

State Corporation Commission 2019 Fiscal Impact Statement

1. Bill Number: HB2478

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

2. Patron: Kilgore

3. Committee: Passed Both Houses

4. Title: Virginia Stock Corporation Act.

5. Summary: Updates and modernizes the Virginia Stock Corporation Act (the Act) to conform to many provisions of the 2016 revision of the Model Business Corporation Act produced by the Corporate Laws Committee of the American Bar Association's Business Law Section. The Act is amended to, among other things, (i) provide corporations greater authorization to combine with or convert into non-corporate entities, whether domiciled in Virginia or in another jurisdiction; (ii) provide that a combination or conversion with a business entity that would expose a shareholder to personal liability for the entity's liabilities requires the prior consent of each affected shareholder; (iii) define "expenses" as including reasonable expenses of any kind, including attorney fees; (iv) specify that notices to a corporation be delivered to the corporation's secretary; (v) add an article that establishes processes a corporation may follow to correct a failure to properly authorize a corporate actor an over-issuance of shares; (vi) confirm that a corporation's designation of an exclusive forum for resolution of internal corporate claims trumps any other provision in the Act that permits the action to be brought in another forum; (vii) authorize the articles of incorporation to provide whether shareholders have the right to cumulate their votes in the election of directors; (viii) require that the plaintiff in a derivative suit be a shareholder at the time he made the requisite demand on the corporation to take suitable action, as well as at the time of the commencement of, and during, the proceeding; (ix) clarify that if a shareholder demand for a derivative suit is rejected and a derivative suit is commenced, the plaintiff's right of discovery is limited to facts that are alleged with particularity in the complaint; (x) permit the appropriate circuit court to remove a director who has defrauded the corporation, grossly abused his power, or intentionally inflicted harm to the corporation; (xi) provide officers with protection from liability to the extent that they relied in good faith on the advice or performance of others; (xii) spell out the relief that a court can grant in a proceeding by a director or officer for advance, reimbursement, or indemnity; (xiii) establish a process by which a corporation may abandon an amendment or restatement of its articles of incorporation after it has been adopted by shareholders but prior to its effective date; (xiv) reduce the amount of detail that is required to be included in the articles of amendment regarding the shareholder vote to approve an amendment of the articles of incorporation; (xv) establish requirements for approval of a plan of domestication or conversion by the holders of outstanding shares of each class and series voting as separate voting groups; (xvi) permit a domestic corporation to convert to a type of eligible entity, including a non-stock corporation, partnership, or limited liability company, other than only a limited liability

company as is currently permitted; (xvii) limit the appraisal rights on the sale of substantially all assets to a sale to an interested person; (xviii) provide appraisal rights on a conversion to any unincorporated entity; and (xix) permit a corporation to impose reasonable restrictions on the confidential use and distribution of financial statements and other records that a shareholder receives in the exercise of inspection rights. The measure includes technical changes. Several provisions have a delayed effective date of July 1, 2020.

6. Budget Amendment Necessary: Yes. Although there is a one-time estimated cost of \$250,000 for programming changes, the State Corporation Commission cannot absorb that amount in the current FY2020 budget.

7. Fiscal Impact Estimates: Fiscal Impact Estimates are preliminary.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	0	0	
2020	\$250,000	0	
2021	0	0	
2022	0	0	
2023	0	0	
2024	0	0	
2025	0	0	

8. Fiscal Implications: There will be a one-time estimated programming cost of \$250,000 to implement this legislation in the new clerk's information computer system.

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

10. Technical Amendment Necessary: No

11. Other Comments: None