

# State Corporation Commission

## 2020 Fiscal Impact Statement

**1. Bill Number:** HB1559

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

**2. Patron:** Hurst

**3. Committee:** Labor and Commerce

**4. Title:** Prescription drug price transparency; penalties.

**5. Summary:** Requires pharmaceutical drug manufacturers, pharmacy benefits managers, and health carriers to submit reports containing certain information concerning prescription drug costs to the Commissioner of the Bureau of Insurance (the Commissioner). The measure requires pharmaceutical drug manufacturers' reports to include information on the current wholesale acquisition cost information for FDA-approved drugs sold in or into the Commonwealth by the pharmaceutical drug manufacturer. The bill also requires such manufacturers to submit a report for drugs with a wholesale acquisition cost of at least \$50 for a 30-day supply when their wholesale acquisition cost increases by 25 percent or more over the preceding three calendar years or 10 percent or more over the preceding calendar year. The measure requires pharmacy benefits managers to report data on the aggregated rebates, fees, price protection payments, and any other payments collected from pharmaceutical drug manufacturers and the aggregated dollar amount of rebates, fees, price protection payments, and any other payments collected from pharmaceutical drug manufacturers that were health benefit plan issuers or enrollees at the point of sale of a prescription drug. The measure requires health carriers to report the names of the 25 most frequently prescribed drugs across all plans, percent increase in annual net spending for drugs across all plans, percent increase in premiums attributable to drugs across all plans, percentage of specialty drugs with utilization management requirements across all plans, and premium reductions that were attributable to specialty drug utilization management. The measure requires the Commissioner to publish the aggregated data from these reports on a website. The measure authorizes the State Corporation Commission (the Commission) to (i) call public hearings and to subpoena prescription drug manufacturers, pharmacy benefits managers, and health carriers to explain their reports; (ii) conduct audits of data submitted to it; (iii) require these entities to submit a corrective action plan to correct deficiencies in reporting; and (iv) impose penalties of \$30,000 per day on any prescription drug manufacturer, pharmacy benefits manager, or health carrier that fails to make a good faith effort to submit a required report within two weeks after receiving written notice from the Commission.

**6. Budget Amendment Necessary:** Yes. See Item #8 below.

**7. Fiscal Impact Estimates:** The costs to carry out all of the provisions of House Bill 1559 are not available without additional information made available to the State Corporation Commission. See Item #8 below.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020			
2021	\$1,250,000	0	Fund 02090
2022			
2023			

- 8. Fiscal Implications:** The State Corporation Commission has not previously overseen or administered a program of the type called for in House Bill 1559, which directs the Commission to collect, analyze and aggregate information concerning prescription drug costs and develop a website for reporting the information. This website would require a reporting portal for three separate reporting entities (pharmacy benefit managers, pharmaceutical manufacturers and insurance carriers); such a functionality is not available on the Bureau of Insurance website. Cost estimates for development of such a reporting portal are estimated to cost a minimum of \$1.25 million.

Further analysis will be needed to fully understand the fiscal implications of House Bill 1559 and to identify sufficient resources, including staffing, to administer these requirements on an ongoing basis.

- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission  
Bureau of Insurance

- 10. Technical Amendment Necessary:** The State Corporation Commission Bureau of Insurance offered the following technical amendments to the patron of House Bill 1559:

- In order to make the provisions of House Bill 1559 applicable to health services plans and health maintenance organizations, the provisions of Chapter 65 should be added to §§ 38.2-4214 and 38.2-4319.
- References to “Commissioner” should read “Commission” several times between Line 65 and Line 126.

- 11. Other Comments:** House Bill 1559 is similar to law enacted in Oregon, which is funded by fees to be paid by drug manufacturers; there is no funding mechanism provided in House Bill 1559.