

SMALL BUSINESS COMMISSION

Tuesday, August 12, 2008

Richmond, Virginia

Overview.

The Small Business Commission ("Commission") met in Richmond, Virginia, on August 12, 2008. Delegate Jeffrey M. Frederick and Senator W. Roscoe Reynolds were elected co-chairmen. Delegate Frederick gave brief opening remarks detailing the role of the Commission, noting that the Commission's purpose is to report and make recommendations on issues of concern to small businesses in the Commonwealth.

Presentations.

I. House Bill 352: Motor carriers; liability insurance for buses with capacity of no more than 40 passengers.

House Bill 352 was passed by in the House Committee on Transportation during the 2008 Session of the General Assembly and the bill was forwarded by letter to the Commission for further study. Delegate Mark L. Cole, the bill's patron, and Butch Wimmer, the owner and operator of Trolley Tours of Fredericksburg, presented the bill to the Commission. Delegate Cole explained that the bill would permit the operators of certain intrastate buses that provide sightseeing and transportation services for tourists to maintain liability insurance on such buses in the amount of \$1,500,000, instead of the \$5,000,000 currently required by the Virginia Code. The primary focus of the bill was on companies that operate sightseeing buses designed to resemble trolleys or streetcars. Delegate Cole noted that he had introduced an alternate version of this bill, House Bill 1110, which limited the reduced amount of liability insurance to trolleys and specifically defined that term. Mr. Wimmer, whose business operates such trolleys, stated that the cost associated with the higher liability amount is the driving factor behind the bill. Mr. Wimmer noted that in the past 15 years he has paid over \$200,000 in premiums, and only \$6,000 has been paid out in claims by his insurers. Additionally, the lesser liability amount would reduce his insurance premium from \$17,500 to approximately \$10,000 per year.

The Commission also heard from Robert Bradshaw, who represents the Independent Insurance Agents of Virginia. Mr. Bradshaw expressed concerns that, as written, House Bill 352 would apply broadly to many types of passenger vehicles and buses, and would not be limited to sightseeing trolleys. Mr. Bradshaw indicated that his organization would not be opposed to the bill if it were so limited and expressed his preference for House Bill 1110.

Lynwood Butner, representing the Department of Motor Vehicles, also spoke to the Commission. Mr. Butner noted that the current liability insurance amounts for intrastate motor carriers match the federal law for interstate carriers. He stated that the current federal liability insurance amounts were set in 1985. In 2000, a Financial

Responsibility Study for motor carriers was conducted in Virginia and, as a result of that study, Virginia law with regard to intrastate motor carriers was amended to match the federal law in 2001.

The Commission expressed concerns regarding the potential broad application of the bill, and some support was expressed for a version with the definition of a trolley contained in House Bill 1110. The Commission also discussed other ways to limit the scope of the bill, including imposing speed limitations and geographic limitations on the operation of such buses and requiring the disclosure of the liability insurance limitations to the passengers. The Commission asked Delegate Cole to meet with the relevant stakeholders and prepare a new proposal to be revisited at a future meeting.

II. Health Insurance Bills from the 2008 Session.

The Commission then considered several bills that had been introduced during the 2008 Session of the General Assembly, but did not pass, relating to health insurance and small businesses.

The first of these bills was House Bill 1497: Small business health insurance advisor; Sec. of Health and Human Resources to create position. The bill was presented to the Commission by its patron, Delegate Daniel W. Marshall, III. The bill is identical to House Bill 807, which was introduced by Delegate David L. Englin. Delegate Marshall explained that the bill would create a new position, a Small Business Health Insurance Pool Advisor, in the Office of the Secretary of Health and Human Resources with the goal that this advisor would be able to assist members of the small business community with the creation and maintenance of health insurance pools. Delegate Marshall noted that laws permitting such insurance pools have already been enacted.

Members of the Commission expressed some concerns about the efficacy of health insurance pools in the long run. There was also a suggestion that scope of the advisor position be expanded to cover all health insurance options, and not just health insurance pools. The Commission further recommended that the Secretary of Health and Human Resources be contacted to determine what could be accomplished without the creation of the new position and that some method of generating the funds needed to pay for the new position be explored.

