

State Corporation Commission

2019 Fiscal Impact Statement

1. **Bill Number:** HB2443

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

2. **Patron:** Wilt

3. **Committee:** Commerce and Labor

4. **Title:** Group health benefit plans; bona fide associations.

5. **Summary:** Replaces references to "bona fide association," as used in provisions applicable to health care plans in the small employer market, with the term "sponsoring association." The measure defines "sponsoring association" as a nonstock corporation that, among other conditions, has been actively in existence for 10 years, has at least five members, has been formed for purposes other than obtaining or providing health benefits, and operates as a nonprofit entity.

6. **Budget amendment necessary:** No

7. **Fiscal Impact Estimates:** No Fiscal Impact on the State Corporation Commission

8. **Fiscal Implications:** None on the State Corporation Commission

9. **Specific agency or political subdivisions affected:** State Corporation Commission Bureau of Insurance

10. **Technical amendment necessary:** No

11. **Other comments:** The State Corporation Commission Bureau of Insurance advised the patron of House Bill 2443 that amendments may be necessary to Section 38.2-3521.1 E of the Code as it relates to associations. Concerns remain regarding whether changing the name and criteria of a bona fide association to the proposed "sponsoring association" would cause any potential conflicts with federal law on Multiple Employer Welfare Arrangements under the Employee Retirement Income Security Act (ERISA). Concerns also remain regarding how the associations that are operating in Virginia that meet the bona fide association criteria as it currently written would be affected by the updated criteria under "sponsoring association."

The definition of bona fide association used in Title 38.2 currently mirrors the definition provided in 42 U.S. Code § 300gg-91. The new definition of "sponsoring association" would have two provisions potentially at variance with federal law: the requirement that the association has been actively in existence for at least ten years (Line 355), and has had an average of not fewer than five members in the preceding five years (Line 356). "The current definition of "bona fide association" in the Code of Virginia is 10 years and the membership requirement is new to the Code.

Date: 01/17/19/V. Tompkins