

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 3

**PRINTER NO.** 2211

**AMOUNT**

See Fiscal Impact

**FUND**

General Fund  
PA Health Insurance Exchange Fund  
Reinsurance Fund

**DATE INTRODUCED**

June 4, 2019

**PRIME SPONSOR**

Representative Cutler

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 3 amends Title 40 (Insurance) to establish a PA state-based exchange and a reinsurance program.

**The Pennsylvania Health Insurance Exchange Authority:**

House Bill 3 will:

- Establish a PA Health Insurance Exchange Authority as a state-related entity.
- Authorize the authority to employ staff and contract with professional services; and
- Permit the authority to create, manage, and maintain the PA Health Insurance Exchange.

The Authority is to facilitate or assist in the purchase of on-exchange qualified plans by qualified enrollee in the individual market or small group market.

The exchange authority board shall be composed of:

- Four members appointed by the Governor;
- One member appointed by the Senate Majority Leader;
- One member appointed by the Senate Minority Leader;
- One Member appointed by the House Majority Leader;
- One member appointed by the House Minority Leader;
- The Insurance Commissioner;
- Secretary of Human Services; and
- Secretary of Health.

The board shall meet at least quarterly and be subject to open meetings requirements.

The board members are not entitled to compensation, except that subject to availability of funds in the exchange fund, they shall be entitled to reimbursement for actual and necessary travel expenses.

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The Authority will adopt bylaws, employ staff, make, execute and deliver contracts, apply and receive money from any source, determine priorities for allocation and disbursement of received monies.

The Authority shall:

- Educate consumers through outreach and a navigator program;
- Consider the need for consumer choice in rural, urban and suburban areas;
- Assess and collect fees from exchange insurers to support operation of the exchange and reinsurance program;
- Disburse receipted fees; and
- Ensure compliance with federal acts and rules and regulations.

### **Advisory Council:**

House Bill 3 creates an advisory council which shall be composed of:

- Two consumer representative appointees by the Governor;
- One consumer representative appointed by the Senate President Pro Tempore;
- One consumer representative appointed by the Speaker of the House of Representatives;
- One member selected by the Hospital and Healthsystem Association;
- One member selected by the PA Medical Society;
- One member selected by the PA Chamber and Industry; and
- One member selected by the PA Health Underwriters.

The council shall meet at least twice a year prior to the authority board meetings to advise on initial operational decisions, ongoing decisions, and other decisions as the authority board may deem appropriate. The council will be subject to open meetings requirements.

The advisory council members are not entitled to compensation, except that subject to availability of funds in the exchange fund, they shall be entitled to reimbursement for actual and necessary travel expenses.

### **Reinsurance Program:**

HB 3 authorizes the Insurance Department (department) to apply for a federal state innovation waiver to waive any applicable provisions of the Affordable Care Act with respect to health insurance coverage, establish a reinsurance program, and maximize federal funding for reinsurance.

Upon federal waiver approval, the Health Insurance Reinsurance Program is created in the department for the purposes of stabilizing the rates and premiums for health insurance policies in the individual markets.

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The program will be administered by actuarial experts in the department by calculating the parameters of the reinsurance program, federal compliance, and reconciliation of claims following the experience year to remit to insurers. Administrative costs will be limited and are included in the department existing budget.

The parameters of the reinsurance program, including the attachment point, the co-insurance corridor, and the cap reflect the anticipated costs of the individual market's enrollment and may change annually. The reinsurance program money or benefits are not an entitlement from the Commonwealth.

The program shall be audited annually by an independent certified public accounting firm and shared on the department's website. The department will prepare an annual report showing the money deposited into the Reinsurance Fund, requests for reinsurance payments received from eligible insurers, reinsurance payments to insurers, administrative and operational expenses.

### **Reinsurance Fund:**

House Bill 3 creates the Reinsurance Fund (fund) as a special fund within the State Treasury. The fund will be administered by the department and receive the deposit of federal money and all other money received and disbursements permitted by this act.

Funds may be used to implement and operate the reinsurance program and make reinsurance payments to eligible insurers under the program. These costs and expenses include compensation of employees and any independent contractors or consultants hired by the department. The fund shall be non-lapsing and used as a revolving fund to cover necessary expenditures if federal money is requested and committed but not yet received. In each fiscal year, the total amount of annual expenditures from the fund may not exceed the expected federal and other money budgeted for deposit in the fund.

Procurement contracts within one year of the bill's effective date shall not be subject to the provisions of 62 PA C.S. (relating to procurement). No contract or agreement entered into under this section may exceed five years.

In general, all working papers, recorded information, documents and copies produced or obtained by the department:

- shall be confidential;
- shall not be subject to the Right-to-Know Law;
- shall not be subject to subpoena;
- shall not be subject to discovery or admissible in evidence in a private civil action; and
- shall protect personally identifiable health and financial information in accordance with federal and state laws.

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PID and the authority may issue temporary regulations which shall expire no later than two years following publication of the temporary regulations in the Pennsylvania Bulletin.

This act shall sunset immediately if any of the following occur:

- (1) The Congress of the United States repeals or defunds, in whole or in part, the Affordable Care Act in a manner that renders impossible to perform the duties of the exchange authority established under chapter 93 or the reinsurance program established under chapter 95;
- (2) A court of the United States with competent jurisdiction invalidates, in whole or in part, the Affordable Care Act in a manner that renders impossible to perform the duties of the exchange authority established under chapter 93 or the reinsurance program established under chapter 95; or
- (3) The Executive Branch of the United States repeals or defunds, in whole or in part, the Affordable Care Act and its subsequent regulations in a manner that renders impossible to perform the duties of the exchange authority established under chapter 93 or the reinsurance program established under chapter 95.

This act shall take effect immediately.

### **FISCAL IMPACT**

House Bill 3 will have no adverse fiscal impact to the Commonwealth. The federal exchange currently charges a 3.5% user fee on exchange insurance premiums since 2014. Beginning in 2019, the monthly user fee is being reduced to 3 percent of total monthly premiums. House Bill 3 will allow the state exchange to collect the 3% user fee.

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.

The Insurance Department estimates that the reinsurance program could reduce insurance premiums in the individual market by 5% to 10% lower than the rates would be without the reinsurance program.