

### Fiscal Estimate - 2017 Session

Original     
  Updated     
  Corrected     
  Supplemental

LRB Number <b>17-3762/1</b>	Introduction Number <b>AB-0445</b>
-----------------------------	------------------------------------

**Description**  
 the Badger Health Benefit Authority, health benefit exchange operation, granting rule-making authority, and providing a criminal penalty

**Fiscal Effect**

**State:**

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> No State Fiscal Effect<br><input checked="" type="checkbox"/> Indeterminate<br><input checked="" type="checkbox"/> Increase Existing Appropriations<br><input type="checkbox"/> Decrease Existing Appropriations<br><input type="checkbox"/> Create New Appropriations | <input type="checkbox"/> Increase Existing Revenues<br><input type="checkbox"/> Decrease Existing Revenues | <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget<br><input type="checkbox"/> Yes <input type="checkbox"/> No<br><input type="checkbox"/> Decrease Costs |
|---|--|---|

**Local:**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> No Local Government Costs<br><input type="checkbox"/> Indeterminate<br>1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory<br>2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenue<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory<br>4. <input type="checkbox"/> Decrease Revenue<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Government Units Affected<br><input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities<br><input type="checkbox"/> Counties <input type="checkbox"/> Others<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
|--|--|--|

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

<b>Agency/Prepared By</b>	<b>Authorized Signature</b>	<b>Date</b>
OCI/ Jeff Grothman (608) 264-6239	J.P. Wieske (608) 266-2493	7/31/2017

## Fiscal Estimate Narratives

OCI 7/31/2017

LRB Number	17-3762/1	Introduction Number	AB-0445	Estimate Type	Original
<b>Description</b> the Badger Health Benefit Authority, health benefit exchange operation, granting rule-making authority, and providing a criminal penalty					

### Assumptions Used in Arriving at Fiscal Estimate

The bill creates the Badger Health Benefit Authority (authority). The authority is responsible for the establishment of a Wisconsin Health Benefit Exchange (exchange). The exchange will provide information on 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. The exchange will be the only source for health insurance coverage for individuals or small employers, which is a major change from the current market. 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 (ACA) and must have its rates and policy forms filed, and not disapproved, with the Office of the Commissioner of Insurance (OCI).

This bill requires the exchange to provide Qualified Health Plans with effective dates of January 1, 2018. For states that elect to operate an exchange after 2014, HHS regulations require the state to have in effect an approved, or conditionally approved, Exchange Blueprint and operational readiness assessment at least 6.5 months prior to the Exchange's first effective date of coverage and to develop a plan jointly with HHS to facilitate the transition from a federally-facilitated exchange to a state exchange. Therefore, this bill's requirement that the exchange provide Qualified Health Plans with effective dates of January 1, 2018 is not feasible.

The costs associated with implementation of a state exchange are substantial. Implementation costs for California's state exchange, Covered California, were financed by \$241.8 million in federal grants. The implementation of Minnesota's exchange, MNsure, was financed by \$111.7 million in federal grants. The Washington Health Benefit Exchange's startup was funded by \$151.8 million in federal grants. Implementation costs for the remaining 14 state exchanges ranged from a low of \$91 million for Nevada to high of \$493 million for New York. The differences in these costs are attributable to the differences in a state's marketplace dynamics and the size of the exchange. The federal grants that these state exchanges used to fund their implementation are no longer available. Therefore, the entire cost of establishing the exchange required by this bill will be borne by Wisconsin.

It was originally estimated that a health benefit exchange in Wisconsin would cover approximately 444,800 individuals. The actual enrollment figures for the federally facilitated exchange in Wisconsin are 242,863 covered lives.

Ongoing operations costs for state exchanges are also substantial. The first two years of operations (2013 – 2014) for Covered California were funded by \$674 million in federal grants. MNsure's 2014 operating budget was \$58.1 million, funded by a 1.5 percent tax on exchange plan premiums and a \$41 million federal grant. Again, these federal grants are no longer available. In 2016, Minnesota experienced a mass exodus of insurance carriers from MNsure, as well as rate increases on consumers ranging from 50 to 67 percent. In 2017, Minnesota's individual market experienced a decrease of 100,000 fewer enrollees in 2017 than in 2016. This decrease in enrollees caused the State of Minnesota to enact a \$310 million reinsurance plan to subsidize health premiums.

The startup and operations costs for the state exchange contemplated by this bill would include a substantial investment in information technology infrastructure and services. \$19 million of the Washington Health Benefit Exchange's \$53 million 2015 operating budget is devoted to IT. For 2016, IT is expected to account for \$30 million of the projected \$68 million budget, with hardware and software enhancements and maintenance accounting for the increase.

Wisconsin's own experience with the ACA'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 indeterminable 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 indeterminable 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. 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 will result in a significant alteration of the competitive marketplace that Wisconsin currently enjoys. The effect of this alteration will have a significant impact on state premium tax revenues, insurance agent services, and the availability of coverage throughout the state.

5. 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 ACA 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.
6. 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.
7. OCI will be responsible for reviewing insurer compliance with the exchange 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. 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.
8. 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.

9. 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 issue Qualified Health Plans with effective dates of January 1, 2018, is not feasible under federal rules. However, assuming a change to the time frames, significant rule-making would be required. 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, and estimated by similar states to range from \$43 million to \$64 million per year that must be covered by the state

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

Long term the cost of any exchange will be borne by the state and those costs are difficult to determine. The yearly operations are estimated by other states to cost between \$30 and \$60 million. While sales through the exchange can fund some portion of those costs, if enrollment projections do not meet the actual enrollment, the state will be required to fund the entire difference out of GPR dollars. Given that yearly operations are estimated to cost between \$30 million and \$60 million for a state of our size, the potential costs to the state are very significant.