

# State Corporation Commission

## 2021 Fiscal Impact Statement

**1. Bill Number:** HB 2332

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

**2. Patron:** Sickles

**3. Committee:** Commerce and Labor

**4. Title:** Commonwealth Health Reinsurance Program

**5. Summary:** Establishes the Commonwealth Health Reinsurance Program, which is to be administered by the State Corporation Commission, Bureau of Insurance. Establishment of the Program is contingent on the approval of a state innovation waiver request pursuant to § 1332 of the Affordable Care Act. The purpose of the Program is to stabilize premiums for health benefit plans in the individual market with a goal of decreasing premiums by up to 20%. The Program is to be funded through federal funding provided under the state innovation waiver and a 1% annual assessment on net written premiums for the preceding plan year on entities authorized to issue individual and group health insurance coverage, including grandfathered plans, in Virginia, but excluding plans offered in the small group market. Fund surplus may be used to increase affordability in the individual market to reduce costs for consumers. The Secretary of Health and Human Resources is required to convene a Work Group to develop recommendations for developing a state-based subsidy program to increase affordability of health plans to individuals, and to increase enrollment in the Virginia Health Benefit Exchange. The Work Group is required to provide its recommendations to the Governor, Health Benefit Exchange Advisory Committee and the General Assembly by September 15, 2021. After the second full year of operation of the Commonwealth Health Reinsurance Program the State Corporation Commission is required complete a study that evaluates (i) the Program's effect on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost-sharing reductions, and (ii) health plan affordability, including cost sharing and premiums. The Commission is required to issue a report of the study within 120 days after the end of the second full year of operation of the Program; post the report on the Commission's website; and submit the report to the Governor, the Chairmen of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and Labor and Finance and Appropriations. Except for the requirement of the Commission to submit a state innovation waiver application, the provisions of the bill will become effective 30 days after notice of federal approval of the waiver request.

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

**7. Fiscal Impact Estimates:** Preliminary. See Item 8.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	\$17,500	0	Fed/GF
2022	\$233,200	0	Fed/GF
2023	\$176,000	0	Fed/GF
2024	\$186,560	0	Fed/GF
2025	\$43,197,750	0	NGF
2026	\$43,209,615	0	NGF
2027	\$43,222,190	0	NGF

**7b. \*Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2021		
2022		
2023	\$39,800,000	NGF
2024	\$39,800,000	NGF
2025	\$39,800,000	NGF
2026	\$39,800,000	NGF
2027	\$39,800,000	NGF

\*SCC staff estimates, with a premium reduction of 20%, a revenue loss of (\$10 million) to (\$15 million) annually in assessment fees for the Health Benefit Exchange (Exchange) not reflected above. Please see Item 8.

- 8. Fiscal Implications:** Costs to the state for the reinsurance program will include, in addition, to start-up and annual administrative and actuarial costs, future annual costs, estimated currently at \$43 million, to be the expected annual costs to Virginia to pay claims of the reinsurance program. This estimation of \$43 million could vary within a range of \$32.2 to \$56.2 million or more for a 15% premium reduction. Up to a 20% premium reduction is possible and would need to be considered after being provided updated actuarial assessments on the cost-range of such a reduction. The Program will only be implemented if Virginia's waiver application is approved. An approved waiver application guarantees federal funding of the Program. Federal funding is necessary in addition to the state funding mentioned in this paragraph to fund the Program. The anticipated federal contribution to pay claims of such a Reinsurance Program is estimated to be \$216.4 million each year for a 15% premium reduction from what the rate would be without the Reinsurance Program.

Based on data provided by the Centers for Medicare and Medicaid Services (CMS), SCC staff estimates, with a premium reduction of 20%, a revenue loss of (\$10 million) to (\$15 million) annually in assessment fees for the Health Benefit Exchange (Exchange). This estimate is based upon data provided by CMS as to Virginia plan selections through December 21, 2020, with the assumption that future rate changes, enrollment, and carrier

participation will remain steady. This estimate does not reflect any impact of the recently announced special enrollment period, which is to occur from February 15-May 15, 2021. Updated enrollment information for Virginia from that special enrollment period should be provided around August 1, 2021. Assessment fee revenues are expected to decrease in an amount comparable to the percentage decrease in premiums.

The Exchange is in the nascent phase of preparing to issue requests for proposals (RFPs) to acquire the technology platform and other services needed to support the Exchange. Until that work is completed, and the full cost of operating the Exchange is known, the revenue loss described above will increase the risk of not having enough funds to administer the Exchange.

An alternative source of funding that is not addressed in the bill or Chapter 65 of Title 38.2 of the Code of Virginia may be required to ensure that the Exchange is fully funded. It is also possible that the Commission may need to consider exceeding the 3% assessment cap as contemplated by subsection C of § 38.2-6510.

House Bill 2332 requires that the Commission file for a State Innovation Waiver for benefit years beginning in 2023 and for future years to establish the reinsurance program. Start-up costs for the Program would include the actuarial and economic analyses necessary for the Innovation Waiver request and are estimated at \$130,000 - \$180,000. The Commission anticipates that federal grant funds, if awarded, would cover much of the cost of submitting the waiver application. Additional administrative costs estimated at \$25,000 - \$85,000 would be incurred for administration of the program and either IT expenses or yearly contractual costs for use of the mechanism by which CMS can collect and transfer information on reinsurance eligible claims.

Following the initial year of the Program, annual administrative costs are estimated to be \$150,000-\$250,000 per year, mainly attributed to actuarial costs to assess the market and develop adjusted parameters for the Program each year.

- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission's Bureau of Insurance (Bureau) and Health Benefits Exchange (Exchange).
- 10. Technical Amendment Necessary:** The sentence at Lines 242-244 should be deleted since it is not applicable to a non-general fund agency. The sentence currently reads "Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner or his designee."

In addition, the Bureau offered the following technical comments to the patron of House Bill 2332 to define more effectively the market that should be targeted for reinsurance payments in order to decrease premiums in the Affordable Care Act (ACA) single risk pool:

- The definition of “Covered person” should be amended on Line 105, after “(ii) is” insert “neither” and strike “not”; also on Line 105, after the word “plan” insert “, student health insurance coverage, nor transitional coverage which the federal government allows under a non-enforcement policy.”
- The definition of "Eligible carrier" should be amended on Line 107, after “plan” to insert “, student health insurance coverage, nor transitional coverage which the federal government allows under a non-enforcement policy;”
- In order to allow for Virginia to be permitted to use the federal EDGE server mechanism for collection and reporting of reinsurance information, the following technical amendments are necessary:
  - On Line 159, after “The Commission” insert “or its designee”
  - On Line 161, after “1.” insert “Unless an eligible carrier is notified otherwise by the Commission,”
  - On Line 183, after “payments” insert “for a covered person’s covered benefits”
  - On Line 198, after “Commission” insert “or its designee”

**11. Other Comments:** The House Bill 2332 H2 amendment in the nature of a substitute passed the House by a vote of 65 to 32 on February 5, 2021. The bill has been continued to the 2021 Special Session.

**Date:** 2/8/2021/V. Tompkins