

# State Corporation Commission

## 2022 Fiscal Impact Statement

**1. Bill Number:** SB195

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

**2. Patron:**    Mason

**3. Committee:** Commerce and Labor

**4. Title:**    Group health benefit plans; bona fide associations, formation of 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 (i) has been formed and maintained in good faith for purposes other than obtaining or providing health benefits; (ii) does not condition membership in the sponsoring association on any factor relating to the health status of an individual, including an employee of a member of the sponsoring association or a dependent of such an employee; (iii) makes any health benefit plan available to all members regardless of any factor relating to the health status of such members or individuals eligible for coverage through a member; (iv) does not make any health benefit plan available to any person who is not a member of the association; (v) makes available health plans or health benefit plans that meet requirements provided for in the bill; (vi) operates as a nonprofit entity under § 501(c)(5) or 501(c)(6) of the Internal Revenue Code; and (vii) has been in active existence for at least five years. The bill 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 bill requires any health benefit plan issued by a self-funded multiple employer welfare arrangement (MEWA) that covers one or more employees of one or more small employers to (a) provide essential health benefits and cost-sharing requirements; (b) offer a minimum level of coverage designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan; (c) not limit or exclude coverage for an individual by imposing a preexisting condition exclusion on that individual; (d) be prohibited from establishing discriminatory rules based on health status related to eligibility or premium or contribution requirements as imposed on health carriers; (e) meet the renewability standards set forth for health insurance issuers; (f) establish base rates formed on an actuarially sound, modified community rating methodology that considers the pooling of all participant claims; and (g) utilize each employer member's specific risk profile to determine premiums by actuarially adjusting above or below established base rates, and utilize either pooling or reinsurance of individual large claimants to reduce the adverse impact on any specific employer member's premiums. The bill prohibits a self-funded MEWA from issuing health benefit plans in the Commonwealth until it has obtained a license pursuant to regulations promulgated by the State Corporation Commission.

The bill authorizes the Commission to adopt regulations applicable to self-funded MEWAs, including regulations addressing financial condition, solvency requirements, and the exclusion of self-funded MEWAs from the Virginia Life, Accident and Sickness Insurance Guaranty 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:** The State Corporation Commission Bureau of Insurance requests the patron of Senate Bill 195 to consider delaying the July 1, 2022, effective date to allow sufficient time for the adoption of regulations to address the financial condition, solvency requirements and insolvency plan, and exclusion from the Virginia Life, Accident and Sickness Insurance Guaranty Association of self-funded MEWAs.
- 11. Other Comments:** Senate Bill 195 is identical to the patron's amendment in the nature of a substitute to 2020 Senate Bill 861 and contains amendments requested by the State Corporation Commission Bureau of Insurance. There are other bills which are similar but not identical to Senate Bill 195: Senate Bill 549, House Bill 101, House Bill 245 and House Bill 884.

**Date:** 1/23/22/V. Tompkins