

# DEPARTMENT OF TAXATION

## 2003 Fiscal Impact Statement

1. **Patron** Howell

2. **Bill Number** SB 835

3. **Committee** Senate Finance

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Cigarette Manufacturing Tax

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would impose a tax on the manufacturers of cigarettes equal to 20 hundredths of a cent per cigarette manufactured or produced in Virginia. All money collected from the tax would be deposited into the Local Government School Construction Fund.

This bill would be effective January 1, 2004.

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

#### 6a. **Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2002-03	\$54,000	0	GF
2003-04	\$275,740	1	GF
2004-05	\$63,775	1	GF

#### 6b. **Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2002-03	\$0	0	NGF
2003-04	\$145.6 million	0	NGF
2004-05	\$349.44 million	0	NGF

### 7. **Budget amendment necessary:** Yes

ITEM(S): 283 and 285, Department of Taxation

### 8. **Fiscal implications:**

#### **Administrative Costs**

The Department would incur costs of \$54,000 for FY 2003, \$275,740 for FY 2004, and \$63,775 for FY 2005 and years thereafter for systems design, forms development and an additional compliance position for enforcement.

## **Revenue Impact**

This bill would increase Non-General Fund revenue by \$145.6 million in FY 2004 and \$349.44 million in FY 2005.

The Fiscal Year 2004 revenue effect represents only five months of cigarette manufacturers tax revenue because the tax is remitted the month after the cigarettes are manufactured.

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

Department of Taxation

### **10. Technical amendment necessary: None.**

### **11. Other comments:**

This bill would impose a tax on the manufacturers of cigarettes equal to 20 hundredths of a cent per cigarette (or 4 cents per pack of 20 cigarettes) manufactured or produced in Virginia.

## **Disposition of Tax**

All money collected from the payment of the cigarette manufacturing tax, including penalties and interest, would be paid into the state treasury to a special nonreverting fund titled the "Local Government School Construction Fund" (the "Fund"). Any money deposited to or remaining in the Fund during or at the end of a fiscal year would remain in the Fund.

## **Administration of the Fund**

The Department of Education would administer the Fund. For calendar years beginning on and after January 1, 2004, the money in the Fund would be distributed to the localities on a set per pupil amount, based on the latest actual adjusted average daily membership as determined by the Department of Education.

Money in the Fund would be distributed to localities within 30 days after the end of each calendar quarter beginning with the calendar quarter ending on March 31, 2004. The total amount to be distributed for a calendar quarter must equal the balance in the Fund at the end of such quarter as determined by the Comptroller. The Department of Education would certify in writing to the Comptroller the amount to be distributed from the Fund to each county and city. Counties would pay into town treasuries the proper amounts.

## **Usage of Proceeds**

All money distributed by the Fund would be used by localities solely for public school construction, public school additions and renovations, including retrofitting and enlarging public school buildings; public school infrastructure, including technology infrastructure; site

acquisition for public school buildings and public school facilities; or debt service payments on such projects completed subsequent to December 31, 1993.

No money distributed to localities may be used as a basis for reducing state basic aid payments. No locality may use these funds to reduce its local appropriation for public education purposes below the amount it appropriated for public education purposes in its fiscal year beginning in calendar year 2002.

### **Tax Administration**

The Department of Taxation would administer the Cigarette Manufacturing Tax and promulgate regulations for its administration and enforcement.

Beginning with the month of February 2004, every manufacturer, on or before the twentieth day of each calendar month, would file a return with the Department stating the number of cigarettes it manufactured or produced in Virginia during the preceding calendar month and any other information required by the Department. The return would be accompanied with the payment of the tax.

### **Penalties**

When any manufacturer fails to make any return or pay the full amount of the tax due, a penalty for the failure to file a return or pay will be imposed in the amount of 5 percent if the failure is for not more than 1 month, with an additional 2 percent for each additional month, or fraction thereof, during which the failure continues, not to exceed 20 percent in the aggregate. The penalty cannot be less than \$50 or exceed \$1,000 for any monthly return.

In the case of a false or fraudulent return, or in the case of a willful or fraudulent failure to file a return, a specific penalty of 25 percent of the amount of the proper tax, but not to exceed \$10,000 for any monthly return, would be assessed. All penalties and interest would be payable by the manufacturer and collectible by the Department in the same manner as if they were a part of the tax imposed.

It would be prima facie evidence of intent to defraud the Commonwealth of Cigarette Manufacturing Tax when any manufacturer reports his cigarettes manufactured and produced in the preceding month at 50 percent or less of the actual amount.

### **Other Legislation**

**HB 2313** would impose a tax on cigarette manufacturers equal to 4 cents per pack to be applied to a special fund called the "Local Government School Construction Fund".

cc : Secretary of Finance

Date: 01/18/03/NMS

