Bill Number:	H. 3790 Amended by the House of Representatives on April 26, 2017
Author:	Erickson
Subject:	Ryan's Law
Requestor:	Senate Banking and Insurance
RFA Analyst(s):	Gable and Shuford
Impact Date:	February 14, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	See Below	$0
Other and Federal	$0	$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	See Below	See Below
Other and Federal	See Below	See Below
Local Expenditure	$0	$0
Local Revenue	$0	$0

See also attached actuarial report produced for the Department of Insurance pursuant to §2-7-73

Fiscal Impact Summary

The fiscal impact on the General Fund expenditures is primarily dependent upon legal issues involving provisions of the Protection and Affordable Care Act of 2010 (ACA). It may also be affected by many uncertainties in service utilization, eligibility, and administrative issues. If it is determined that the State is responsible for defraying the cost of the increased benefits, the cost is estimated to be $2,907,608 in FY 2018-19. Legislative direction, however, for the administration of these payments would also be required.

Additionally, the impact on General Fund insurance premium tax revenue depends upon resolution of the legal issues described below.

Explanation of Fiscal Impact

Amended by the House of Representatives on April 26, 2017
State Expenditure

This bill as amended updates the definition for autism spectrum disorder (ASD) in the South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act §44-20-10 et seq. and Accident and Health Insurance §38-71-10 et seq. Additionally, this amended bill would expand the required insurance coverage by deleting existing age limits. Furthermore, the bill expands the definition of insurer to include admitted and non-admitted insurers and expands the definition of the health insurance plan to include all health insurance policies and health benefit plans for the purposes of ASD coverage. This bill takes effect upon signing of the Governor.

Current law defines autism or ASD in a slightly different manner under each of these code sections. The modified definition reflects the current medically accepted definition of ASD and does not alter the function of §§44-20-10 et seq. and 38-71-10 et seq. It does not fiscally or operationally impact the Department of Disabilities and Special Needs or the Department of Insurance. Therefore, the updated definition would not have an expenditure impact for these agencies.

Under the ACA, the State may be required to pay the cost of private insurers for mandated additional benefits. This determination rests on whether the services required by the bill are considered a new additional benefit or an extension of current benefits. At this time, the answer to these legal questions is unclear. There is no history of a state triggering the reimbursements or precedent for state payments for expanded coverage requirements, and the responsibilities of a state with regard to this component of the ACA have not been established. If State liability is established, then the estimated costs are described below. If litigation is required to resolve this issue, then additional expenses may be incurred.

Public Employee Benefit Authority (PEBA). PEBA indicates there would be no expenditure impact on the General Fund, Other Funds, or Federal Funds. According to PEBA, limits regarding coverage related to age and dollar amounts in the State Health Plan for ASD were removed for plan year 2015. Therefore, no additional impact is expected.

Department of Insurance (DOI). The bill would expand the coverage requirements for ASD beginning in July 2018. The department retained a consulting firm, L&E Actuaries & Consultants, to evaluate the potential cost of expanding this coverage. The actuarial report assumes that the State will be required to cover the additional cost for these expanded benefits for all individuals in a qualified health plan (QHP). Any differences in the ultimate determination of eligible individuals may significantly impact the estimated expenditures. The 2015 actuarial report provides a broad range for the expenditure estimate because of the uncertainty surrounding the assumptions and data reviewed and utilized. We updated this report to FY 2018-19 using growth rates determined by the actuary. Based on the limited data available and under the assumptions outlined in the actuarial report, the estimate of the cost is $2,907,608, including projected administrative costs of $311,529 based on the assumption that administrative costs are twelve percent of benefits. However, the potential range of the impact on expenditures for the State may be as high as $11,935,290 for FY 2018-19 given the inherent variability in the underlying assumptions on disease prevalence, service utilization, and eligibility. The referenced actuarial report is attached.

Additionally, if the State is responsible for the cost of these benefits, legislative direction is needed to provide the department with instruction on the method of reimbursement that is to be used and the appropriations for the reimbursements. DOI would require additional authorization to establish reimbursement procedures for the expanded coverage and additional appropriations for administration of the program. The department would need to establish a procedure for identifying individuals eligible for reimbursement and subsequently reimbursing the insured or the insurer for the cost of the expanded coverage.

Furthermore, because this bill would take effect upon signing of the Governor, DOI anticipates a non-recurring expenditure to review and approve the modified polices and policy rates. DOI would need to hire third party consultants to assist in this process in order to meet the effective date of the legislation. Also, private insurers would struggle to modify insurance policies to comply by the effective date as most policies are modified during issuance or renewal which occurs on December 31st of each year.

