

Commission on Local Government

Estimate of Local Fiscal Impact

2020 General Assembly Session: Special Session I

Bill: HB5006

Patron: Cole, Mark L.

Date: 8/14/2020

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:

Waiver of penalties and interest; refunds; taxpayers suffering job loss or business closure due to the COVID-19 pandemic. Waives penalties and interest for six months for taxpayers who suffered a job loss, business closure, or reduction in business operations because of the COVID-19 pandemic. The waivers apply to (i) sales and use taxes and all local taxes that were due during a period in which the job loss, closure, or reduction in operations occurred and (ii) income taxes for such taxpayers for taxable year 2019. For a taxpayer who made penalty and interest payments prior to the effective date of the act, the Department of Taxation or his locality shall refund such payments to the taxpayer.

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### Executive Summary:

A total of 14 localities (4 cities, 4 counties, and 6 towns) and 2 Planning District Commissions have evaluated a negative fiscal impact ranging from \$0.00 - \$3,000,000. While some localities reported no cost, this was because many of the factors in producing an estimate were unknown; however, they noted that the costs would likely be significant. Costs to comply with this mandate include refunds, future lost revenue, and additional staff resources for administering the program.

One locality noted that localities are already given discretionary authority to provide such taxpayer relief. Accordingly, at least two localities already chose to provide a full or partial version of this type of relief for some or all of their tax revenue sources. Consequently, their estimates ranging from \$3,000,000 to \$11,000,000 could serve as reasonable, real-world examples regarding the extent of the bill's fiscal impact.

Localities also indicated that certain elements of the bill are vague and may be difficult to implement. For example, one locality noted that the bill does not provide a mechanism for determining qualification and proof required under the "period of closure" standard, so there will be an additional indeterminate cost in staff time to review such claims. Localities also noted that verifying relief for some local tax sources, such as sales and use taxes, would be very challenging and without audit capabilities. Furthermore, one locality noted the juxtaposition of providing relief to taxpayers who may have received some form of relief through other programs. One Planning District Commission suggested that the impacts of this bill statewide will likely occur more significantly in regions and localities of the state where unemployment levels are greatest.

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### Local Analysis:

**Locality:** City of Harrisonburg

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

Harrisonburg projects a financial impact that could reach or exceed \$100,000. This is based on penalty and interest payments that would need to be refunded plus future loss of revenue going forward. This does not include any lost revenue that may ultimately not be paid after any 6-month grace period ends and does not include costs of staff resources to administer processing refunds. One observation is that the city is projecting (at already reduced levels) to collect \$5.5 million in meals and lodging taxes over the next six months which potentially would all be deferred for six months if all restaurants and hotels use this 6-month grace period. This would continue going forward until all executive orders regarding reduced business operation due to the pandemic are cancelled.

**Locality:** City of Norfolk

**Estimated Fiscal Impact:** \$0.00

There will be a fiscal impact although the amount is indeterminate. Under HB5006, the city would have to continue to waive penalties and interest after August 1 since the bill is proposing to waive the penalties and interest for up to six months after the original due date. Also, penalties and interest collected from qualified taxpayers during the shutdown would have to be refunded for all taxes. There would also be an administrative cost regarding implementation of the bill such as, identifying the taxpayers and businesses that qualify for the waiver under the bill. There is concern that the bill is vague and does not specify start date.

**Locality:** City of Virginia Beach

**Estimated Fiscal Impact:**  
\$3,000,000.00

The City of Virginia Beach City Council waived all interest and penalties on personal property taxes due June 5, 2020 until August 4, 2020. Therefore, a considerable portion of the intent of this bill was accomplished through local action in our City. As of August 4th, roughly 25% of the personal property bills in the City were unpaid for the period due June 5th. For the purpose of this cost estimate, it is assumed that 100% of those non-payments are related to the pandemic's economic impact (although, this will not be true in actuality). The penalties (10%, per Article I, Section 35-6(a) of the Code of Ordinances of the City of Virginia Beach) and interest (equal to 9.6% annually in the first year per Article I, Section 35-6(a) of the Code of Ordinances of the City of Virginia Beach) due on the unpaid amount as of this date is about \$3 million. If passed, this bill would further suspend the \$3 million owed into December and may reduce the amount due if taxpayers are able to make payment on the original tax owed between now and December.

Because the local wavier period recently expired, few actual payments have been made that would require a refund at this time. However, the longer this bill is considered prior to enactment would increase the amount that would be subject to an automatic refund. There would also potentially be printing and postage costs related to the refund or a re-bill for penalties still owed because the late paying taxpayer was not under a "period of closure."

