

State Corporation Commission

2022 Fiscal Impact Statement

1. Bill Number: HB 884

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

2. Patron: Byron

3. Committee: Passed the House.

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

5. Summary: Provides that certain trusts constitute a benefits consortium and are authorized to sell health benefits plans to members of a sponsoring association that is a nonstock corporation, has five or more members participating in one or more benefits plans, has been formed for purposes other than obtaining or providing health benefits, and operates as a nonprofit entity under § 501(c)(6) of the federal Internal Revenue Code. The bill provides that a person may be a member of sponsoring association if he conducts business operations within the Commonwealth, employs individuals who reside in the Commonwealth, and is a member of the sponsoring association. The bill provides that the trust is subject to the federal Employee Retirement Income Security Act of 1974 and U.S. Department of Labor regulations applicable to multiple employer welfare arrangements and to the authority of the U.S. Department of Labor to enforce such law and regulations.

The bill (i) prohibits a self-funded multiple employer welfare arrangement (MEWA) from issuing health benefit plans in the Commonwealth until it has obtained a license from the State Corporation Commission; (ii) provides that health benefit plans issued by a self-funded MEWA shall be subject to taxes and maintenance assessments levied upon insurance companies; (iii) provides that health benefit plans issued by a self-funded MEWA are subject to protections of and other provisions of the Virginia Life, Accident and Sickness Insurance Guaranty Association; (iv) makes domestic self-funded MEWAs subject to all financial and solvency requirements imposed by provisions of Title 38.2 on domestic insurers unless domestic self-funded MEWAs are otherwise specifically exempted; and (v) provides that health benefit plans issued by a self-funded MEWA shall be exempt from all statutory requirements relating to insurance premium rates, policy forms, and policy cancellation and nonrenewal. The bill provides that the sponsoring association shall not, by virtue of its sponsorship of the benefits consortium or any benefits plan, be subject to the insurance laws of the Commonwealth or the tax levied on insurance companies pursuant to § 58.1-2501. The measure removes the requirements that an association to which a group accident and sickness insurance policy is issued has at the outset a minimum of 100 persons, has been organized and maintained in good faith for purposes other than that of obtaining insurance, and has been in active existence for at least five years. The measure also 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."

6. Budget Amendment Necessary: No

- 7. Fiscal Impact Estimates:** No Fiscal Impact on the State Corporation Commission
- 8. Fiscal Implications:** None for 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 884 that “sponsoring association” as defined beginning in the bill may be used without changing any reference to “bona fide association.” Removing “bona fide association” from Title 38.2 may have an impact on the regulatory structure for associations that may have relied upon terminology in current law. The Bureau of Insurance recommended restoring all references to “bona fide association” and “association” in the bill.

The amendment in the nature of a substitute to House Bill 884 incorporated House Bill 101 and House Bill 245.

Date: 2/7/22/V. Tompkins