

**State Corporation Commission  
2018 Fiscal Impact Statement**

**\*\*Please See Department of Taxation Document starting on page 3\*\***

**1. Bill Number:** HB471

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

**2. Patron:** Reid

**3. Committee:** House Commerce and Labor

**4. Title:** State and local tax and regulatory exemptions for new small businesses.

**5. Summary:** Exempts new small businesses from (i) payment of unemployment, sales and use, and local license taxes and (ii) certain registration and reporting requirements with the State Corporation Commission. The bill defines an eligible business as any business that has its principal place of business in the Commonwealth, has not been in existence for more than five years, and has fewer than six employees or has paid less than \$5,000 for the purchase or lease of business personal property, including machinery and tools and merchants' capital, since its inception.

**6. Budget Amendment Necessary:** The State Corporation Commission does not need a budget amendment. **However, please see page 3 for the Department of Taxation budget amendment FIS information.**

**7. Fiscal Impact Estimates:** Below for the State Corporation Commission. **Please see page 4, the Department of Taxation fiscal impact estimates FIS information.**

**7a. Expenditure Impact:** For the State Corporation Commission only:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i>      |
|--------------------|----------------|------------------|------------------|
| 2018               | 44,611         | 0                | 02173 (Cardinal) |

**8. Fiscal Implications:** The State Corporation Commission expects to have a one-time programming cost of \$44,611 to implement this legislation. **Also, please see page 4, the Department of Taxation fiscal implications FIS information.**

**9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission; Department of Taxation; Virginia Employment Commission

**10. Technical Amendment Necessary:** No

**11. Other Comments:** Provided by the SCC:

This legislation would allow new “eligible businesses” (Virginia corporations and limited liability companies) to not appoint a registered agent in Virginia, a benefit that is not available to other new and existing business entities of record in the Clerk’s Office of the SCC. In addition, the legislation would permit “eligible businesses” to list the post office address of the Clerk’s Office of the SCC (1300 E Main St, Richmond, VA – a stated owned office building), rather than a traditional business office (which can be a residence), as their legal business address of record. Primary purposes of such an office are to provide a physical location in the Commonwealth where a business entity can be served with legal process or notice and where the SCC can send annual fee assessments. This legislation embodies a change to a long-established public policy that (i) requires each business entity on file in the Clerk’s Office to maintain as a matter of public record a traditional physical office in Virginia and (ii) requires an entity’s registered agent to be at the entity’s registered office.

As a practical matter, a business entity’s registered office address often is used by individuals and other businesses, organizations and governmental agencies to contact the entity by regular mail or personal visit. Thus, this legislation puts the Clerk’s Office of the SCC in the role of providing ministerial services, such as handling mail, for these businesses. This situation raises several concerns – (i) a question of the desirability or appropriateness of a state agency providing ministerial services for privately-owned businesses, (ii) an increase in the workload of the staff of the Clerk’s Office, (iii) these staff efforts are for the benefit of privately-owned businesses, (iv) the likelihood that mail delivered to the Clerk’s Office on behalf of the eligible businesses will be returned to the senders or discarded and, ultimately, not reach the entities.

The definition of “eligible business” on p. 8, line 445, is substantially different from the definition of “eligible business” set out on p. 1, lines 16-18. The definition on p. 1 requires an “eligible business” to be either a Virginia stock corporation or a Virginia limited liability company. The definition on p. 8 equates an “eligible business” to being a “business entity” - an undefined term which arguably includes Virginia and foreign limited partnerships, general partnerships and business trusts in addition to corporations and limited liability companies.

The enactment of this legislation establishes the precedent for other classes of business entities to seek similar benefits.

**Please see “other comments” on page 5 of the Department of Taxation FIS.**

DEPARTMENT OF TAXATION  
2018 Fiscal Impact Statement

ALL COMMENTS LIMITED TO TAXES ADMINISTERED BY THE  
DEPARTMENT OF TAXATION

- |  |  |
|--|--|
| <p>1. <b>Patron</b> David A. Reid</p> <p>3. <b>Committee</b> House Commerce and Labor</p> <p>4. <b>Title</b> State and Local Tax Exemptions for New Small Businesses</p> | <p>2. <b>Bill Number</b> <u>HB 471</u><br/><i>House of Origin:</i><br/><u>X</u> <b>Introduced</b><br/><u>      </u> <i>Substitute</i><br/><u>      </u> <b>Engrossed</b></p> <p><b>Second House:</b><br/><u>      </u> <i>In Committee</i><br/><u>      </u> <b>Substitute</b><br/><u>      </u> <b>Enrolled</b></p> |
|--|--|

5. **Summary/Purpose:**

This bill would exempt eligible new small businesses from payment of state sales and use taxes and local license taxes. The bill would define an eligible business as any business that 1) has its principal place of business in the Commonwealth, 2) has not been in existence for more than five years, and 3) has fewer than six employees or has paid less than \$5,000 for the purchase or lease of business personal property, including machinery and tools and merchants' capital, since its inception.

