DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement

1. Patron David L. Englin

2. Bill Number HB 1032

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

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

3. Committee House Finance

4. Title State and Local Taxes; Requires Sunset Dates on all Tax Preference Bills

5. Summary/Purpose:

This bill would prohibit any committee of the Virginia General Assembly from reporting any bill that proposes to establish, increase, or expand a state or local tax exemption, credit, deduction or any other reduction in tax liability, unless the bill contains an expiration date of not longer than five years from the effective date of the bill.

Under current law, although expiration dates are tied to some tax preference legislation, there is no mandate that tax preferences contain expiration dates.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. No Fiscal Impact. (See Line 8.)

8. Fiscal implications:

This bill would have no direct impact on state or local revenues. This bill may influence future legislative action, which could subsequently impact state or local revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation
All Localities

10. Technical amendment necessary: No.

11. Other comments:

Generally

State and local policymakers often rely on expiration or "sunset" dates to ensure that tax preferences are discontinued if the legislature determines that they are no longer relevant or desirable. They can also be used to trigger regular review of the tax preferences to determine the preference's utilization and effectiveness.

Under current law, there is no statutory requirement that tax preferences contain sunset dates. Of the 187 total tax preferences that were in effect as of November 2011, a total of 167 preferences did not have sunset dates. Further, in the event that a preference contains an expiration date, there is no requirement that the legislature review or evaluate the effectiveness of the preference as the expiration date approaches.

In November, 2011, the Joint Legislative Audit and Review Commission ("JLARC") issued a draft Tax Preferences Report indicating that in the past five years, only five public policy tax preferences with sunset dates have been allowed to expire. These included: 1) the Investment in Technology Industries in Tobacco-Dependent Localities Tax Credit; 2) the Low-Income Housing Credit; 3) the Rent Reduction Tax Credit; 4) the Research and Development Activity Occurring in Tobacco Dependent Localities Tax Credit, and 5) and the Data Centers Exemption, which was replaced with a new exemption. JLARC concluded that sunset dates on tax preferences in Virginia, and often in other states, appear to be largely ineffective at eliminating tax preferences.

Other States

The states that have imposed sunset dates on their tax preference statutes have varied with respect to the evaluation of the preferences to which they are attached.

Oregon: Based on 2009 legislation, most new tax credits within the state's tax system are scheduled to sunset six years after they are enacted. Between 2009 and 2011, one tax preference out of 380 preferences was eliminated in Oregon as a result of a sunset date.

Nevada: As a result of a 2008 state constitutional amendment, exemption legislation cannot be adopted without a sunset date. Nevada does not have a standard number of years before preferences sunset.

North Carolina: Between 2009 and 2011, of a total of 302 tax preferences, three had been eliminated due to sunset dates.

Tax Preference Reports Released by the Department

The Department issues an annual Corporate Tax Preferences Report, which includes the dollar amount of corporate income credits claimed by corporations, as well as summary information regarding the types of taxpayers that claim corporate income tax relief. In addition, the Department releases its Annual Report to the Governor each year. The Department also conducts an annual Sales Tax Expenditure Study, which examines the Retail Sales and Use Tax exemptions that are categorized as Miscellaneous Exemptions and Nonprofit Exemptions.

Proposal

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Similar Bills

House Bill 68 would prohibit any bill from being introduced that refers to a tax by any word or words other than "tax."

House Bill 146 would establish the Commission to oversee the evaluation of Virginia's tax preferences.

House Bill 246 would prohibit any committee of the General Assembly from reporting a new state tax credit or renewing an existing state tax credit unless such bill contains an expiration date of not longer than five years from the effective date of the new or renewed state tax credit, and would require the State Tax Commissioner to report annually the estimated revenue loss of each state tax credit scheduled to expire in the next two calendar years.

House Bill 777 would establish a joint subcommittee to oversee the evaluation of Virginia's tax preferences.

House Joint Resolution 52 would establish a joint subcommittee to study reforming Virginia's tax structure.

cc : Secretary of Finance

Date: 1/21/2012 KP
DLAS File Name: HB1032F161