

State Corporation Commission

2013 Fiscal Impact Statement

1. Bill Number: SB924

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Watkins

3. Committee: Commerce and Labor

4. Title: Virginia Health Benefit Exchange.

5. Summary: Virginia Health Benefit Exchange. 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, making qualified plans available to qualified individuals and qualified employers beginning with effective dates on January 1, 2014. The SCC may delay the effective date as it deems necessary to permit the completion of the establishment of the Exchange. The bill 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. A health plan will not be required to cover any state mandated health benefit if federal law does not require it to be covered as part of the essential benefits package. The essential health benefits are items and services included in the benchmark health insurance plan, which is the largest plan in the largest product in the Commonwealth's small group market as supplemented in order to provide coverage for items and services within the statutory essential health benefits categories. The Exchange will be funded by assessments on health insurers offering plans in the Exchange. The SCC may contract with other eligible entities and enter into memoranda of understanding with other agencies of the Commonwealth to carry out any of 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.).

6. Budget Amendment Necessary: Yes, Item 473, General Fund appropriation of \$5.5 million for FY 14 and \$11 million for FY 15. In addition, the maximum employment level for the Commission will need to be changed to address the expected need of 76 additional positions.

7. Fiscal Impact Estimates: Fiscal Impact Estimates are preliminary. See Item 8.

8. Fiscal Implications: The Commission shall not use any special funds dedicated to its other functions and duties, such as revenues from utility consumer taxes or fees from licenses regulated by the Commission or fees paid to the Clerk's Office to fund any of the activities or operating expenses of the Exchange. The Exchange is authorized to fund its operations through several sources: 1) apply for and accept federal grants for purposes of developing, implementing and administering Exchange activities; 2) special fund revenues generated by assessment fees on all health carriers, including those offering plans through or outside the Exchange; or 3) such funds as the General Assembly may from time to time appropriate.

While the costs to create a Virginia Health Benefit Exchange are unknown, the Price Waterhouse Coopers study prepared in March 2012 for the Virginia Health Reform Initiative suggested an annual operating cost ranging between \$24.6 million and \$39.9 million. The SCC estimates that its annual operating costs to operate an Exchange will be, at a minimum, \$11 million, which figure does not include technology infrastructure development and implementation, which are the responsibility of the Virginia Secretary of Health and Human Resources. Also, fees billed by the Secretary to the SCC for access to such systems are not known at this time, and are, therefore, not included in the \$11 million cost estimate. Because the SCC is prohibited by SB 924 from using current special fund revenues for the creation of an Exchange, a budget amendment to the 2012-2014 budget will be necessary to provide initial funding to the SCC until such time as a stable source of funding is available to operate the Exchange.

The SCC anticipates the need for 76 additional positions in Fiscal Year 2014 to implement the provisions of SB 924.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission and its Bureau of Insurance, and the Secretary of Health and Human Resources and VDH

10. Technical Amendment Necessary: The State Corporation Commission offered the patron of SB 924 technical comments which are generally attributable to guidance and clarification relating to exchange requirements that have been released in recent months, and/or technical amendments suggested for clarity and consistency with existing statutes or requirements:

- Beginning at line 25 - The “sweep-in” statutes should include § 38.2-316.1, as this statute will be relevant to health services plans and health maintenance organizations (§§ 38.2-4214 and 38.2- 4319).
- Lines 200 & 201 – We suggest removing the definition of “Benchmark health insurance plan” from § 38.2-6401 since the benchmark plan has already been chosen. We are suggesting a new definition for the term “essential health benefits (EHB)-benchmark plan” at line 213 as follows:

“Essential Health Benefits (EHB)-benchmark plan” means the standardized set of essential health benefits that must be met by a qualified health plan or qualified dental plan, as defined in 45 CFR § Section 155.20, or other health insurance issuer as required by 45 CFR §147.150.

As a result of this change, the definition of “Essential health benefits” should be removed (all of lines 213-215) since this term is no longer used elsewhere in this bill.

- Lines 211 & 212 – The term “health insurance carrier” should be replaced with the defined term, “health carrier.”

- Line 216 –Revise the definition of “Essential health benefits package” to read:

“Essential health benefits (EHB) package” means, the scope of covered benefits and associated limits of a health benefit plan that provides: (i) at least the ten statutory categories of benefits, as described in 45 CFR § 156.110(a); (ii) provides the benefits in the manner described in 45 CFR § 156.115; (iii) limits cost-sharing for such coverage as described in 45 CFR § 156.130; and (iv) subject to offering catastrophic plans as described in §1302(e) of the Federal Act, provides distinct levels of coverage as described in 45 CFR § 156.140.

