DEPARTMENT OF TAXATION
2002 Fiscal Impact Statement

1. Patron: Wampler

2. Bill Number: SB 78

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
__X__ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. Committee: House Finance

4. Title: Gas Severance Tax

5. Summary/Purpose:

This bill would authorize any county or city to levy an additional license tax on every person engaged in the business of severing gases from the earth. The rate of the additional tax would not exceed one percent of the gross receipts from the sale of gases severed within the county or city. The revenues from this tax would be used exclusively for constructing new and improved water systems and lines in areas with natural water supplies that are insufficient from the standpoint of quality or quantity.

Current law allows counties and cities to levy license taxes on businesses severing gases at a rate not to exceed three percent. This bill would authorize localities to increase that rate to a maximum of four percent.

The provisions of this bill would be effective for any license year beginning on or after January 1, 2002.

6. Fiscal Impact Estimates are: Unknown (See line 8).

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would have no impact on state revenues. The revenue impact of this bill on localities is unknown because localities may or may not enact the additional gas severance taxes this bill authorizes. This bill would have a positive impact on local revenues for those localities that elect to impose the additional tax authorized by this bill. Local revenues would depend on the rate of tax imposed and the amount and value of gas produced. The production and price of natural gas varies from day to day and from locality to locality.

If all localities currently levying a gas severance tax were to enact the additional 1% tax authorized by this bill, local revenues would increase by $3.4 million annually, based on historic data provided by the localities that now levy the tax.

Additionally, the provision of this bill that provides that fair market value of gases is measured at the wellhead could have a substantial revenue impact. Currently there are unresolved issues involving the valuation of natural gas that is used or sold for use outside of the locality in which it is severed. Resolution of these issues may affect gross receipts and, thus, the amount of severance taxes collected from the existing and additional gas severance taxes. To the extent that taxpayers engaged in the business of severing gas from the earth take deductions for costs incurred after the natural gas passes the wellhead for depreciation, marketing fees, overhead, maintenance, transportation fees and personal property taxes when valuing gas that is used or sold for use outside of the locality in which it is severed, this bill may have an unknown negative impact on local revenues.

9. Specific agency or political subdivisions affected:

All cities and counties in which businesses sever gases

10. Technical amendment necessary: No.

11. Other comments:

The additional 1% tax authorized by this bill, when combined with the 1% gas severance tax authorized under *Code of Virginia* § 58.1-3712, the 1% Local Coal and Gas Road Improvement and Virginia Coalfield Economic Development Authority tax authorized in *Code of Virginia* § 58.1-3713, and the additional 1% gas severance tax authorized under *Code of Virginia* § 58.1-3713.4, increases the maximum allowable local tax rate on gases to 4%.

Only seven counties currently receive revenues from the gas severance taxes – Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise.

This bill would clarify that, for valuation purposes, gases are placed in transit for shipment outside of the locality when they are severed from the earth at the wellhead. Current law does not address the issue of when gases are placed in transit for shipment outside of the locality. In a recent gas severance license tax appeal ruling, the department concluded that the gases in question were placed in transit for shipment outside of the locality when they were severed from the earth at the wellhead. However, the ruling stated that this conclusion was based on the facts and legal arguments presented in the appeal and that this conclusion only applied to that appeal.

This bill would also provide that any locality levying the additional license tax authorized by this bill shall certify to the state Auditor of Public Accounts by April 1 of each year the following information for the preceding calendar year (i) the moneys collected from such tax, (ii) the amount deposited in its Water Project Development Fund; and (iii) the expenditures from its Water Project Development Fund.

The provisions of this bill would be effective for any license year beginning on or after January 1, 2002. However, the bill would prohibit localities from assessing any interest or penalty for late payment of severance taxes for license year 2002 due solely to the assessment of this additional tax.

c: Secretary of Finance

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