



**Fiscal Estimate Narratives**  
**OCI 2/23/2012**

LRB Number	<b>11-0760/4</b>	Introduction Number	<b>SB-273</b>	Estimate Type	<b>Original</b>
<b>Description</b> The Badger Health Benefit Authority, health benefit exchange operation, granting rule-making authority, and providing a penalty					

**Assumptions Used in Arriving at Fiscal Estimate**

SB-273 creates the Badger Health Benefit Authority (authority). The authority is responsible for the establishment of a Wisconsin Health Benefit Exchange (exchange). The exchange must be operational by January 1, 2014. The exchange will provide health insurance coverage to individuals and small businesses with 100 or fewer employees. Only qualified health plans are eligible to be offered through the exchange and once the exchange becomes operational, it is the only source for health insurance coverage for individuals or small employers. A qualified health plan must, at a minimum, provide the essential health benefits package described in the Patient Protection and Affordable Care Act of 2010 (PPACA) and must have its rates and policy forms filed, and not disapproved, with the Office of the Commissioner of Insurance (OCI).

PPACA requires health insurance exchanges to be self-sufficient by 2015. However, the costs associated with start-up and implementation prior to that time appear to be substantial. A variety of studies commissioned by states in preparation for implementing a state-based health benefit exchange until 2015 are varied, but include IL - \$92 million (over 3 years); MN - \$9 million, MA - \$20.9 million, OH - \$63.4 million (over 3 years) and OR - \$37 million (first year). The differences in these costs are attributable to the differences in a state's marketplace dynamics and the anticipated size of the exchange. It is expected that the federal government will make funding available to mitigate some of the costs that will be experienced under this bill, but that amount is not determinable at this time. Any difference will be funded at the state level. If the U.S. Supreme Court decides that the federal law is unconstitutional, any federal funds would likely disappear and the state could be required to fully fund the authority until 2015.

A health benefit exchange in Wisconsin is estimated to cover approximately 444,800 individuals according to a study prepared for the Wisconsin Office of Free Market Health Care (OFMHC). By comparison, an exchange in Illinois is expected to enroll 486,000 participants. Other state estimates include 281,790 in Oregon; 330,000 in Alabama; 300,000-750,000 in Indiana.

The OFMHC's own experience with PPACA's exchange requirements includes research and analysis costs incurred as a result of evaluating market dynamics, the impact of a health insurance exchange on the marketplace and potential alternatives for a health insurance exchange design. The accumulated research and analysis costs are approximately \$5.2 million. Actual implementation costs are indeterminate, but are expected to greatly exceed that amount.

Significant fiscal concerns identified as attributable to OCI, include:

1. The authority is governed by a thirteen member board and chaired by the Commissioner of Insurance. The bill does not establish a funding source for the authority's start-up costs. As chair of the authority it is presumed that OCI would be responsible for assuming some start-up costs related to board meetings and to properly exercise associated fiduciary responsibilities given the complexity of the exchange and related risk adjustment functions. These costs are indeterminate at this time.
2. The authority is required to consult with the Commissioner to determine the type and amount of a surcharge to place on health carriers in the exchange that would be adequate to pay the administrative expenses of the exchange. These activities will require significant research including outside expertise. These costs are indeterminate at this time.
3. The authority is required to establish a system for enrolling eligible groups and individuals using a standard application form developed by the Commissioner. OCI developed uniform small employer and individual health insurance applications by rule, but these forms are not sufficient to meet the requirements of this bill. Development of the application will require additional resources associated with rulemaking and oversight. Not all costs associated with this activity are determinable. Please see item 10 below for OCI

estimates of rulemaking related costs.

4. The authority is required to determine insurer network adequacy. OCI would need to provide information and resources to support this determination. These costs are indeterminable at this time.

5. OCI would incur administrative costs in coordinating its "business of insurance" functions with authority functions and in preserving Wisconsin's competitive insurance markets.

For example, OCI resources will be required to develop and implement coordinated procedures related to certification, recertification, and decertification. If an insurer is not certified to sell insurance to all individuals and small groups in Wisconsin (because they are not certified to sell on the exchange), these decisions could impact Wisconsin's competitive individual and small group insurance markets, solvency of insurers and protection of consumer interests.

