

Commission on Local Government

Estimate of Local Fiscal Impact
2012 General Assembly Session

Bill: **HB 24**

Patron: **Cole**

Date: **January 23, 2012**

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

I. Bill Summary

HB 24 requires that the local license (BPOL) tax be imposed on the Virginia taxable income of a business for any locality that did not impose a BPOL tax in license year 2011 and subsequently elects to impose a BPOL tax. Under current law, the tax base upon which the local license tax is imposed is the gross receipts or gross income of businesses with a place of business in the locality.

The Business, Professional, and Occupational License (BPOL) tax was established in Va. Code § 58.1-3700. It is currently levied by all 39 cities, 46 of 95 counties, and 123 of 190 incorporated towns (as of 2010). The maximum allowable charge for a business license is dependent on the size of the locality: \$30 for populations under 25,000 and \$50 for populations over 25,000. However, the locality may not charge a tax on gross receipts if it charges a license fee. If the locality taxes gross receipts, the rate varies based upon the industry. The rates are listed in the provisions of Va. Code §58.1-3706 and are (1) sixteen cents per \$100 of gross receipts for contracting, (2) twenty cents per \$100 of gross receipts for retail sales, (3) fifty-eight cents per \$100 of gross receipts for financial, real estate, and professional services, and (4) thirty-six cents per \$100 of gross receipts for repair, personal, and business services, as well as other businesses.

II. Fiscal Impact Analysis

The Commission on Local Government (CLG) received fiscal impact statements from 20 localities - the Counties of Albemarle, Campbell, Chesterfield, Carroll, Henrico, Prince Edward, Pulaski, Rappahannock, Spotsylvania, and York; the Cities of Chesapeake, Danville, Lynchburg, Radford, Richmond, Roanoke, and Winchester; and the Towns of Blacksburg, Christiansburg, and Hillsville.

Prince Edward County was unable to estimate the impact of the bill. They currently impose the merchants' capital tax instead of BPOL. Va. Code § 58.1-3704 states that a locality may not impose the merchants' capital tax if it already levies BPOL.

Nineteen of the respondents – the Counties of Albemarle, Campbell, Carroll, Chesterfield, Henrico, Pulaski, Rappahannock, Spotsylvania, and York; the Cities of Chesapeake, Danville, Lynchburg, Radford, Roanoke, Richmond, and Winchester; and the Towns of Blacksburg, Christiansburg, and Hillsville – indicated that they would not experience a decrease in revenues as a result of HB 24. The Counties of Albemarle, Campbell, Chesterfield, Henrico, Spotsylvania, and York; the Cities of Chesapeake, Danville, Lynchburg, Radford, Richmond, and Winchester; and the Town of Blacksburg all currently impose a BPOL tax; therefore, the bill does not apply to them.

The City of Roanoke expressed concern that the bill represents a first step in the direction toward a statewide move of taxing BPOL at the net income level. They indicated that assuming 5% profit margins across the city, they would lose \$11,074,000 in current dollars if the bill applied to their BPOL collections.

The Town of Christiansburg indicated that if they did not have a BPOL levy, they could have potentially lost \$1,416,400 as a result of taxing net income instead of gross receipts.

III. Conclusion

Under the provisions of HB 24, all jurisdictions that currently levy a BPOL tax on gross receipts would be allowed to continue in the future. Therefore, the bill only applies to localities that do not currently levy the BPOL tax. Any such jurisdiction that decides to levy the tax in the future is likely to see smaller revenues because they will be taxing profit margins rather than gross sales.

In order for a locality to implement BPOL in the future and generate the same tax receipts as those who levy the tax at present, the maximum rate of taxation would need to be adjusted. HB 24 does not address the rate of taxation.

Localities that decide to levy BPOL in the future will do so on profits, which will vary from business to business. In addition, jurisdictions will not be able to levy the tax on businesses that do not generate a profit.