

State Corporation Commission 2014 Fiscal Impact Statement

1. Bill Number: HB937

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Surovell

3. Committee: Commerce and Labor

4. Title: Freedom of Information Act; application to the State Corporation Commission; exemptions; proceeding

5. Summary: Freedom of Information Act; application to the State Corporation Commission; exemptions; proceedings for enforcement. Provides that the State Corporation Commission (Commission) is a public body for the purposes of the Freedom of Information Act (FOIA), but exempts records of the Commission to the extent such records relate to (i) the Commission's exercise of the powers and duties prescribed to it by the Constitution of Virginia or by any law relating to the regulation or control of persons engaged in any activity or conduct that is subject to the jurisdiction of the Commission under any provision of Title 6.2, 13.1, 38.2, or 56; (ii) any person subject to licensure or regulation by the Commission; (iii) the Commission's exercise of the powers and duties prescribed to it by Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1 that are not matters required by law to be entered on any public assessment roll or book or are not generally available to the public through regulatory disclosure or otherwise; (iv) portions of drawings, plans, or maps that reveal critical structural components, interconnectivity, security equipment and systems, network monitoring, network operation center, and other equipment and systems related to public utility infrastructure; (v) confidential proprietary records, including balance sheets and financial statements, voluntarily provided by a private business pursuant to a promise of confidentiality from the Commission; (vi) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of a private business that are not generally available to the public through regulatory disclosure or otherwise; (vii) other information submitted by a private business where, if these records were made public, the financial interest of the Commission or private business would be adversely affected; or (viii) any records otherwise exempted from public disclosure. The bill also grants the Commission certain exemptions from the open meeting provisions of FOIA. Finally, the bill designates venue for FOIA petitions against the Commission. The bill reverses a case holding that FOIA is not applicable to the Commission (*Christian v. State Corporation Commission*,/ November 2011).

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Not Available. See Item 8.

8. Fiscal Implications: Unknown. However, could potentially increase the number of formal cases heard by the Commission.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission

10. Technical Amendment Necessary: No

11. Other Comments: HB937 would make the State Corporation Commission subject to the Freedom of Information Act and it specifically makes its administrative records available to the public. The Commission currently treats such records as publicly available and the legislation codifies current practice. However, the Commission has consistently taken the position that such codification should occur in Title 12.1 of the Code of Virginia. In fact, two bills have been introduced at the request of the SCC to make its administrative records available to the public through an amendment to Title 12.1 [SB119 and HB1036]. HB937 would also require the Commission to determine whether to make publicly available certain regulatory records for which confidential treatment has been requested, which could potentially increase the number of formal cases heard by the Commission.

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1/15/2014