The bill's prohibition on insurers participating in the individual and small employer market outside of the exchange could result in a significant alteration of the competitive marketplace that Wisconsin currently enjoys. The effect of this alteration could have a significant impact on state premium tax revenues, insurance agent services, and the availability of coverage throughout the state.

6. The bill requires that as a condition of health benefit plan certification as a qualified health plan a health insurance carrier must have both premium rates and policy forms filed with and not disapproved by the Commissioner. Additionally, though not addressed directly in the bill, health plans will also be required to conform to PPACA provisions relating to annual rate reviews and medical loss ratio requirements. OCI would experience additional costs associated with coordinating and ensuring compliance with these exchange-related requirements. In circumstances where competitive markets no longer contain costs, undetermined OCI resources would be required to determine for each individual rate filing, insurer profitability in relation to risk, and expenses in relation to services.

7. OCI will be responsible for educating insurers and consumers regarding their rights and responsibilities, which are significantly changed as a result of this bill. These costs are indeterminable at this time.

8. OCI will be responsible for reviewing insurer compliance with the exchange and risk adjustment requirements as part of agency market regulation and examination functions. Failure to do so could impact an insurer's ability to participate on the exchange, with consequences under the bill that include inability to participate in the Wisconsin individual and small group market. This potentially involves an expanded enforcement role for OCI with associated administrative costs. For example, if insurers are not allowed to sell to individuals and small employers outside the exchange, if insurers are not offering products in the interest of consumers as required by the exchange, or if insurers present an insolvency risk, OCI would be expected to enforce this. Associated costs for OCI would include monitoring and enforcing insurer compliance with state law and taking related actions against insurers. All of these additional activities would require OCI to substantially increase resources available to achieve them, making OCI a much larger regulatory agency, placing it among the top fifteen largest insurance departments in the country.

9. The bill requires an exchange to establish an independent and binding appeals process for resolving disputes over eligibility and other determinations made by the authority. It is not clear how this requirement integrates with OCI's consumer complaint process. At least initially it is estimated that OCI would experience an increase in consumer complaints due in part to consumer confusion.

10. The bill grants OCI rulemaking authority to implement its provisions. We estimate this rulemaking to be substantial, requiring additional personnel to assist with rule development and implementation. The rate /form filing; standard application and surcharge responsibilities are specifically attributed to OCI in the bill and would likely require OCI to undertake rulemaking in order to establish specific requirements not addressed in the bill. Additionally, OCI would need to develop and promulgate rules addressing essential benefits that will be required for health plans inside (and outside) the exchange; risk adjustment requirements; unfair and deceptive marketing practices; uniformity standards; standards for monitoring premiums and certification requirements for health plans.

The timeline requiring the exchange to be operational on or before January 1, 2014, necessitates that rules be promulgated prior to that date. Therefore, separate rules would need to be developed on a concurrent timeline and would involve a level of activity beyond OCI's current resource levels. OCI would likely utilize the expertise of advisory councils to assist in the development of rules and recommendations for the Commissioner and additionally assist with the development of required economic impact analyses.

OCI anticipates that additional staff time required for rulemaking would specifically include 1.5 FTE attorneys

for drafting of all rules for the authority including the standard application form and any rule necessary for implementation of the exchange. This estimate also includes attorney staffing of advisory councils and may include both emergency and permanent rules, conducting hearings and preparing economic impact analyses. Time will also be spent coordinating with the authority to ensure the rules being drafted meet the needs of the authority. Additional staff time would include the use of 0.33 FTE paralegal for assistance in drafting rules and staffing advisory councils and 0.33 FTE legal support staff for processing and delivering rules, scheduling advisory council meetings, photocopying and distribution of materials and other support as necessary. Finally, OCI's obligations would require 0.30 FTE Attorney supervisor time to review rules and applications, oversee attorney's activities.

Estimated rulemaking (only) expenditures summary:

Attorney Supervisor \$20,005.13

Attorney \$66,683.76

Attorney \$33,341.88

Paralegal \$15,372.27

Legal Secretary \$11,214.40

Total Salary \$146,600.00

Fringe Benefits \$54,908.00

Total Supplies & Services \$9,000.00

Total Estimated Annual Cost \$210,500.00

Other One-time costs \$64,500.00

These figures do not include other indeterminate costs of this bill referenced above.

### **Long-Range Fiscal Implications**