriate recognition of risk associated with and individual's health condition or diagnosis. However, classes and tiers must differentiate among those with or treated for an illness, condition or disease based on factors (i) through (iv) above; The tiers or classes must recognize the risk associated with a diagnosis based on B1 through B4 above. Each insurer providing individual coverage must provide a reasonable means for an individual or his representative to be heard, after written request, if there is a grievance regarding rating or class or tier placement. A written request for a hearing must receive a review. If a review is not granted or rejected in 30 days, the individual can proceed as if the request was rejected. A person aggrieved by the insurer's action on a review can appeal to the SCC within 30 days of written notice from the insurer. The SCC can modify, affirm, or reverse the action after a hearing. The applicant and insurer must receive at least 10 days' notice of the hearing. A final decision of the SCC must be subject to judicial review according to §§ 12.1-39 through 12.1-41. Section 38.2-3430.9 is revised to add regulation authority for the SCC to implement the requirements of §38.2-3430.6:1 regarding classes and tiers.

6. Fiscal Impact Estimates: Estimates pertaining to the State Corporation Commission are preliminary. See Item 8.

7. Budget amendment necessary: No

8. Fiscal implications: House Bill 1829 would create a new regulatory responsibility for the State Corporation Commission (SCC), and the SCC would entail significant increases in regulatory costs as a result. Under the bill, the SCC is required to establish underwriting ratings for individual health insurance policies. The SCC can only estimate the start-up costs of this new responsibility since no other state agency establishes underwriting ratings, and the SCC has never adjudicated disputes between insureds and insurance carriers. Assuming this responsibility will require potentially three professional staff members with experience in underwriting, one clerical support staff member, the hiring of consultants and the creation of a computer system to track and update utilization, experience and medical trends, the SCC has estimates staff costs at \$445,000 and \$1 million for the development of the new system.

9. Specific agency or political subdivisions affected: State Corporation Commission and its Bureau of Insurance, Information Technology Division and Office of General Counsel.

10. Technical amendment necessary: On Line 118, the term “individual health insurance coverage” is used, but the term “individual market” is used on Line 121. These terms have separate meanings. Individual health insurance is purchased by an individual, to insure himself and his dependents. Health Insurance in the individual market is defined in § 38.2-3431 as “health insurance coverage offered to individuals other than in connection with a group health plan.” “Group health plan” is defined in that same section in such a way so as to include only employer-employee coverage. So “individual market” includes both individual health insurance coverages and group insurance coverages other than those associated with employer groups. The use of terms should be consistent.

11. Other comments: The bill is in subcommittee 2.

Date: 1/25/09 V.Tompkins

cc: Secretary of Health and Human Resources