

**Commission on Local Government**

**Estimate of Local Fiscal Impact**

2017 General Assembly Session

**Bill:** HB2104

**Patron:** Byron

**Date:** 2/1/2017

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:

**Bill Summary:**

Permits the commissioner of the revenue to utilize any method that may reasonably be expected to determine actual fair market value of machinery and tools, in addition to specific methods required under current law. The bill also requires the commissioner of the revenue, upon request, to take into account the condition of the machinery and tools, all forms of depreciation, including obsolescence, and any other factor that is not adequately taken into account by the valuation method otherwise used. The bill requires the commissioner of the revenue to provide to taxpayers upon request a description of his valuation methods, any adjustments that have been made to reflect the taxpayer's appraisal or written concerns, and the factual and legal bases on which the commissioner relies for disagreeing with the taxpayer's qualified appraisal. The bill also gives the Tax Commissioner authority to issue advisory written opinions in specific cases to interpret the law related to valuations involving independent appraisals of manufacturers' machinery and tools that are presented by the taxpayer to the commissioner of the revenue. In appeals to the Tax Commissioner of the valuation of machinery and tools, the bill permits the taxpayer to value the property by allocating the total value of all machinery and tools at a facility among individual items of property according to the percentage of the original cost that each such item of property bears to the total original cost of all of the property. The bill also requires the Tax Commissioner to make certain determinations and findings related to the appeal.

In appeals of tangible personal property tax on airplanes, boats, campers, recreational vehicles, and trailers and on tangible business personal property, the bill requires the commissioner of the revenue to identify any statement of fact submitted by the taxpayer that the commissioner of the revenue believes to be incorrect.

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**Executive Summary:**

HB 2104 permits the Commissioner of the Revenue to utilize any method in addition to the methods required under current law to determine the fair market value of machinery and tools including providing a copy of the description of the valuation methodology to the taxpayer upon request, and permits taxpayers to value the property by using different methodology for different equipment. Localities have evaluated a negative fiscal impact ranging from \$0.01 - \$8,000,000.00. Localities noted that the provisions of the bill would likely increase staff work and jeopardize local revenue. Some localities noted that the provisions of the bill would violate the principles of “uniformity” in assessment methodology established in Article X Sec. 1 and 2 of Virginia Constitution and limit the authority and discretion of local officials. Localities also noted that they are currently required to take into account technological obsolescence per section §58.1-3503, and taxpayers are permitted to appeal to both the local Tax Commissioner and Circuit Court. Additionally, localities noted that both the state Tax Commissioner and Virginia Department of Tax do not have the resources to institute this type of valuation and noted that standard assessment practice is the most simple method of assessment for both businesses and assessors. Other localities noted that the fiscal impact of the bill is indeterminate but they anticipate both reduction in revenue and an increase in costs. Additional localities noted that the bill would have no or minimal fiscal impact as they do not have any machinery and tools tax or their rate is too low.

Please note that one professional organization provided a statewide negative fiscal impact of \$100,000,000.00 based on the localities that responded to their requested financial analysis.

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**Local Analysis:**

**Locality:** Augusta County

**Estimated Fiscal Impact:**  
\$3,993,000.00

The County's annual revenue for MandT tax is \$3,993,000, a large part that would be negated by the application of independent appraisals for MandT that are paid for by the entity that is being assessed....i.e. you get what you pay for! There would be a lack in uniformity related to those that have the ability to pay for appraisals vs. those that do not, therefore providing assessments that are inconsistent in methodology. The tax commissioner would make final decisions but may not know the locality as well as the local commissioner and the reviews would create more workload for the State, who many need to fund additional positions to accommodate the workload.

- 1) Violates the principle of “uniformity” in assessment methodology established in Article X Sect. 1 and 2, of Virginia Constitution – a) Permits the taxpayer to effectively choose the method of assessment on individual pieces of equipment; b) Same piece of equipment will be valued differently for different companies; c) a business can have equipment assessed by three different methods on property within the same assessment. (see lines 184 – 186).
- 2) Expands the Commonwealth’s authority over local taxation by limiting the authority and discretion of local officials, in particular based on valuation. The Virginia Department of Taxation nor the Tax Commissioner has the experience or expertise in evaluating Business Personal Property (BPP) or Machinery and Tools. (by the Tax Depts. est., \$100,000 in addtl. FTE). The valuation of BPP and MandT is much more complex than is real property.
- 3) Is labor intensive. Likewise, localities do not have the resources to institute this type of valuation methodology (est. \$10,000,000 local addtl. FTE).
- 4) Is redundant in many aspects – a) Local officials are already required to take into account technological obsolescence per section §58.1-3503; b) Taxpayers are already permitted to appeal to both the Tax Commissioner and Circuit Court. The bill will add an unnecessary layer of appeal.

