DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron J. Chapman Petersen

2. Bill Number SB 115

House of Origin:
X **Introduced**
___ **Substitute**
___ **Engrossed**

Second House:
___ **In Committee**
___ **Substitute**
___ **Enrolled**

3. Committee Senate Finance

4. Title Local Surcharge; Retail Sales of Fuels

5. Summary/Purpose:

This bill would authorize all cities and counties to impose a 1% surcharge on the retail price of fuels subject to the Virginia Fuels Tax that are sold at retail within the city or county. The surcharge would be effective April 1 of the year immediately following the calendar year in which an ordinance to impose the surcharge was adopted. The surcharge would be collected and administered by the Department of Taxation in the same manner as the Retail Sales and Use Tax. The revenues from the surcharge would be required to be used by each locality solely for funding construction, improvements, additions, acquisition costs of directly related real property, and the enhancement of roads or highways.

The effective date of this bill is not specified.

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

7. Budget amendment necessary: Yes.
ITEM(S): 262 and 264, Department of Taxation

8. Fiscal implications:

Administrative Costs

TAX would incur administrative costs in implementing this bill of $410,000 in Fiscal Year 2011, $150,000 in Fiscal Year 2012, $220,000 in Fiscal Year 2013, $220,000 in Fiscal Year 2014, $220,000 in Fiscal Year 2015, and $230,000 in Fiscal Year 2016. The administrative costs would include costs for new forms and mailings, two auditors to audit the new surcharge statewide and one customer service representative to answer questions regarding the surcharge and to adjust accounts. The Department of Taxation would receive revenues from the local surcharge as reimbursement for the direct costs of administering the new tax.

Revenue Impact

The amount of local revenue that would be raised by the additional tax is unknown, as it depends upon imposition by each local government. If the surcharge was imposed by every locality with an April 1, 2011 effective date, this bill would provide an estimated revenue gain in local revenues of $22.0 million in Fiscal Year 2011, $146.2 million in Fiscal Year 2012, $160.6 million in Fiscal Year 2013, $176.1 million in Fiscal Year 2014, $192.7 million in Fiscal Year 2015, and $207.4 million in Fiscal Year 2016. The estimate does not account for price variations among the different regions. The consumption of fuels and price per gallon estimates used to determine the revenue impact of this bill were based on the December 2009 Commonwealth Transportation Fund forecast and the December 2009 Short-term Energy Outlook from the Energy Information Administration, respectively.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: Yes.

To clarify that the direct costs of administration of the surcharge by the Department of Taxation will be added to the funds appropriated to the Department, the following technical amendment is suggested:

Page 1, Line 54, After be
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11. Other comments:

Generally

In addition to the 4% state sales and use tax imposed upon the retail sale and use of tangible personal property in Virginia, localities are permitted, pursuant to *Va. Code* §§ 58.1-605 and 606 to impose a general retail sales tax at the rate of 1% to provide revenue for the general fund of that locality. The local sales tax is administered and collected by the Tax Commissioner, and subsequently credited to the account of the locality in which the sale was made, without regard to the city or county of possible use by the purchasers.

Prior to January 1, 2010, the Motor Vehicle Fuel Sales Tax was imposed in the Northern Virginia Transportation District and the Potomac and Rappahannock Transportation District at the rate of 2 percent of the sales price charged by retail dealers of fuel to their customers. The tax was collected by retail dealers of fuel from their customers and remitted to TAX.

Effective January 1, 2010, the Motor Vehicle Fuel Sales Tax is collected by distributors of fuels at the rate of 2.1 percent of the sales price charged by the distributor to any retail dealer for retail sale in the Northern Virginia Transportation District and the Potomac and Rappahannock Transportation District. The revenue from the tax is distributed monthly to the appropriate district and used for transportation needs within the district.

The member localities of the Northern Virginia Transportation District are the Counties of Arlington, Fairfax and Loudoun and the Cities of Alexandria, Fairfax, and Falls Church; and the member localities of the Potomac and Rappahannock Transportation District are the Counties of Prince William and Stafford and the Cities of Fredericksburg, Manassas and Manassas Park. Spotsylvania County will join the Potomac and Rappahannock Transportation District effective February 15, 2010.

Proposal

This bill would authorize all cities and counties to impose a 1% surcharge on the retail price of fuels subject to the Virginia Fuels Tax that are sold at retail within the city or county. The surcharge would be effective April 1 of the year immediately following the calendar year in which an ordinance to impose the surcharge was adopted. The revenues from the surcharge would be required to be used by each locality solely for funding construction, improvements, additions, acquisition costs of directly related real property, and the enhancement of roads or highways.

The Department of Taxation would administer the surcharge in the same manner as the Retail Sales and Use Tax, which would mean that the Retail Sales and Use Tax definitions and exemptions would be used for the local surcharge, except as provided by the bill. The same exemption certificates and similar forms would be used for the local surcharge. The local surcharge would be collected monthly and due on the same date as the Retail Sales and Use Tax. In addition, the Retail Sales and Use Tax compliance provisions would apply to the local surcharge and the surcharge would be enforced in the same manner as the Retail Sales and Use Tax, including auditing by the Department of Taxation.

However, the bill does not specifically allow the dealer discount available for the Retail Sales and Use Tax to be used to compensate dealers for collecting the local surcharge. Any dealer holding a certificate of registration who submits his sales tax return and the amount of tax due on time may take a discount of either 4%, 3%, or 2%, depending on his monthly taxable sales, of the first 3% of the Virginia Retail Sales and Use Tax he collects as compensation. The introduced executive budget repeals the dealer discount allowed for the Retail Sales and Use Tax.

The effective date of this bill is not specified.

Similar Legislation

House Bill 269 would increase the rate of the Motor Vehicle Fuel Sales Tax imposed in the Northern Virginia Transportation District and the Potomac and Rappahannock Transportation District from 2.1% to 4.2%.

House Bill 971 would impose a motor vehicle fuel sales tax at a rate of 1% of the sales price charged by distributors to retail dealers. The bill would also impose an additional 0.5

percent state retail sales and use tax and an increase in the grantor's tax by a rate of $0.40 per $100 of value in Northern Virginia with the revenues dedicated to the Northern Virginia Transportation Authority for transportation needs.

Senate Bill 164 would eliminate the 0.5 percent of the 2.5 percent retail sales and use tax on food for human consumption currently designated for the Transportation Trust Fund and raise the allowed credit for low-income taxpayers from 20% to 30%. The bill would also increase the Motor Vehicle Sales and Use Tax by 0.5 percent, increase the tax on motor vehicle rentals by 1 percent, and impose a new 5 percent tax on the wholesale price of fuels subject to the Virginia Fuels Tax. The new revenue would be transferred to the newly established 21st Century Transportation Fund.

Senate Bill 181 would authorize state agencies and state authorities, upon approval of the Governor, to enter agreements with private entities under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002 for the development of a project by the private entity that would provide for the private entity to be paid grants from a portion of the growth in the state tax revenues attributable to the development of the project.

cc : Secretary of Finance

Date: 1/24/2010 AM
DLAS File Name: SB115F161