

**DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement**

REVISED 2/28

1. **Patron** Mark L. Cole

2. **Bill Number** HB 10

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Senate Finance

4. **Title** Business, Professional, and Occupational
License Tax; Limits on Imposition and Rates

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide localities with the option to impose the Business, Professional and Occupational License ("BPOL") tax on the Virginia taxable income of a corporation and the net income of a sole proprietor or pass-through entity instead of on gross receipts. Localities would be required to impose the BPOL tax using the same tax base for all businesses. However, the BPOL tax on i) telephone and telegraph companies, ii) water companies, and iii) certain heat, light and power companies; the license taxes imposed for the severance of coal, gas, or oil; and the license taxes on contractors, direct sellers, and wholesale merchants would be required to be imposed on gross receipts and in accordance with the specific provisions currently provided for those taxes, including the maximum rate. This bill would also provide that a locality may not impose the BPOL tax or fee at a rate higher than the rate imposed by the locality for license year 2011 for license years before 2015.

Currently, the Va. Code limits the rates that localities may impose for the BPOL tax and fee. The maximum rates for the BPOL fee are determined by the population of the locality and the maximum rates for the BPOL tax are determined by the type of business. Localities that imposed a higher rate structure on January 1, 1978 are allowed to continue to impose the tax at those rates.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. Fiscal implications:

This bill would have no impact on state revenues. To the extent that localities may not increase the rates of the BPOL tax or fee in excess of the rate imposed for license year 2011 for license years before 2015, this bill would have an unknown revenue impact on localities. To the extent that the gross receipts of the businesses in a locality differ from the Virginia taxable income or net income of the businesses in the locality, the bill would

have an unknown revenue impact on any locality that opts to calculate the BPOL tax on income. In Fiscal Year 2010, the BPOL tax generated more than \$632.2 million for the counties, cities, and towns that imposed the tax. The BPOL tax is imposed in all 39 cities, 46 of the 95 counties, and many of the towns of the Commonwealth.

9. Specific agency or political subdivisions affected:

All localities that impose the BPOL tax or fee.

10. Technical amendment necessary: No.

11. Other comments:

BPOL Tax

The Business, Professional and Occupational License (BPOL) tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business. The BPOL tax is a tax on gross receipts, not net income. Under current BPOL law, any locality may charge a license fee in an amount not to exceed:

- \$50 for any locality with a population of 25,000 and greater
- \$30 for any locality with a population smaller than 25,000

The locality may not assess a license tax on gross receipts upon which it charges a license fee. Additionally, the locality may not impose a license tax on a business with gross receipts:

- less than \$100,000 in any locality with a population greater than 50,000
- less than \$50,000 in any locality with a population of 25,000 but no more than 50,000.

Any business with gross receipts in excess of these thresholds may be subject to license tax at a rate not to exceed the rates set forth below:

- Contracting - sixteen cents per \$100 of gross receipts
- Retail sales - twenty cents per \$100 of gross receipts
- Financial, real estate and professional services - fifty eight cents per \$100 of gross receipts
- Repair, personal and business services, and all other businesses - thirty six cents per \$100 of gross receipts.

Localities that imposed a higher rate structure on January 1, 1978 are allowed to continue to impose the tax at those rates.

Proposal

This bill would provide localities with the option to impose the Business, Professional and Occupational License ("BPOL") tax on the Virginia taxable income of a corporation and the net income of a sole proprietor or pass-through entity instead of on gross receipts.

Localities would be required to impose the BPOL tax using the same tax base for all businesses. However, the BPOL tax on i) telephone and telegraph companies, ii) water companies, and iii) certain heat, light and power companies; the license taxes imposed for the severance of coal, gas, or oil; and the license taxes on contractors, direct sellers, and wholesale merchants would be required to be imposed on gross receipts and in accordance with the specific provisions currently provided for those taxes, including the maximum rate. This bill would also provide that a locality may not impose the BPOL tax or fee at a rate higher than the rate imposed by the locality for license year 2011 for license years before 2015. The Virginia taxable income or net income, as applicable, of businesses subject to a license tax based on income in more than one locality in the Commonwealth, or in more than one state, would be apportioned to the jurisdictions on the basis of payroll.

This bill would also provide that a locality may not impose the BPOL tax or fee at a rate higher than the rate imposed by the locality for license year 2011 for license years before 2015.

The effective date of this bill is not specified.

cc : Secretary of Finance
Date: 2/28/2012 AM
DLAS File Name: HB10FE161