

State Corporation Commission 2012 Fiscal Impact Statement

1. Bill Number: SB488

House of Origin	<input checked="" type="checkbox"/>	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: Saslaw

3. Committee: Commerce and Labor

4. Title: Virginia Health Benefit Exchange.

5. Summary: Creates the Virginia Health Benefit Exchange to make qualified health plans and qualified dental plans available to qualified individuals in the Commonwealth and to provide for the establishment of a Small Business Health Options Program to assist qualified small employers in this Commonwealth in facilitating the enrollment of their employees in qualified health and dental plans offered in the small group health insurance market. The intent of the Exchange is to reduce the number of uninsured, promote a transparent and competitive health insurance marketplace, promote consumer choice and education and assist individuals with access to programs, premium assistance tax credits and cost-sharing reductions. The Exchange will be established and operated by a new division within the State Corporation Commission. The duties of the Exchange include implementing procedures regarding certification of health benefit plans as qualified health benefit plans. Qualified health benefit plans must include the essential benefits package required by federal law, but no state mandated benefits not included in the federal essential benefits package. The Exchange will fund its operations primarily through special fund revenues generated by assessment fees on health insurers offering plans in the Exchange.

6. Budget Amendment Necessary: Yes, Item 473 of Senate Bill 30 (General Fund appropriation)

7. Fiscal Impact Estimates: The costs to carry out the provisions of this bill are not available. See Item 8 below.

8. Fiscal Implications: The second enactment clause of Senate Bill 488 requires that the State Corporation Commission submit a report to the Governor and the General Assembly on December 1, 2012 that describes the budget for implementing and carrying out the provisions of the Virginia Health Benefit Exchange Act. The report shall identify the funding mechanism that the Commission will use to fund the operation of the Exchange beginning January 1, 2015. To meet the requirements of the second enactment clause of this bill, a general fund appropriation not to exceed \$850,000 for fiscal year 2013 will be needed to prepare the report and proposed budget required under this bill.

Based on the current federal timeline requiring submission by June 29, 2012 for applications by states for federal funding to implement an exchange, federal funding may not be available to the state to implement this bill since it does not take effect until July 1, 2012. However, the federal government may change the deadline.

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.

In addition to the fiscal impact of the creation of a new Exchange division within the State Corporation Commission, Senate Bill 488 gives the Commission's Bureau of Insurance additional responsibilities related to the Exchange, including, in consultation with the Exchange, certifying a health benefit plan as a qualified health plan and other related functions. The Commission recognizes that additional resources will be needed in order for the Bureau of Insurance to perform these functions, including possible system enhancements and software purchases. The report that the State Corporation Commission will submit on December 1, 2012 will include a proposed budget in which the costs to both Commission divisions for operating the Exchange will be quantified.

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: The State Corporation Commission offered the patron of Senate Bill 488 the following technical comments for clarity and consistency among and between defined terms and/or for conformity with the corresponding federal requirements:

- Lines 21, 39, 84, 93, 100, 111, 131, 176, 181, 217, 246, 249, 261, 262 and 431 – You may wish to insert the term “and qualified dental plans” after “qualified health plans, so as to clarify the applicability of these provisions to the qualified dental plans.
- Line 23 – After the definition of Bureau, we suggest adding a definition for “Commission” to mean the State Corporation Commission.
- Line 30 – In the definition of “eligible entity,” the Bureau of Insurance should be named, so that the definition reads “Eligible entity means the Bureau, the Department of Medical Assistance Services....”
- Line 66 – The reference to the Social Security Act should be 1882(g)(1).
- Line 69 – In order to clarify that all types of dental plans may participate as qualified dental plans we suggest that the definition of “health carrier” be amended on line 73 as follows:

“...health service corporation, a dental plan organization, a dental services plan, or any other entity...”

- Line 81 – The definition of “qualified employee” should be amended to “qualified eligible employee.”
- Lines 99, 111, 114, 133, 180, and 216 – “employees” should be “eligible employees”
- Line 101 – The definition of “small employer” should be amended to allow for self-employed persons to qualify for insurance under the SHOP exchange as of January 1, 2016, as follows”

“Small employer” means an employer that employed an average of (i) at least two but not more than ~~(i) prior to January 1, 2016,~~ 50 employees... or (ii) commencing January 1, 2016, up to 100 employees....”

- Line 118 – The definition of “state-mandated health benefit” should be amended at line 119 as follows:

“...accident and sickness insurance, an accident and sickness subscription contract, or a health maintenance organization health care plan ~~or a contract for a health-related condition that~~....”

- Lines 179 and 217 – The term “SHOP program” should be “SHOP exchange.”
- Line 238 – The reference to “12 c” should be “12 b.”
- Line 314 – Virginia’s insurance laws refer to “agents” and “producers,” but do not refer to “brokers;” therefore, we suggest striking the term “broker” wherever it appears, including line 314..
- Lines 374 – We suggest that the phrase “at the same price” be replaced with “at the same premium rate”.
- Lines 398 through 401 – We suggest the following changes to more accurately reflect that the Commission will actually contract with legible entities on behalf of the Exchange:

*A. The ~~Exchange~~–Commission may contract with ~~other persons~~ eligible entities and enter into memoranda of understanding with other agencies of the Commonwealth to carry out any of ~~it's~~ the functions of the Exchange, including agreements with other states or federal agencies to perform joint administrative functions. Such contracts are not subject to the Virginia Public Procurement Act (§ **2.2-4300** et seq.).*

- The sweep-in provisions of Chapters 42 (§ 38.2-4214), Chapter 43 (§ 38.2-4319), and Chapter 45 (§ 38.2-4509) should be amended to incorporate proposed Chapter 64.

11. Other Comments: Senate Bill 488 is similar to Senate Bill 496 and House Bill 464. The following bills create the Virginia Health Exchange Authority as a political subdivision of the Commonwealth: House Bill 357, House Bill 402, Senate Bill 383 and Senate Bill 615. All of these bills have been assigned to subcommittees in their respective houses.

Date: 01/24/12/V. Tompkins
cc: Secretary of Commerce and Trade
Secretary of Health and Human Resources