

Commission on Local Government

Estimate of Local Fiscal Impact

2017 General Assembly Session

Bill: SB 836

Patron: Chase

Date: 1/20/2017

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:

Provides that if a locality imposes a license tax upon a business, the tax shall be based upon the Virginia taxable income of the business. Current law allows a locality to impose the tax upon gross receipts or Virginia taxable income.

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### Executive Summary:

SB 836 requires localities to collect BPOL tax based on Virginia taxable income of the business instead of gross receipts of the business. Localities have evaluated negative fiscal impacts ranging from \$0.01 - \$146,000,000.00. One professional organization provided a statewide negative fiscal impact of \$392,000,000.00. Localities noted that changing the basis for BPOL tax calculation from business's gross receipts to net Virginia taxable income would reduce their BPOL revenue by 75% - 98%. Localities also noted that the bill would (i) make the tax more difficult for business to understand and costly for localities to administer, (ii) make it difficult for a consistent deadline to file and pay BPOL, (iii) impact the workflow and revenue cycles on which localities are dependent and, (iv) impact the concept of fair and equitable local taxation as companies that can afford tax professionals would pay less and the burden would fall to those who cannot afford a tax professionals. Some localities also noted that the bill would not impact them as they do not have BPOL taxes.

In addition, localities noted that there is no provision for additional state funding to support the local revenue shortfall, which would ultimately require localities to make up for the shortfall from other local revenue sources, such as real estate taxes.

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### Local Analysis:

**Locality:** Amherst County

**Estimated Fiscal Impact:** \$350,000.00

My estimate is for my locality alone. However, I have worked in two other localities that if this were to become law would have an even greater impact financially. Businesses routinely manage their taxable income to be the least it possibly can, especially small business. They will pay out in compensation to owners the most they can in order to avoid paying corporate income tax on the income. Therefore leaving a locality with a zero taxable income to tax. Many localities would have to raise taxes to make up for the shortfall in business license revenues. Therefore citizens would bear the expense in a time when so many are struggling.

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Locality: Chesapeake Public Schools

Estimated Fiscal Impact: \$2.00

No impact on schools.

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**Locality:** City of Alexandria

**Estimated Fiscal Impact:**  
\$32,000,000.00

Revenue loss \$32,000,000. This bill would mandate BPOL tax to be calculated on net taxable income rather than gross receipts. This would effectively reduce BPOL revenue by \$32,000,000.

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Locality: City of Danville

Estimated Fiscal Impact:
\$4,750,000.00

This bill could potentially reduce BPOL by 95%. In Danville, BPOL currently generates around \$5 million. A severe reduction like the one outlined in the bill could be a \$4,750,000 revenue loss, with no provision for an alternative revenue source. Changing the basis of the tax to net income would make the tax more difficult for businesses to understand and costly for localities to administer. This proposal does not include additional funding for this state mandate.

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**Locality:** City of Harrisonburg

**Estimated Fiscal Impact:** \$0.01

The city is not able to determine the fiscal impact. It is difficult to know the actual fiscal impact since we currently do not get the actual tax return of the companies unless we are auditing the gross receipts. It would make it more unstable because business make tax decisions to possibly show a loss one year and not another. Also those companies that can afford tax experts that can find all kinds of credits for them to apply won't have to pay much for a license and the burden will fall on those that don't have the ability to afford creative accountants. Based on the current tax rate structure though the city's conclusion is that it would be a significant decrease in business license tax revenue.

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Locality: City of Lynchburg

Estimated Fiscal Impact:
\$6,000,000.00

This would eliminate a minimum of 75% of the BPOL revenue for the City of Lynchburg which is about \$6,000,000.
This equates to about a 12 cent increase in Real Estate Taxes to recoup this revenue.
The State cannot keep taking revenue from localities and expect them to survive.

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**Locality:** City of Manassas

**Estimated Fiscal Impact:**  
\$2,480,000.00

We estimate losing as much as 80% of current revenue should this legislation be adopted.  
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Locality: City of Martinsville

Estimated Fiscal Impact:
\$1,662,500.00

REVISION OF ORIGINAL POST!! If we lose 95% of this revenue source - we're done! We already have to cut 1.5 to 2 million dollars to balance our FY18 budget. This would cost us double that! That would cost the City of Martinsville 1/3 of our police officers, 1/3 of our firemen/EMS, and heaven only knows how many other employees. Whole departments would be dissolved at this rate. This cannot happen!

Our current BPOL revenue for FY17 is budgeted at \$1,750,000 - 28% of our total Other Local Taxes revenue; 6% of our total General Fund revenues. Should this law take effect, and have an estimated 25% reduction in collections, it would devastate our ability to continue services to our citizens. \$400,000 is just a guess, but I believe it's on the low side. Net income could be substantially less than gross receipts. Any adjustment to the current law will impact the City of Martinsville, which continues to struggle on a daily basis - much unlike the majority of the municipalities.

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**Locality:** City of Martinsville.

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

From Martinsville's Commissioner of the Revenue:

Without looking at every tax return that we have for every business to see what their taxable income was, I would CONSERVATIVELY estimate the fiscal impact to the City of Martinsville to be about \$1,000,000. If we move to basing a license on the Virginia Taxable Income, just the administrative duties to verify would not be worth the little bit of revenue it would generate. You might as well eliminate that tax and increase your rates on all of the other revenue sources left.