The second bill was House Bill 59: Income tax, state; tax credit for health insurance premiums paid by small business employers. Co-chairman Frederick, the patron of the bill, presented it to the Commission. Co-chairman Frederick explained that the bill would offer a tax credit for health insurance premiums paid by certain small businesses for their employees. In order to be eligible for the credit, the employer must pay at least one-half of the insurance premium and the amount of the credit is capped at \$500 per employee per year. Co-chairman Frederick noted that he had introduced similar bills in the past and was aware that the credit proposed may be cost prohibitive. The Department of Taxation concluded that the bill may result in an annual revenue loss ranging between \$99 million to \$170 million, although it ultimately concluded that the

actual loss was unknown. Co-chairman Frederick also noted that similar tax credits have been enacted in other states.

Members of the Commission questioned whether the credit would actually serve as enough of an incentive to small business employers when it is capped at \$500 per employee per year when an employer's premium could be \$400 per employee per month. Members of the Commission also questioned whether there would be a more effective way to use the money that would go to the tax credit.

The third bill presented to the Commission was House Bill 1191: Income tax; tax credit for long-term care insurance premiums paid by small business employers. Similar to House Bill 59, the bill would offer a tax credit for long-term care insurance premiums paid by certain small businesses for their employees. In order to be eligible for the credit, the employer must pay the full insurance premium and the amount of the credit is capped at 20% of the amount paid per employee per year. Staff noted that individuals are permitted under Virginia law to take a tax credit for premiums paid for long-term care insurance. The Department of Taxation concluded that the revenue impact of the bill was unknown but would likely be less than \$100,000 per year.

III. Overview of Health Insurance Issues Facing Small Businesses.

Holly Wade, a policy analyst for the National Federation of Independent Business (NFIB), presented the Commission with an overview of the concerns of small businesses regarding the cost of health insurance. The NFIB had recently completed a survey of its members and received 3,500 responses for a response rate of 18%. Ms. Wade stated that the number one issue for small businesses is health insurance and has been so since 1984. She also noted that between the years of 1999 and 2007, health insurance premiums have increased by 129%, which is three times the rate of inflation or the rate earnings have increased. While this rate of increase has slowed recently, Ms. Wade explained that this slowdown may be the result of employers dropping health insurance and new businesses not offering insurance in the first place.

In response to a question from the Commission about health savings accounts, Ms. Wade noted that such accounts may be an option for small businesses, but that there is a lack of available information. She noted that insurance agents or brokers frequently do not discuss health savings accounts as an insurance option and the small businesses must raise the issue themselves. Ms. Wade also noted that although the cost per individual paid by large and small businesses is approximately the same, employees at small businesses get less insurance coverage for the amount paid.

Public Comment.

The Commission then invited public comment. Mr. Mark Pratt of Anthem Blue Cross and Blue Shield briefly spoke regarding general issues related to the cost of health insurance. Mr. Pratt noted that 80% of premiums paid go to reimburse physicians and

other medical providers for services rendered. Mr. Pratt also noted that between the years of 1998 and 2000, 15 new insurance mandates were added to the Virginia Code.

Member Discussion and Work Plan.

The members of the Commission engaged in a general discussion about the role and focus of the Commission and what issues should be studied in the future. Some members suggested that the Commission should be more involved in the legislative process and that it should attempt to monitor and comment on bills introduced during subsequent sessions of the General Assembly. Members also suggested that the Commission should monitor new regulations that affect small businesses.

The Commission determined that its immediate focus should be on the cost and availability of health insurance for small businesses. The Commission agreed that its next meeting would be primarily a working session on this topic. The Commission plans to invite representatives from other Virginia governmental entities that have also considered this issue, as well as representatives from private organizations, to participate in this working session with the goal of building on the experience of these other entities as the Commission goes forward. The Commission also directed staff to research how other states have responded to the issue of health insurance and small businesses.

Next Meeting.

The Commission is planning to hold a working meeting sometime in September and is currently polling for a meeting date.