

*****REVISED*****

State Corporation Commission 2019 Fiscal Impact Statement

1. Bill Number: SB1717

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Dunnavant

3. Committee: Commerce and Labor

4. Title: State Corporation Commission; Commonwealth Care Division; Commonwealth Care Health Benefits.

5. Summary: Directs the State Corporation Commission (the Commission), through a division within the Commission designated as the Commonwealth Care Division (the Division), to establish a nonprofit corporation (the Corporation) to establish, implement, and administer the Commonwealth Care Health Benefits Program (the Program), through which individuals may purchase individual health insurance coverage through qualifying health plans offered by the Corporation as a self-insuring entity. The measure identifies the parameters of the Program, including, in part, the following elements: (i) implementation of the Program shall be contingent on the approval of the U.S. Secretary of Health and Human Services of a state innovation waiver under § 1332 of the Affordable Care Act; (ii) the Commission shall retain staff sufficient to establish and implement the Program; (iii) the Program shall arrange for a number of third-party administrators, sufficient to ensure competition but in no event fewer than two; (iv) the Program shall design and implement health plans that replace the existing individual market; (v) the covered benefits provided under a plan offered through the Program shall provide coverage that a large group plan or association health plan subject to ERISA is required to provide so long as one or more health plans provide additional benefits as may be required to provide coverage that is at least as comprehensive and affordable as plans currently offered on the exchange pursuant to the ACA or otherwise to comply with the Guardrail requirements of the ACA; (vi) the Program shall address the establishment of a reinsurance program; (vii) health plan premiums for individuals with a household income between 100 percent and 400 percent of the federal poverty level shall be subsidized; (viii) the Program shall offer a cost-sharing reduction feature that removes disincentives to Program participation by low-income individuals who are enrolled in the Medicaid program; (ix) individuals will still be able to purchase individual health insurance coverage outside of the Program; (x) premiums for the plans offered through the Program shall be set by the third-party administrators, subject to approval by the Commission with assistance of qualified actuaries; (xi) the Program shall be designed and operated in order to ensure that any shortfall in revenues is addressed by the reinsurance program and by self-funding a reserve that is determined by the Corporation's actuary to be adequate, and (xii) the Program shall include premium incentives for compliance with wellness or chronic disease management benefit programs.. The measure directs the Commissioner of Insurance to apply to the U.S. Secretary of Health and Human Services for a state innovation waiver under § 1332 of the Affordable Care Act. The bill has a contingent effective date of 30 days following the date the Commissioner of Insurance notifies the Governor and the Chairmen of the House Committees on Appropriations and Commerce and Labor and the Senate Committees on Finance and Commerce and Labor of federal approval of the state innovation request required to be submitted.

6. Budget Amendment Necessary: Yes, Item 477, Page 507, Line 13

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

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019			
2020	\$550,000*		NGF
2021	\$250,000	0	NGF
2022	\$250,000	0	NGF
2023	\$250,000	0	NGF
2024	\$250,000	0	NGF
2025	\$250,000	0	NGF

8. Fiscal Implications: Senate Bill 1717 directs the State Corporation Commission to establish a new division to administer the Commonwealth Care Health Benefits Program (Program) to offer and sell individual health insurance coverage in Virginia through self-insured association health plans. The creation of the program would be contingent upon the Commission obtaining federal approval of the request for a state innovation waiver. No funding is specified in the bill (i) for preparation of the waiver application, (ii) for administration of the Program, or (iii) related to Program solvency and capitalization, as discussed further below. The waiver application must include information regarding specific sources of state funding, both for funding shortfalls of the Program as well as for the administration of and costs relating to the reinsurance program.

*Once Senate Bill 1717 is enacted, the Commission would bring in the necessary experts to assist it in analyzing the legislation and determining the initial costs for implementation and ongoing operation of the Program, the number of resources needed including staff and office space, current systems changes as well as the development and implementation of any additional technology infrastructure. The Commission is seeking an appropriation of \$300,000 initial analysis for establishment of the Program and may seek in additional appropriations in future biennia as needed for implementation and operation of the Program.

Concurrently with the analysis for establishment of the Program, the Commission would need to prepare the waiver application as called for in Senate Bill 1717. The application process requires funding to cover costs related to completion of the application, including (i) expenditures associated with public hearings; (ii) an actuarial analysis required to support the state's conclusion that the waiver complies with the coverage, comprehensiveness, and affordability requirements in each year of the waiver; (iii) an economic analysis supporting the state's conclusion that the waiver will not increase the federal deficit over a 5-10 year period; (iv) actuarial and economic analysis to compare the coverage, comprehensiveness, affordability, and net Federal spending and revenues under the waiver to those absent the waiver for each year of the waiver; and (v) a deficit analysis providing yearly changes in the federal deficit due to the waiver including a description of all costs associated with the

program. The state must also propose a plan for quarterly and/or annual reporting demonstrating compliance with the scope of coverage, affordability, comprehensiveness, and deficit requirements.

Other states which have prepared waiver applications had costs exceeding \$250,000 to obtain the necessary actuarial and economic services necessary complete the application. Since no funding mechanism is provided in Senate Bill 1717, the Commission would need to perform additional analysis to identify sufficient funding to provide the resources provided by this application process and for each additional year in which the waiver is in effect.

In addition to the concerns about establishment and implementation of the Program, the Commission has concerns regarding the operation of the Program and specific sources of state funding for the Program, both for funding shortfalls and for the administration of and costs related to the reinsurance program. The Commission has concerns regarding the solvency of the Program and what resources will be available for adequate capitalization. Clarification is necessary as to how the self-funded reserve contemplated under the bill will be established and funded from the outset.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission and its Bureau of Insurance

10. Technical Amendment Necessary: See Item 11.

11. Other Comments: The State Corporation Commission Bureau of Insurance advised the patron of Senate Bill 1717 that significant questions surround the necessary funding to operate the Program, to maintain its solvency and what resources will be available for adequate capitalization. It is unclear how the self-funded reserve contemplated under the bill will be established and funded from the outset.

Date: 01/30/19/V. Tompkins