



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 3

PRINTERS NO. 2211

PRIME SPONSOR: Cutler

COST / (SAVINGS)

FUND	FY 2018/19	FY 2019/20
General Fund	\$0	\$0
PA Health Insurance Exchange Fund (NEW)	\$0	See Fiscal Impact
Reinsurance Fund (NEW)	\$0	

SUMMARY:

House Bill 3 amends Title 40 (Insurance) concerning the establishment of a Pennsylvania state-based health insurance exchange marketplace and a reinsurance program. It would take effect immediately.

ANALYSIS:

House Bill 3 establishes the Pennsylvania Health Insurance Exchange Authority to create, manage and maintain in this Commonwealth the Pennsylvania Health Insurance Exchange. The powers and duties of the Authority are vested in and exercised by an 11-member board. The board members are the Insurance Commissioner or a designee, who will serve as chair of the board, the Secretary of Human Services or a designee, the Secretary of Health or a designee, four members appointed by the Governor and four members appointed by the General Assembly. Board members shall not be entitled to any compensation for their services as members, except that, subject to the availability of funds, board members shall be entitled to reimbursement for actual and necessary travel expenses, to be paid for by the new Pennsylvania Health Insurance Exchange Fund.

An advisory council is also created to advise the Exchange Authority. The eight members of this council must be largely drawn from healthcare and insurance related fields, and may not be Commonwealth employees. The members of the advisory council shall not be entitled to any compensation for their services as members, except that, subject to the availability of money, the members of the advisory council shall be entitled to reimbursement for actual and necessary travel expenses, to be paid for by the Health Insurance Exchange Fund.

The Exchange Authority is authorized to exercise all powers and duties necessary and appropriate to carry out its purpose. This includes hiring an executive director and other staff, who will be considered employees of the Commonwealth. It may also assess and collect fees from on-exchange insurers, funds it may then disburse to support the operation of the exchange and

the reinsurance program. The exchange authority may not assess or collect any form of obligation other than an exchange user fee on total monthly premiums for on-exchange policies and unless approved by unanimous consent of the board, the fee may not exceed 3% of total monthly premiums for on-exchange policies, and in no case may it exceed 3.5%. These funds may be deposited into the Pennsylvania Health Insurance Exchange Fund, established as a special fund within the State Treasury. The Exchange Fund shall be administered by the Exchange Authority and used to carry out its duties and responsibilities. The Exchange Fund shall be a nonlapsing fund. All money in the Exchange Fund and interest accrued are appropriated to the Exchange Authority for expenditure consistent with this legislation.

House Bill 3 also authorizes the Insurance Department to apply to the United States Secretary of Health and Human Services under the Affordable Care Act for a state innovation waiver to establish a reinsurance program in accordance with an approved waiver. Contingent upon federal approval, the Commonwealth Health Insurance Reinsurance Program will be established in the department for the purposes of stabilizing the rates and premiums for health insurance policies in the individual market and providing greater financial certainty to consumers of health insurance in this Commonwealth, principally by helping to pay high-cost claims for insurers in the exchange. The reinsurance program shall be considered a reinsurance entity to carry out a reinsurance program under the federal acts.

Once the federal waiver is in place and the Reinsurance Program established, the Department will set the reinsurance parameters. Not less than 60 days before final rates for health insurance policies are required to be submitted each year, it will determine and adopt the attachment point, reinsurance cap and coinsurance rate applicable to the reinsurance program for the following year. After adopting the parameters for the next year, the department may not, before or during that benefit year, change the parameters in a manner less favorable to the insurers participating in the exchange at the time of adoption.

The creation of the Reinsurance Program includes the establishment of the Reinsurance Fund as a special fund within the State Treasury. The Reinsurance Fund will be administered by the department to fund the Reinsurance Program. Expenditures from the fund will be used to implement and operate the reinsurance program and make reinsurance payments to eligible insurers under the reinsurance program. In making expenditures from the Reinsurance Fund, available federal money must be expended first.

House Bill 3 imposes auditing and reporting requirements on both the Health Insurance Exchange Authority and the Reinsurance Program. Both programs must publicly report their program activity annually. In addition, both the Pennsylvania Health Insurance Exchange Fund and the Reinsurance Fund must be audited annually by an independent certified public accounting firm.

House Bill 3 also explicitly states that nothing in this legislation constitutes an entitlement derived from the Commonwealth or a claim on any other money of the Commonwealth.

FISCAL IMPACT:

Enactment of this legislation will have no adverse impact on the Commonwealth's General Fund. The federal exchange currently charges a 3.5% user fee on exchange insurance premiums. House Bill 3 allows the state exchange to initially charge up to 3% in place of the 3.5% federal charge. The Insurance Department estimates that the 3% user fee on premiums would generate approximately \$88 million per year. Of this amount, \$30 million to \$35 million would be needed in the PA Health Insurance Exchange Fund to operate the exchange. The remaining \$53 million to \$58 million would go to the Reinsurance Fund to operate the Reinsurance Program. The Department also estimates that a federal contribution of \$145 million to \$190 million would be allocated to the Reinsurance Fund from federal subsidy savings, providing the fund \$198 million to \$248 million per year to operate the Reinsurance Program. House Bill 3 stipulates that, in making expenditures from the Reinsurance Fund, available federal money must be expended first. According to the Insurance Department, if the General Assembly were to pass legislation by the end of June 2019, both the state-based exchange and reinsurance program could be in operation for coverage that would begin on January 1, 2021.

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House Appropriations Committee (R)

DATE: June 28, 2019

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.