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**Locality:** City of Danville

**Estimated Fiscal Impact:** \$100,000.00

Estimating the fiscal impact of this bill is difficult - as the number of local appeals can fluctuate. This impact has a potential between \$50,000 - \$100,000. This is based on the hiring of additional personnel to need the needs for additional valuation skills, training, and the increased costs of receiving additional appeals, and the potential for higher interest should appeals be lost.

This proposal has the following potential impacts. This bill violates the principle of “uniformity” in assessment methodology established in Article X Sect. 1 and 2, of Virginia Constitution – resulting in the following: permits the taxpayer to effectively choose the method of assessment on individual pieces of equipment; the same piece of equipment will be valued differently for different companies; and, a business can have equipment assessed by three different methods on property within the same assessment. (see lines 184 – 186). This bill also expands the Commonwealth’s authority over local taxation by limiting the authority and discretion of local officials, in particular based on valuation. The Virginia Department of Taxation nor the Tax Commissioner has the experience or expertise in evaluating Business Personal Property (BPP) or Machinery and Tools. (by the Tax Depts. est., \$100,000 in addtl. FTE). The valuation of BPP and MandT is much more complex than is real property. This proposal is also labor intensive. Likewise, localities do not have the resources to institute this type of valuation methodology. This would require additional positions, and no additional funding from the State presented. Finally, this bill is redundant in many aspects and will add an unnecessary layer of appeal. Local officials are already required to take into account technological obsolescence per section §58.1-3503 and taxpayers are already permitted to appeal to both the Tax Commissioner and Circuit Court.

Unintentionally, this could lead to additional appeals being file, which would make the appeal process take longer. Should the City lose the appeal, the interest owed by the locality would also be significantly higher. The Commissioner of Revenue takes pride in working with taxpayers to reach a fair and equitable compromise should the need arise.

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**Locality:** City of Harrisonburg

**Estimated Fiscal Impact:** \$0.01

Not able to provide the fiscal impact of this legislation. We currently don’t have any businesses that are questioning their value or our methodology so it is difficult to know how far reaching this could be.

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**Locality:** City of Lynchburg

**Estimated Fiscal Impact:**  
\$7,000,000.00

- 1) The Bill destroys uniformity. Same piece of equipment will be valued differently for different companies.
- 2) Labor intensive. I do not have the man power to institute this evaluation practice.
- 3) Page 4 #4. This is the most onerous part of the bill. A business can have equipment assessed by three different methods on the same assessment.
- 4) BPP and MandT are much more difficult to value than is real property. Therefore, the standard assessment practice is the most simple method of assessment. This simplifies things for the business and the assessor.
- 5) Neither the Virginia Department of Taxation nor the Tax Commissioner has experience with valuing BPP and MandT.
- 6) I am already required to take into account technological obsolescence per section 58.1-3503.
- 7) This bill may seem to allow for more options on the citizen/business side but it is going to convolute the assessment practices across the Commonwealth.

The City is all in favor of offering businesses alternatives and this bill may seem to address a problem, but the City is of the opinion that it is going to create confusion and destroy uniformity between businesses not only across the Commonwealth but inside the same locality.

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**Locality:** City of Martinsville.

**Estimated Fiscal Impact:** \$20,804.00

Estimate provided by Martinsville COR's office based on 75 hrs labor per field audit x estimated 18 audits x \$15.41/hourly rate of personnel

**Locality:** City of Norfolk

**Estimated Fiscal Impact:** \$0.00

The local financial impact of this bill is currently unknown; however there is the potential for both a reduction in revenues and an increase in costs. Norfolk currently uses 40 percent of the cost of an item regardless of age. This bill would require, upon appeal request from a taxpayer, to provide an assessment that accounts for obsolescence and other factors necessary to determine fair market value. Should the value of the item in question be assessed lower as a result of the alternative methodology, Norfolk would lose revenue.

In addition to a reduction in revenue, there is the potential for increased expenditures. It is likely the number of appeals will increase, leading to additional administrative costs to process, prepare, and attend such appeals.

