

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** David J. Toscano

3. **Committee** House Rules

4. **Title** Joint Subcommittee to Evaluate Tax Preferences.

2. **Bill Number** HB 406

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

The Department understands that the Patron will offer amendments to this bill. This fiscal impact statement is drafted based on those amendments.

This bill would amend the powers and duties granted to the Joint Subcommittee to Evaluate Tax Preferences. This bill would require the Joint Subcommittee to adopt an initial schedule for reviewing tax preferences by October 1, 2014, which would be updated annually by October 1. For economic development tax preferences, the performance measures established by the Joint Subcommittee would require the creation or the maintenance of a minimum number of new full-time jobs. In evaluating economic development tax preferences, the Department of Taxation would be required to measure the effectiveness of such preferences using the performance measures established by the Joint Subcommittee or such other objective criteria as it determines necessary based on availability of data. This bill would require the Joint Subcommittee to submit an annual report to the General Assembly and the Governor by October 1 of its recommendations. Such report would cover the period from the last annual report.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Fiscal Impact

This bill would have no impact on General Fund revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

Because it is impossible to identify the beneficiaries of some tax preferences, such as those entitled to claim self-executing sales and use tax exemptions, the following amendments limit the requirement to report on some performance measures.

Page 1, Line 29, after: *subdivision 3*

Strike; *and*

Insert: *or*

Page 1, Line 30 after: *necessary*

Insert: *based on availability of data. If adequate data is not readily available to measure the performance of an economic development incentive the Department shall so report.*

11. Other comments:

JLARC Tax Preferences Study

The 2010 General Assembly passed Senate Joint Resolution 21, which required the Joint Legislative Audit and Review Commission (JLARC) to conduct a two-year examination of Virginia individual income tax, corporate income tax, and retail sales and use tax preferences. In its report, JLARC was required to do the following:

- Determine which individual income, corporate income, and sales and use tax preferences are being claimed or taken and to what extent;
- Provide an estimate of the fiscal impact of all such tax preferences claimed or taken;
- Examine the public policies for which the tax preferences were established and whether the desired public policies have been achieved;
- Report on whether other states routinely provide a sunset date for their tax preferences; and
- Establish a proposed mechanism or processes for the ongoing evaluation of the effectiveness of such tax preferences in bringing about the desired public policies for which the tax preferences were established.

In its report (2012 Senate Document No. 4), JLARC provided an overview of Virginia's tax preferences and the overall fiscal impact of these preferences. JLARC then divided existing preferences into various categories and determined the utilization of preferences within each category. The report identified several factors that hinder the effectiveness of certain tax preferences, including the limited use of sunset dates in tax preference bills and the lack of a formal process for evaluating the effectiveness of tax preferences. The report concluded with the suggestion that the General Assembly establish a joint subcommittee to oversee an ongoing evaluation process.

Corporate Tax Preferences Report

In 2005, the General Assembly directed the Department to issue an annual report detailing the amount of income tax relief granted to corporations in the Commonwealth. This report must include the total dollar amount of income tax subtractions, deductions, exclusions, exemptions and credits claimed cumulatively by corporations. Beginning in 2010, this report also includes summary information regarding the types of taxpayers that claim corporate income tax relief, as well as information regarding the number of companies that have qualified for the Major Business Facility Job Tax Credit and the amount of such credits.

The Tax Commissioner is required to issue the corporate tax preferences report annually to the members of the House Appropriations Committee, the House Finance Committee, and the Senate Finance Committee. This report does not reflect all of the exemptions and exclusions available to corporations because not all of them are reported on the Virginia income tax return.

Fiscal Year Tax Credit Report

Since 2011, the Department has published an annual fiscal year tax credit report as part of its annual report. This report shows the number of individual and corporate taxpayers that claim each tax credit and the dollar amount of tax credits that are claimed each fiscal year.

Joint Subcommittee to Evaluate Tax Preferences

The 2012 General Assembly established the Joint Subcommittee to Evaluate Tax Preferences to oversee the evaluation of Virginia's tax preferences. The Joint Subcommittee has a total membership of fourteen legislative members, consisting of eight members of the House of Delegates and six members of the Senate. The eight members of the House of Delegates consist of six members of the House Committee on Finance and two members of the House Committee on Appropriations who are appointed by the Speaker of the House of Delegates, upon the recommendations of the Chairman of the House Committee on Appropriations and the Chairman of the House Committee on Finance, respectively. The six members of the Senate are appointed by the Senate Committee on Rules, upon the recommendation of the Chairman of the Senate Committee on Finance. The Joint Subcommittee is responsible for the following:

- Undertaking a systematic review of Virginia's tax preferences;
- Adopting a schedule for reviewing tax preferences based upon program areas to which the preferences relate;
- Establishing procedures and performance measures to evaluate the effectiveness of tax preferences;
- Requesting that the Governor direct the Department of Taxation staff to conduct independent evaluations of tax preferences in promoting economic activity, generating revenue, or otherwise achieving their intended policy purpose and report the findings to the Joint Subcommittee;

- Recommending a process and guidelines for establishing expiration dates for tax preferences; and
- Submitting an annual report to the General Assembly and the Governor of its recommendations, including which tax preferences should be continued, expanded, modified, or eliminated.

The Joint Subcommittee is authorized to establish a technical advisory group to assist the Joint Subcommittee and the Department of Taxation. Such technical advisory group may consist of individuals with tax policy or economic expertise and legislative staff. The Department of Legislative Services is required to provide legal, research, policy analysis, and other services requested by the Joint Subcommittee. Technical assistance is provided by the staffs of the House Committee on Appropriations and the Senate Committee on Finance.

The chairman of the Joint Subcommittee is required to submit an annual executive summary of the interim activity and work of the Joint Subcommittee by the first day of each regular General Assembly session to the General Assembly and to the Governor.

Proposed Legislation

This bill would amend the powers and duties granted to the Joint Subcommittee to Evaluate Tax Preferences. This bill would require the Joint Subcommittee to adopt an initial schedule for reviewing tax preferences by October 1, 2014, which would be updated annually by October 1. For economic development tax preferences, the performance measures established by the Joint Subcommittee would require the creation or the maintenance of a minimum number of new full-time jobs for which (i) the average wages are at least equal to the prevailing average wage in the county or city in which the economic development project is located, and (ii) standard fringe benefits are paid or provided by the employer. In evaluating economic development tax preferences, the Department of Taxation would be required to measure the effectiveness of such preferences using the performance measures established by the Joint Subcommittee or such other objective criteria as it determines necessary based on availability of data. If, however, adequate data is not readily available to measure the performance of an economic development incentive, the Department would so report. This bill would require the Joint Subcommittee to submit an annual report to the General Assembly and the Governor by October 1 of its recommendations. Such report would cover the period from the last annual report.

The effective date of this bill is not specified.

Similar Legislation

House Bill 431 would create a Joint Subcommittee on Tax Reform, which would subsume the tasks of the Joint Subcommittee to Evaluate Tax Preferences.

House Joint Resolution 45 would create a joint subcommittee to study the local business, professional, and occupational license ("BPOL") tax.

House Joint Resolution 174 would direct the Department of Taxation to conduct a study on tax restructuring.

cc : Secretary of Finance

Date: 1/29/2014 mjm
HB406F161