

DEPARTMENT OF TAXATION

2003 Fiscal Impact Statement

1. **Patron** Almand

3. **Committee** Senate General Laws

4. **Title** Virginia Public Procurement Act;
Certain Transactions Prohibited

2. **Bill Number** HB 2533

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would prohibit state agencies from purchasing goods or services from vendors who are required under Virginia's sales tax nexus laws to collect use tax on sales of goods delivered into Virginia but refuse to do so. This legislation would also prohibit state agencies from purchasing goods or services from vendors who are affiliated with such businesses.

The effective date of this bill is not specified.

This is a Department of Taxation bill.

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

6b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2003-04	\$3,300,000	GF
	\$600,000	TTF
	\$1,100,000	Local
2004-05	\$3,300,000	GF
	\$600,000	TTF
	\$1,100,000	Local

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Revenue Implications

The program this bill would authorize is similar to one currently in place in North Carolina. Based on the success of the North Carolina program, it is estimated that a Virginia program would result in additional revenues of \$5.0 million annually, starting in FY 2004. Of this amount, approximately \$1.7 million would go to the benefit of localities and the Transportation

Trust Fund and the remaining \$3.3 million would be deposited to the General Fund. Passage of this bill is assumed in the Executive Budget.

Administrative Costs

TAX estimates that the costs of implementing this program would be minimal. TAX would integrate this program with existing compliance programs.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of General Services

10. Technical amendment necessary: None.

11. Other comments:

Background

Virginia's sales and use nexus statute requires dealers conducting certain activities in the Commonwealth to register and collect sales and use tax. However, many out-of-state merchants refuse to register, contending that because they have insufficient contacts with Virginia, the U.S. Constitution prohibits Virginia from exercising jurisdiction over them.

Faced with this same problem, North Carolina enacted legislation similar to this in 1999. Although North Carolina has not dedicated substantial resources to its program, it has been able to obtain significant voluntary compliance from vendors. In 2002, North Carolina collected over \$8 million in sales and use taxes from vendors registered under its program.

Proposal

This bill would promote compliance with Virginia's sales and use tax laws by prohibiting state agencies from purchasing goods or services from vendors who are required under Virginia's sales tax nexus laws to collect use tax on sales of goods delivered into Virginia but refuse to do so and from vendors who are affiliated with such businesses. The program would work in the following manner:

- TAX would electronically compare its list of registered sales tax dealers with the list of vendors approved to do business with the state maintained by the Department of General Services.
- In the event that TAX determines that an approved vendor is not a registered dealer, TAX would contact the vendor, explain the new program and request that the vendor register to collect and remit sales and use tax.
- If a vendor refuses to register, TAX would notify the Department of General Services to remove the vendor from the list of approved vendors.

- The Department of General Services would post public notice of all prohibited sources on its public Internet procurement Web site and other appropriate Web sites.

Right of Appeal

If removed from the list, vendors would have the right to appeal to TAX and the courts. If the vendor prevails, TAX would inform Department of General Services to restore the vendor to the list of approved vendors. Vendors would not be entitled to damages or attorneys' fees.

Additional Legislation

This bill is identical to SB 938.

cc : Secretary of Finance