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## **GOP hired legal gun: Governor can't expand Medicaid**

By Bill Sizemore  
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### **RICHMOND**

Republican leaders in the state House of Delegates released a legal analysis Wednesday bolstering their contention that Democratic Gov. Terry McAuliffe has no legal authority to unilaterally expand the Medicaid health insurance program to cover more uninsured Virginians.

The analysis was prepared by Washington attorney Paul Clement, who served as solicitor general in the George W. Bush administration and later argued the Republican challenge to the federal Affordable Care Act before the U.S. Supreme Court.

The high court ruled in that case that the health care law is constitutional but left Medicaid expansion, one of its key components, as an option to the states.

Presenting Clement's analysis in a conference call with reporters, Speaker Bill Howell, R-Stafford County, and fellow House leaders reiterated their promise to challenge McAuliffe in court if he follows through on his pledge to expand health care coverage to as many as 400,000 low-income Virginians without the General Assembly's approval.

It was the latest salvo in a bitter partisan battle that delayed passage of a state budget for three months.

McAuliffe said last week he has directed his secretary of health and human resources, Bill Hazel, to have a plan for expansion on his desk by Sept. 1. He has been vague about what that plan might look like, saying several options are under consideration, including a public-private partnership.

Clement's analysis concludes that the governor has no authority either under the state constitution or statutory law to expand coverage. He told reporters on the call that his conclusion also would apply to a public-private partnership.

Unlike Ohio and Kentucky, where governors have implemented Medicaid expansion without explicit authorization from the legislature, Virginia law prohibits such a course of action, Clement said.

Accusing McAuliffe of an "executive power grab," Howell said leaders of the Republican-controlled House "are prepared to challenge the governor through all

available avenues, including the court system."

He said the House leadership retained Clement for \$25,000, drawn from a fund in the budget of the House clerk.

Brian Coy, a McAuliffe spokesman, said by email after the call that the governor and Hazel are moving forward on health care expansion nevertheless.

"We have made no announcements about what shape that action may take because we have not yet decided," Coy said. "The governor will not however take any action that is not well within the authorities that the voters entrusted to him when they elected him last November.

"Virginians deserve leaders who are more focused on expanding health coverage than they are on lawyering up just in case they need to sue to keep their constituents from getting lifesaving care."

*Bill Sizemore, 757-618-8855, bill.sizemore@pilotonline.com*

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