Under current law, there is no sales tax or local license tax exemption specifically for new small businesses.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.  
Item(s): Page 1, Revenue Estimates  
273 and 275, Department of Taxation

**7. Fiscal Impact Estimates are:** Preliminary (See Line 8.)

*7a. Expenditure Impact:*

| <b><i>Fiscal Year</i></b> | <b><i>Dollars</i></b> | <b><i>Positions</i></b> | <b><i>Fund</i></b> |
|---------------------------|-----------------------|-------------------------|--------------------|
| 2017-18                   | \$214,870             | 0                       | GF                 |
| 2018-19                   | \$239,000             | 2                       | GF                 |
| 2019-20                   | \$238,400             | 2                       | GF                 |
| 2020-21                   | \$243,200             | 2                       | GF                 |
| 2021-22                   | \$248,200             | 2                       | GF                 |
| 2022-23                   | \$253,000             | 2                       | GF                 |
| 2023-24                   | \$260,000             | 2                       | GF                 |

**8. Fiscal implications:**

Administrative Costs

To implement the sales tax exemption in this bill, the Department would incur administrative costs of \$214,870 in Fiscal Year 2018, \$239,000 in Fiscal Year 2019, \$238,400 in Fiscal Year 2020, \$243,200 in Fiscal Year 2021, \$248,200 in Fiscal Year 2022, \$253,000 in Fiscal Year 2023, and \$260,000 in Fiscal Year 2024 as a result of the state tax exemptions in this bill. Such costs would allow for the establishment of an application process, as well as the issuance and tracking of exemption certificates. The costs would include two full-time employee positions beginning in Fiscal Year 2019.

This bill could also have an unknown impact on local administrative costs.

Revenue Impact

This bill would have an unknown negative impact on local revenues. The BPOL tax is a local tax imposed in all cities and 51 counties in the Commonwealth. In 2015, \$683.9 million in BPOL taxes were collected by local governments.

This bill would result in an unknown negative impact on General Fund and Transportation Trust Fund revenues. The magnitude of the impact is unknown because the loss in revenue would depend on the number of small businesses that would be eligible for the sales tax exemption.

**9. *Specific agency or political subdivisions affected:***

Department of Taxation  
Localities that levy business license taxes  
State Corporation Commission

**10. Technical amendment necessary:** *No.*

**11. Other comments:**

BPOL Tax Exemption

The Business, Professional and Occupational License (BPOL) Tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business. Localities may impose the tax on the gross receipts or the Virginia taxable income of the business, except the basis of the BPOL Tax on certain public service corporations must be gross receipts.

Under the current BPOL framework, any locality may charge a license fee in an amount not to exceed:

- \$50 for any locality with a population of 25,000 and greater, or
- \$30 for any locality with a population smaller than 25,000.

The locality may not assess a license tax on gross receipts upon which it charges a license fee. Additionally, the locality may not impose a license tax on a business with gross receipts:

- Less than \$100,000 in any locality with a population greater than 50,000, or
- Less than \$50,000 in any locality with a population of 25,000 but no more than 50,000.

Any business with gross receipts in excess of these thresholds may be subject to license tax at a rate not to exceed the rates set forth below:

- Contracting - sixteen cents per \$100 of gross receipts
- Retail sales - twenty cents per \$100 of gross receipts
- Financial, real estate and professional services - 58 cents per \$100 of gross receipts
- Repair, personal and business services, and all other businesses - 36 cents per \$100 of gross receipts

Retail Sales and Use Tax

The Retail Sales and Use Tax is a state and local tax generally levied on all sales of tangible personal property in the Commonwealth, unless specifically exempted. The current rate of tax is 5.3 percent throughout the Commonwealth except for the Northern Virginia and Hampton Roads transportation planning districts, where the rate is 6 percent. One percent of the

sales tax applied to purchases represents the local option sales tax, which is levied by all localities. New businesses do not currently enjoy a specific exemption from sales tax on all purchases.

Proposal

This bill would exempt eligible new small businesses from payment of state sales and use taxes and local license taxes. The bill would define an eligible business as any business that 1) has its principal place of business in the Commonwealth, 2) has not been in existence for more than five years, and 3) has fewer than six employees or has paid less than \$5,000 for the purchase or lease of business personal property, including machinery and tools and merchants' capital, since its inception.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/20/2018 VB  
HB471F161