Finally, this bill gives the Tax Commissioner the ability to rule on local machinery and tools valuation appeals, bypassing current local authority to use the existing method of valuation. Having a state agency directly involved in local valuation methods restricts the locality's ability to act independently and in the best interest of all residents and stakeholders.

**Locality:** City of Winchester

**Estimated Fiscal Impact:**  
\$1,000,000.00

The City of Winchester would see an estimated \$1M in lost revenue over this legislation, \$20,000 of this number being for potential legal council. See below for more comments from the COR:

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- 2) Expands the Commonwealth's authority over local taxation by limiting the authority and discretion of local officials, in particular based on valuation. The Virginia Department of Taxation nor the Tax Commissioner has the experience or expertise in evaluating Business Personal Property (BPP) or Machinery and Tools. (by the Tax Depts. est., \$100,000 in addtl. FTE). The valuation of BPP and MandT is much more complex than is real property.
- 3) Is labor intensive. Likewise, localities do not have the resources to institute this type of valuation methodology (est. \$10,000,000 local addtl. FTE).
- 4) Is redundant in many aspects – a) Local officials are already required to take into account technological obsolescence per section §58.1-3503; b) Taxpayers are already permitted to appeal to both the Tax Commissioner and Circuit Court. The bill will add an unnecessary layer of appeal.

**Locality:** Commissioners of the Revenue Association of Virginia

**Estimated Fiscal Impact:**  
\$100,000,000.00

Based on the localities that responded to requested financial analysis, the estimated impact is well in excess of \$100,000,000.00 across the Commonwealth.

**Locality:** Fairfax County.

**Estimated Fiscal Impact:** \$1.00

The fiscal impact is hard to quantify, but is likely negative. As a result of this bill, the number of assessment appeals is likely to increase and the appeals process is likely to take longer. Unlike residential real property, it is harder to arrive at a "fair market value" for machinery and tools, which might create issues with uniformity throughout the Commonwealth.

**Locality:** Henrico County

**Estimated Fiscal Impact:** \$0.01

Based on current practices, this bill will not have a significant impact on Henrico County. Henrico pays \$80,000 a year for a tax appraiser to ensure MandT valuations are responsibly calculated Henrico also has an MandT tax rate of \$0.30 per \$100 of assessed value that is significantly lower than our personal property tax rate of \$3.50 per \$100 of assessed value.

**Locality:** Louisa County

**Estimated Fiscal Impact:** \$1.00

This bill would have no financial impact on Louisa County at this time. Currently, Louisa uses 10% of original total capitalized cost as its valuation method. This method would still be appropriate with the proposed changes.

\*\*System required an impact, so I put \$1, but it should be \$ .00.

**Locality:** Rockingham County

**Estimated Fiscal Impact:**  
\$8,000,000.00

Rockingham County currently receives around \$8,000,000 a year from the Machinery and Tools Tax. If this bill is passed it is unknown how much of this \$8 million would be jeopardized. However, with the new bill there is no question the County will not only lose tax money but will also spend more money to handle additional appraisals and valuations. Please see below for additional reasons to not pass this bill.

1. Violates the principle of "uniformity" in assessment methodology established in Article X Sect. 1 and 2 of Virginia Constitution - a) Permits the taxpayer to effectively choose the method of assessment on individual pieces of equipment; b) Same piece of equipment will be valued differently for different companies; c) a business can have equipment assessed by three different methods on property within the same assessment.
2. Expands the Commonwealth's authority over local taxation by limiting the authority and discretion of local officials, in particular based on valuation. The Virginia Department of Taxation nor the Tax Commissioner has the experience or expertise in evaluating Business Personal Property or Machinery and Tools. It is much more complex than real property.
3. Is labor intensive. Likewise, localities do not have the resources to institute this type of valuation methodology. Will require additional personnel to institute this bill.
4. Is redundant in many aspects - a) Local officials are already required to take into account technological obsolescence per section 58.1-3503; b) Taxpayers are already permitted to appeal to both the Tax Commissioner and Circuit Court. The bill will add an unnecessary layer of appeal.

**Locality:** Spotsylvania County

**Estimated Fiscal Impact:** \$65,800.00

Spotsylvania County estimates the initial additional cost to be \$65,800 with an estimated cost of \$57,300 for each subsequent year for extra staff that would be required to administer the proposed legislation.

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**Locality:** Town of Boones Mill

**Estimated Fiscal Impact:** \$1.00

No direct fiscal impact on small towns that do not have their own commissioners of the revenue.

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