

Department of Planning and Budget 2008 Fiscal Impact Statement

1. Bill Number: SB1

House of Origin ___ Introduced X Substitute X Engrossed
Second House X In Committee ___ Substitute ___ Enrolled

2. Patron: Houck

3. Committee: House Transportation

4. Title: Repealing civil remedial fees on certain drivers.

- 5. Summary:** The proposed legislation would repeal §46.2-206.1, Code of Virginia, which provides for the imposition of civil remedial fees on certain drivers. The bill would also provide that those who paid civil remedial fees may file a petition with the General District Court in which they live to have the order imposing the fees vacated. There is to be no charge for filing the petition. Upon a vacation of the court order imposing the fees, a refund shall be paid for the full amount paid for the civil remedial fee.

The Department of Motor Vehicles (DMV) is to issue notices to all those subject to the remedial fees notifying them of their right to petition the court for a vacation of the order and a full refund. The proposed legislation would prohibit DMV from suspending a driver's license solely for failure to pay a civil remedial fee.

The bill also provides that any funds collected from civil remedial fees that are not refunded shall be deposited into the Literary Fund. The bill contains an emergency clause and would become effective upon passage by the General Assembly and signing by the Governor.

6. Fiscal Impact Estimates: Preliminary.

6a. Expenditure Impact: The proposed legislation would increase the workload of DMV and Courts. DMV estimates a cost of approximately \$17,000 to mail notifications to impacted residents. The expenditure impact to Courts is not as clear. See Items 8 and 11 for further analysis.

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2008-09	(\$61.8 million)		NGF
2009-10	(\$65.4 million)		NGF
2010-11	(\$65.4 million)		NGF
2011-12	(\$65.4 million)		NGF
2012-13	(\$65.4 million)		NGF
2013-14	(\$65.4 million)		NGF

7. **Budget Amendment Necessary:** Yes, a reduction in Item 455 of \$61.8 million in FY 2009 and \$65.4 million in FY 2010.

The Office of the Attorney General has concerns with the ability of the legislative branch to release citizens from assessments contained in court orders. Language included in the budget may be necessary to address the issue.

8. **Fiscal Implications:** The revenues generated from the civil remedial fees are dedicated to the highway maintenance program. Current law directs all maintenance funding needs to be met prior to construction expenditures. In FY 2008, maintenance funding required an infusion of \$260 million from the construction program. The repeal of the civil remedial fees will increase the amount of construction funding that must be used for maintenance activities. A repeal of the civil remedial fees will result in an estimated revenue loss of more than \$385 million to the highway construction program in the next six years. The bill includes no provisions to offset this revenue loss.

The provisions of the bill would significantly increase the workload of Courts for approximately six months to one year as the petitions are filed. The Supreme Court estimates approximately 50,000 people will be eligible to petition for a vacation of the order imposing the fees. Upon receipt of the petition, the clerk will need to verify the assessment of the civil remedial fee and determine the appropriate refund. The judge would then vacate the assessment of the fees and the clerk would transmit that order to the Department of Accounts.

The speed of the verification process would depend on the accuracy of the information provided by the petitioner. The legislation provides that the petitions must be filed in the General District Court where the person lives, regardless of the jurisdiction in which the assessment was ordered. The petitioner's home District Court may not have been the court that assessed the civil remedial fees, and therefore may not possess the appropriate records to verify the assessment and the amount of the refund. The petitioned district court would need to identify and contact the assessing court and have the appropriate documentation transferred. The additional verification will delay the processing of the petitions and the refunding of the fees.

Clerk positions in the courts system are currently understaffed. The additional workload may exacerbate the situation. The Supreme Court is unable to estimate the additional cost associated with addressing the provisions of this bill.

9. **Specific Agency or Political Subdivisions Affected:** Department of Motor Vehicles, Virginia Department of Transportation, and Courts

10. **Technical Amendment Necessary:** None.

11. **Other Comments:** The Office of the Attorney General has indicated they have concerns with provisions of the legislation that will need to be addressed prior to enrollment.

The revenue impact shown above in Item 6 b. is based upon the projections developed by DMV and the Department of Taxation in March 2007. As was noted by the Joint Legislative Audit and Review Commission in its December 5, 2007, report to the Joint Commission on

Transportation Accountability, while inherently uncertain, these revenue estimates represent “a concerted effort to develop a projection based on the best available information.”

The actual revenue collected from the assessment of the conviction related fees for the six month period of July 1, 2007, through December 30, 2007, was \$3.9 million. According to the data received from the Courts, the total amount of fees assessed by the Courts during that same period was almost \$9.9 million.

These two sources of information indicate that the civil remedial fees imposed pursuant to §46.2-206.1, Code of Virginia, may not generate the amount of revenue that had been projected.

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cc: Secretary of Transportation