- Line 264 – We suggest a revision to the definition of “Navigator:”

“Navigator means a public or private entity or individual that is qualified, and licensed, if appropriate, to engage in the activities and meet the standards described in 45 CFR § 155.210.”

- Line 293 – Replace “two” with “one” based on the revised definition of small employer.
- Line 312 – We suggest revising the definition of “State-mandated health benefit” for consistency with the provisions of Chapter 34 of Article 2:

"State-mandated health benefit" means coverage required under this title or other laws of the Commonwealth to be provided in a policy of accident and sickness insurance, an accident and sickness subscription contract, or a health maintenance organization health care plan that ~~(i)~~ includes coverage for specific health care services or benefits.

We would then strike the remainder of line 315 after “benefits” through line 322.

- Lines 323-333 – Delete the definition of “Statutory EHB categories.” With the addition of the definitions for EHB-benchmark plan and essential health benefits package, the term is no longer needed.
- Line 351- Remove the word “exclusive.” The word “exclusive” removes any governing power and authority from the federal government which would not be the case.
- Line 366 –Insert the word “Virginia” preceding “Secretary” to read “Virginia Secretary of Health and Human Resources” for consistency with line 358.
- Line 499 – Delete “Employers with more than 50 employees” and replace with “Large employers” to match the requirements listed in 45 CFR § 155.130.

- Line 523 & 600 - Delete the word “essential.”
- Line 527 – Delete “essential pediatric benefits” and replace with “pediatric dental benefits included in the essential health benefits package” to match the requirements listed in 45 CFR § 155.1065 (a)(2).
- On Line 530, after “38.2-316” insert “§ 38.2-316.1”
- Line 603 – Revise to read “.....have the option to purchase *at least the pediatric dental benefit component...*” as required by 45 CFR § 155.1065 (a)(2).
- Line 604 – Replace “essential benefits” with “essential health benefits package”.
- Lines 735, 736 – We recommend revising subsection B of § 38.2-6414 to read “The Exchange shall not certify a public or private entity or an individual qualified to serve as a Navigator unless the entity or individual meets the requirements of 45 CFR § 155.210.”

Given these revisions at lines 735-736, lines 737-743 should be deleted as no longer necessary.

- Line 759 – We suggest deleting the period at the end of the sentence and add “and ensure accessibility and usability of Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and § 504 of the Rehabilitation Act as required by 45 CFR § 155.210.”
- Lines 764 to 766 –45 CFR §155.210 (c)(2)(i) requires that at least one of the Navigator grants be issued to a “community and consumer-focused non-profit group. Therefore this section should be revised to read as follows:
 - *E. Navigators shall include (i) at least one community and consumer-focused non-profit group and (ii) at least one of the following groups: ~~may include~~ trade, industry, and professional associations; commercial fishing industry organizations; ranching and farming organizations; community and consumer-focused business development centers; other licensed insurance agents; and other entities that:*
- Line 773 – Insert “health” in item (i) after “a”
- Line 774 – For consistency with the additional requirement added through federal regulation, please revise to read as follows:

...indirectly from any health carrier in connection with the enrollment of any ~~qualified~~ individuals or ~~eligible-employees of a qualified employer~~ in a qualified health plan or health benefit plan outside the Exchange.

11. Other Comments: In addition to the technical comments noted above, the State Corporation Commission offered the patron one comment regarding the effective date of SB 924 which reads as follows:

A. The Exchange shall make qualified health plans and qualified dental plans available to qualified individuals and qualified employers beginning with effective dates on January 1, 2014, which date may be postponed by the Commission as it deems necessary to permit the completion of the establishment of the Exchange. The Exchange shall not make available any health benefit plan that is not a qualified health plan. The Exchange shall allow a health carrier to offer a qualified dental plan separately.

The Commission noted to the patron that an affirmative declaration of Virginia's intention to establish and operate a state-based health insurance exchange in 2014 was due no later than December 14, 2012. As no such declaration was made, the January 1, 2014 effective date could not be met.

Date: 01/15/13/V. Tompkins

cc: Secretary of Commerce and Trade
Secretary of Health and Human Resources