State Revenue
Again, the impact upon State revenue will depend upon the legal conclusion as to whether this law expands current benefits or mandates a new benefit. If this law is an expansion of current benefits and the State is not required to defray the cost, any increase in premiums for private insurers as a result of the law would increase insurance premiums. The anticipated increase in premiums is $2,907,608 over a full year. Because this bill takes effect as of July 1, 2018, only six months of the increased premiums, $1,453,804 would occur in FY 2018-19. The full increase in premiums would occur in FY 2019-20.

These increased premiums would be subject to a one and one quarter percent premium tax. Insurance premium taxes are paid quarterly. The first three payments, paid in June, September, and December of the current year, are estimated using the prior calendar year's actual tax liability. The final payment is made in March of the following year and is the difference between the actual premium tax liability owed in that calendar year and the prior payments made. Insurance companies may choose to pay more than their estimated quarterly payments to offset any anticipated increase in premium tax liability in the current year. RFA assumes no insurance company will choose to pay more than their estimated quarterly payments due to increased premiums from this bill. Therefore, the impact of an increase of premium taxes would occur in the final payment made in March of the following year. Beginning July 1, 2017, insurance premium tax revenue is allocated as follows: one percent to the South Carolina Forestry Commission, one percent to the aid to fire district account within the State Treasury, one quarter of one percent to the aid to emergency medical services regional councils within the Department of Health and Environmental Control (DHEC), and the remaining ninety-seven and three-fourths percent to the General Fund.

Therefore in FY 2018-19, the premium insurance tax revenue, based on six months of premium increases, would increase by $18,173. Of this increase, 2.25 percent, $409, would go to Other Funds, and 97.75 percent, $17,764, would go to the General Fund. Beginning in FY 2019-20, the premium tax revenue, based on a full year of premium increases, would increase by an additional $18,173 over the FY 2018-19 increase, for a total premium increase of $36,345. Other Funds would increase by $818, and General Fund revenue would increase by $35,527.

If the coverage is determined to be a mandated new benefit, and the State is liable for the cost, then the premiums would not increase, and there would be no increase in General Fund revenue or Other Funds revenue.

State Revenue
N/A

Local Expenditure
N/A

Local Revenue
N/A

Explanation of Fiscal Impact

Introduced on February 16, 2017
State Expenditure
This bill creates a uniform definition for ASD to be applied to the South Carolina Intellectual Disability, Related Disabilities, Head Injuries, and Spinal Cord Injuries Act, §44-20-10 et seq., Accident and Health Insurance, §38-71-10 et seq., and Education of Physically and Mentally Handicapped Children, §59-21-510 et seq. Current law defines autism or ASD in a slightly different manner under each of these code sections. The bill does not alter the function of §§44-20-10 et seq. and 38-71-10 et seq. nor does it fiscally or operationally impact the Department of Disabilities and Special Needs, the Department of Insurance, and the Public Employee Benefit Authority. Therefore, the bill would not have an expenditure impact for these agencies.

However, the amended definition of autism spectrum disorder in §59-21-510 of this bill potentially may affect the number of students classified as pupils with autism for purposes of EFA funding. This determination provides the highest classification weight of 2.57 in the weighted pupil units calculation used to allocate EFA funding. National and state data report the number of children diagnosed with ASD is growing. If the number of students classified as pupils with autism increases, the allocation of EFA funding to school districts may shift depending on the classification decisions made at the school district level. We expect that regulation number 43-243, Special Education, Education of Students with Disabilities, used by school districts to determine student classifications, encompasses the same diagnoses that fall within the amended definition of ASD.

However, if the number of students classified as pupils with autism increase, this can influence EFA funding in two ways. If the number of weighted pupils increases, additional funding will be necessary to maintain the current base student cost. If total EFA funding remains constant, then the fixed amount of EFA funding may change among the school districts. The amount of EFA funding shifted is undetermined, since these classification decisions will be made at the school district level based on the revised definition of autism spectrum disorder.

State Revenue
N/A

Local Expenditure
N/A

Local Revenue
While we expect current regulations encompass the same diagnoses that fall within the amended definition of ASD, changes in weighted pupil units from an increase in the number of students

classified as pupils with autism could also affect the funding received by local school districts from the Homestead Exemption Fund Tier III reimbursements. Statewide, Tier III reimbursements increase by an index factor equal to the annual growth in the Consumer Price Index and population. This additional reimbursement is allocated to school districts in proportion to the school district's weighted pupil units as a percentage of statewide weighted pupil units. Since weighted pupil units will be influenced by the definition change for autism spectrum disorder, the share of Tier III reimbursements may shift among the school districts. The change in the amount of Tier III reimbursements shifting among the school districts is undetermined, since these classification decisions will be made at the school district level based on the revised definition of autism spectrum disorder.

Frank A. Rainwater, Executive Director