

State Corporation Commission 2010 Fiscal Impact Statement

1. Bill Number: HB739

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Miller, J.H.

3. Committee: Commerce and Labor

4. Title: **Foreign business entities; temporary certificates.**

5. Summary: Foreign business entities; temporary certificates. Establishes a mechanism for the State Corporation Commission to issue a temporary certificate of authority to transact business in the Commonwealth to a foreign stock or nonstock corporation that (i) has applied for a certificate of authority to transact business and paid the applicable fee and (ii) is in good standing in the state where it is incorporated. The temporary certificate shall be issued without additional charge and shall be valid for 30 days or until the Commission has issued the permanent certificate, whichever occurs first. A similar provision is established for foreign limited liability companies.

6. Fiscal Impact Estimates: See Item 8.

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2010			
2011	129,939	2.5	
2012	135,339		
2013	140,739		
2014	146,139		
2015	151,539		
2016	157,039		

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2010		
2011	(200,000)	
2012	(200,000)	
2013	(200,000)	
2014	(200,000)	
2015	(200,000)	
2016	(200,000)	

7. Budget Amendment Necessary: No

- 8. Fiscal Implications:** The issuance of a temporary certificate of authority/registration would essentially require the processing of an application twice, once to issue the temporary certificate and once to issue the “permanent” certificate. While logging information into the database will only need to be performed once, there will be two instances of research, data entry, microfilming and correspondence issuance. Additionally, there will be a new requirement to determine if an application relates to an entity with a temporary certificate of authority/registration. Also, an additional review by a charter examiner would be required. Based on the foregoing, it is estimated that the Clerk’s Office would require 2 new principal office technicians and 0.5 new charter examiner to meet the additional demands that would be imposed by this legislation.

The immediate issuance of a temporary certificate of authority or registration upon receipt of an application will severely curtail the use of Clerk’s office current expedited service policy for these submissions. In 2009, the Clerk’s Office collected approximately \$130,000 in expedite fees for new foreign corporate applications and \$120,000 in expedite fees for new foreign LLC applications. Assuming 80% of the expedited service fee now collected will be lost, the loss of income from this legislation will be approximately \$200,000 each year.

In calendar year 2009, the Commission issued approximately 3,331 certificates of authority to foreign corporations and 2,462 certificates of registration to foreign limited liability companies. Clerk’s Office staff estimates that 40%-50% of all initial applications for a certificate of authority or registration are rejected because they fail to comply with the requirements of law. However, under this proposal, the Commission would be required to issue a temporary certificate to a foreign entity even if its application may be deficient on its face or is incomplete, if the foreign entity’s name fails to comply with law (see, e.g., § 13.1-762) or if the application fails to include a registered agent for service of process.

The Clerk’s Office computer system will need modification to accommodate the filing, tracking and issuance of temporary certificates. Preliminary estimates in this regard suggest a moderate fiscal impact.

- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission’s Clerk’s Office

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** This bill is identical to Senate Bill 474 and House Bill 792. Senate Bill 474 was introduced at the request of the Governor.