

DEPARTMENT OF TAXATION

2006 Fiscal Impact Statement

1. **Patron** Vincent F. Callahan, Jr.
2. **Bill Number** HB 407
House of Origin:
 X **Introduced**
 Substitute
 Engrossed
3. **Committee** House Finance
4. **Title** Income Tax: Expansion of Exceptions to Secrecy of Tax Information and the Duties of the Tax Commissioner
- Second House:**
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would authorize the Department of Taxation ("TAX") to provide the Department of Social Services ("DSS") information on their clients regarding the clients' income tax filing status, number and type of dependents, and use of the federal earned income tax credit. This bill would also require TAX to obtain information from each income taxpayer regarding whether the federal earned income tax credit was claimed and, if taken, the amount of such credit and provide it to DSS. This information would not be required to be collected if it could be calculated based on other information available in the income tax return of the taxpayer.

The effective date of this bill is not specified.

6. No Fiscal Impact or Fiscal Impact Estimates are: Preliminary. (See Line 8.)

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2005-06	\$0	GF
2006-07	\$128,325	GF
2007-08	\$0	GF
2008-09	\$0	GF
2009-10	\$0	GF
2010-11	\$0	GF
2011-12	\$0	GF

7. Budget amendment necessary: Yes.

ITEM(S) 284 and 286, Department of Taxation

8. Fiscal implications:

TAX would incur costs of \$128,325 for FY 2007 for forms development and systems modifications. This bill would require TAX to obtain earned income tax credit information that is not needed for the administration of Virginia's income tax, and to modify its systems to capture and share this information with DSS.

This bill would have no revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Social Services

10. Technical amendment necessary: Yes.

As drafted, this bill would place the provision for DSS information in the list of actions and information that are excluded from any protection from disclosure. This would allow the specified tax information on every DSS client to be disclosed in response to a request from anyone under the Freedom of Information Act. Although many exceptions to confidentiality are provided for in the law, all are subject to limitations in order to ensure that only the disclosure necessary to accomplish the specified purpose is authorized. Thus, the recommended provision should be relocated to an existing exception for DSS.

Page 1, Line 34, at the beginning of the line
Strike all of Lines 34, 35 and 36.

Page 1, Line 53, after income
Insert: , filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed, as

This bill would require DSS to transmit certain information to TAX so that TAX would be able to identify the clients of DSS. This is possibly a violation of Va. Code § 2.2-3803. As a result, DSS has recommended that an amendment in the nature of a substitute be offered in order to resolve this possible conflict by inserting the following new subsection in § 2.2-3803:

D. Notwithstanding the provisions of subsection A., the Department of Social Services may disseminate client information to the Department of Taxation for the purposes of providing specified tax information as set forth in 58.1-3.

11. Other comments:

Federal Earned Income Tax Credit

The Earned Income Tax Credit (EITC) is a refundable federal income tax credit for low-income working individuals and families. Congress originally approved the tax credit legislation in 1975 in part to offset the burden of social security taxes and to provide an incentive for employment. To qualify, taxpayers must meet certain requirements and file a tax return, even if they did not earn enough money to be obligated to file a tax return.

For 2005, in order to be eligible for the credit, the earned income and the adjusted gross income of the taxpayer must each be less than \$35,263 (\$37,263 married filing jointly) for those with two or more qualifying children, \$31,030 (\$33,030 married filing jointly) for those with one qualifying child, and \$11,750 (\$13,750 married filing jointly) for those with no qualifying children.

Proposal

This bill would authorize the TAX to provide DSS information on their clients regarding the clients' income tax filing status, number and type of dependents, and use of the federal earned income tax credit. In order to accomplish this, TAX would have to receive sufficient information from DSS in order to properly identify the clients of DSS. This, however, may be a violation of *Va. Code* § 2.2-3803, which pertains to the collection and dissemination of data. Thus, DSS has suggested that an amendment in the nature of a substitute be offered in order to resolve this conflict.

This bill would also require TAX to obtain information from each income taxpayer regarding whether the federal earned income tax credit was claimed and, if taken, the amount of such credit and provide it to DSS. This information would not be required to be collected if it could be calculated based on other information available in the income tax return of the taxpayer.

The effective date of this bill is not specified.

Other Legislation

Senate Bill 42 is identical to this bill.

cc : Secretary of Finance

Date: 01/16/2006 AMS
HB407F161