

# DEPARTMENT OF TAXATION

## 2014 Fiscal Impact Statement

1. **Patron** James M. LeMunyon

3. **Committee** House Rules

4. **Title** State and Local Tax Reform; Study; Report.

2. **Bill Number** HB 431

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would establish a Joint Subcommittee on Tax Reform ("Joint Subcommittee") to evaluate and study all state and local taxes and would subsume the tasks of the Joint Subcommittee to Evaluate Tax Preferences. The Joint Subcommittee would have a total membership of thirteen, consisting of seven legislative members and six nonlegislative citizen members. In conducting its business, the Joint Subcommittee would be required to recommend modifications to state and local taxes that would serve to make the Commonwealth's state and local taxes simpler, more transparent, more efficient, more stable, fairer, less burdensome on economic activity, less burdensome on citizens with the lowest incomes by reducing or eliminating taxes on them, and, to the extent feasible, broadening the base in exchange for lower rates; produce sufficient revenue for the foreseeable future; and make the Commonwealth more competitive relative to other states regarding job creation, business creation, and business expansion.

This bill would require the Joint Subcommittee to complete its meetings for the first year by November 30, 2014 and for the second year by November 30, 2015, and the Joint Subcommittee's chairman would submit an executive summary of its findings and recommendations no later than the first day of the Regular Session of the General Assembly for each year.

The Joint Rules Committee would be authorized to approve or disapprove expenditures for this study, extend or delay the period for the conduct of this study, and permit additional meetings of the Joint Subcommittee.

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.

### Revenue 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: No.**

## **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 establish a Joint Subcommittee ("Joint Subcommittee") on Tax Reform to evaluate and study all state and local taxes and would subsume the tasks of the Joint Subcommittee to Evaluate Tax Preferences. The Joint Subcommittee would have a total membership of thirteen, consisting of seven legislative members and six nonlegislative citizen members. The legislative members would be appointed as follows: (i) four members of the House of Delegates would be appointed by the Speaker of the House of Delegates, and (ii) three members of the Senate would be appointed by the Senate Committee on Rules. The nonlegislative citizen members would be required to have expertise in Virginia's state and local taxes, economics of taxation, or accounting and would be appointed as follows: (a) two members would be appointed by the Speaker of the House of Delegates, (b) two members would be appointed by the Senate Committee on Rules, and (c) two members would be appointed by the Governor. Once selected, the Joint Subcommittee would elect a chairman and vice-chairman from among its membership.

In conducting its business, the Joint Subcommittee would be required to recommend modifications to state and local taxes that would serve to make the Commonwealth's state and local taxes simpler, more transparent, more efficient, more stable, fairer, less burdensome on economic activity, less burdensome on citizens with the lowest incomes by reducing or eliminating taxes on them, and, to the extent feasible, broadening the base in exchange for lower rates; produce sufficient revenue for the foreseeable future; and make the Commonwealth more competitive relative to other states regarding job creation, business creation, and business expansion. In conducting its business, the Joint Subcommittee would examine the work, recommendations, and reports from relevant private and public sources of information.

Administrative staff support would be provided by the Office of the Clerk of the House. Legal, research, policy analysis, and other services as requested by the Joint

Subcommittee would be provided by the Division of Legislative Services. Technical assistance would be provided by the Department of Taxation. All agencies of the Commonwealth would be required to provide assistance to the Joint Subcommittee for this review, upon request.

This bill would limit the Joint Subcommittee to six meetings for the 2014 interim and six meetings for the 2015 interim, and the direct costs of this study would be limited to \$30,540 for each year without approval of the Joint Rules Committee. Approval for unbudgeted nonmember-related expenses would require the written authorization of the chairman of the Joint Subcommittee and the respective Clerk.

No recommendation of the Joint Subcommittee would be adopted if a majority of the appointed legislative members (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Joint Subcommittee.

This bill would require the Joint Subcommittee to complete its meetings for the first year by November 30, 2014 and for the second year by November 30, 2015, and the Joint Subcommittee's chairman would submit an executive summary of its findings and recommendations no later than the first day of the Regular Session of the General Assembly for each year.

The Joint Rules Committee would be authorized to approve or disapprove expenditures for this study, extend or delay the period for the conduct of this study, and permit additional meetings of the Joint Subcommittee.

The effective date of this bill is not specified.

#### Similar Legislation

**House Bill 406** would amend the powers and duties granted to 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  
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