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Locality: City of Norfolk

Estimated Fiscal Impact: \$1.00

The revenue impact of this bill is likely a reduction in business license (BPOL) revenue collections. Norfolk currently applies BPOL tax to the gross receipts of a business. Virginia taxable income represents a lower taxable base relative to gross receipts; as a result, the estimated impact is a reduction in BPOL collections.

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**Locality:** City of Roanoke

**Estimated Fiscal Impact:**  
\$12,100,000.00

Based on an estimated 95% reduction applied to FY 2016 revenue collection, the fiscal impact to the city would be approximately \$12.1 million.  
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Locality: City of Winchester

Estimated Fiscal Impact:
\$4,500,000.00

Per the COR:
the impact would be an approximate negative \$4,500,000

Such a bill would have a devastating effect on localities:

- Annihilate local BPOL revenues as the calculation is now based upon gross receipts. Net Virginia income is a greatly reduced figure (and quite often a negative figure). BPOL tax rates have been codified at levels based upon the tax amounts using gross receipts. The commonwealth is unlikely to then set new maximum rates at a revenue-neutral level as the rates would have to increase drastically.
- Devastate the work flow and revenue cycles on which localities are dependent. For all businesses, gross receipts figures are available shortly after January 01, giving plenty of lead time to meet the March 01 BPOL filing deadline. Net income figures are often not calculated until months later (and plenty of tweaking) so there would be no good consistent deadline by which to file and pay BPOL. BPOL filing amendments/appeals would skyrocket with requests for reduction.
- Destroy the concept of fair and equitable local taxation: small businesses which may have fewer opportunities to claim deductions, and less able to pay savvy tax professionals, would pay proportionately higher taxes than their larger, more successful competitors.

It's difficult to estimate the BPOL revenue reduction, but one can confidently state that the dregs of remaining revenue dribbling in at great delay, contrasted with the whelming costs and inequities of administration, would altogether eliminate BPOL feasibility.

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| <b>Locality:</b> Commissioners of the Revenue Association of Virginia | <b>Estimated Fiscal Impact:</b><br>\$392,000,000.00 |
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The last research done two years ago by VML and VACO through the CORs showed that the negative impact would be a LOSS of approx 95 to 98% of statewide local revenue.

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Locality: Fairfax County.	Estimated Fiscal Impact: \$146,000,000.00
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This bill moves Business, Professional and Occupational License tax from gross to net receipts basis. The revenue loss for Fairfax County would be about \$146 million based on actual receipts in FY 2016.

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| <b>Locality:</b> Franklin County | <b>Estimated Fiscal Impact:</b> \$1.00 |
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Franklin County does not impose a business license tax.

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Locality: Henrico County	Estimated Fiscal Impact: \$31,000,000.00
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The tax base for Henrico's Business, Professional, and Occupational License (BPOL) is \$19.3 billion of gross receipts. If it is changed to taxable income, that base would be less than 1 billion. Henrico's FY16 BPOL collections were \$33 million, so this change would cost Henrico 95% of its revenues.

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**Locality:** Louisa County

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

Louisa County collects license taxes on contractor's licenses. Approximately 400 license fees were collected in 2016. The fees are currently based on the contractor's previous year's gross receipts. Contractors report their gross receipts on the license application, but the business's taxable income is not collected, so an exact financial impact is not possible, but it would have a definite negative impact. All of the businesses should have gross receipts, but it is very possible many of the business could be operating at a loss or have significantly less taxable income versus gross receipt amounts. The county collects \$150,000 - \$200,000 each year using gross receipts as our base for the calculation. Although this may seem small when compared to larger localities, this amount is important and needed in our county. This could reduce drastically if the base is changed to the contractor's Virginia Taxable Income.

**Locality:** Richmond County

**Estimated Fiscal Impact:** \$1.00

Richmond County does not have BPOL Taxes

**Locality:** Rockingham County

**Estimated Fiscal Impact:** \$0.01

Rockingham County does not currently impose a license tax upon a business.

**Locality:** Spotsylvania County

**Estimated Fiscal Impact:**  
\$4,200,000.00

Using the average 93% negative impact identified by the 2013 JLARC study, we can estimate the impact to Spotsylvania at a loss of \$4.2 million in tax revenue.

**Locality:** Town of Boones Mill

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

This change could be a significant fiscal impact on small towns like Boones Mill.

I can't do a firm calculation, because I have no idea what our town's firms' taxable incomes are. But taxable income will generally be less than gross receipts. Various exemptions and exclusions can be used to reduce taxable income.

For Boones Mill's current budget, gross receipts tax yields \$16,600. Our general fund total revenue is \$205,700. So even \$1,000 lost through a change in this tax base is significant.

We should also note that exemptions and exclusions may be used in a savvy way by large businesses with the best accounting services, compared to small businesses where a proprietor does their own taxes simply. The bill might effectively punish the smallest and most sincere business owners.

For these reasons I would oppose the bill.

**Locality:** Wise County

**Estimated Fiscal Impact:** \$1.00

Wise County does not currently have a business license tax. If one were ever imposed this could reduce the potential revenue.

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