In addition to the revenue loss, there will be an undetermined cost related to additional work by City staff. This work is in part unknown because the legislation does not provide a mechanism for determining qualification and proof required under the "period of closure" standard. If staff must inspect documents or build a platform for submission of proof of business closure or reduction, that will require additional staff time in excess of their normal duties and functions.

**Locality:** City of Winchester

**Estimated Fiscal Impact:** \$585,000.00

My number came from an estimate of annual penalty and interest amount. There are certainly other issues because if customers know they will not be paying Pandl, they will not pay the tax due either, so it will essentially be a tax deferral too.  
Comments from the COR and Treasurer:

§ 4. That all localities shall, for qualified taxpayers, waive interest and penalties as otherwise required for late payments pursuant to Chapter (§ 58.1-3900 et seq.) of Title 58.1 of the Code of Virginia on any local tax payment originally due during a period of closure, provided that full payment of such taxpayer's liability, including any penalties or interest due, is made no later than six months after the original date on which such tax was due. Each locality shall issue a refund in the amount of any interest and penalties assessed by and paid to such locality by any taxpayer who made such an interest or penalty payment on or before the effective date of this act. The locality shall issue the refunds pursuant to this act no later than four weeks after the effective date of this act.

Here are concerns:

- The determination of "qualified taxpayer" must be made at the state level and also at the local level and is highly subjective. "Qualified taxpayer" means a taxpayer whose business or place of employment suffered a period of closure. The documentation required to review the burden of proof would require at least one additional FTE (more likely 2-3 ). What if the business were only briefly closed or if the business continued to pay the taxpayer-employee during that time? This status is almost virtually impossible to prove, and as we know, there are situations where employees receiving temporary relief actually had an earnings increase. What about seasonal businesses that simply didn't hire?
- Sales and Use Tax: For this line item alone, what proof would the Taxpayer need to supply – every purchase receipt? If TAX issues the refund, would it then pull back from the locality the combined local share and interest? This loss of revenue would be significant AND virtually without proof or audit.
- The cost of issuing refunds would be a significant financial burden to localities and could even exceed the financial loss of the actual refund check value.

There are too many uncertainties or clarification needed to make sure every locality is using the same "game plan" for the purpose of waiver and refunds. Also I feel the four week timeframe is not reasonable, as we would need

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Locality: Fairfax County

Estimated Fiscal Impact: \$1.00

This bill is a mandate, and not a local option. Localities are already able to make a number of decisions on penalty and interest provisions, but this bill makes it mandatory. The bill also does not clearly define which businesses were required to close per the Governor's executive order and the closure period.

While the exact fiscal impact cannot be determined since it would depend on the number of qualified taxpayers that apply (which is currently unknown), the bill could have a significant negative fiscal impact. In addition, there would be administrative costs to process the applications, waive penalties and interest payments, and issue refunds.

It should be noted that to help Fairfax County taxpayers deal with the effects of the COVID-19 pandemic, on June 23, the Fairfax County Board of Supervisors reduced the penalty in half from 10% to 5% for late payment of real estate and personal property taxes for tax year 2020. The Board also eliminated the additional 15% penalty for car taxes - that are more than 30 days overdue. Two other fees were also eliminated for tax year 2020. Those include an administrative fee of \$30 for personal property tax payments past due more than 45 days and a DMV Hold fee of \$25, as applicable. In addition, 20% collection fees were eliminated for real estate and personal property tax for tax year 2020. These actions, which were already implemented by Fairfax County, result in an estimated revenue loss of approximately \$11 million.

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**Locality:** Prince George County

**Estimated Fiscal Impact:** \$160,000.00

This is an estimate as we have no way to accurately determine number of taxpayers who have been impacted by COVID who have not paid local taxes as required.  
The Prince George County Board of Supervisors took action to change the Real Property Tax (2nd half) and Personal Property Tax deadlines from June 5 to June 26 for 2020. Additionally, Penalty and Interest have already been waived through August 31, 2020.  
This legislation will necessitate collection and evaluation of documentation demonstrating outlined COVID-19 impact (job loss, business closure, and reduction in business operations).

**Locality:** Rappahannock County

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

First, the language is very confusing in § 4. It states that interest and penalties shall be waived, so long as taxes INCLUDING PENALTIES AND INTEREST are paid within six months. I do not understand this ... how can they be waived and paid?

Second, it will be nearly impossible for our very small county, let alone a large county to review the situation of each taxpayer to determine if they are a "qualified taxpayer" and determine anything other than all taxpayers are "qualified taxpayers" given the very subjective wording used for the definition of "period of closure," which states "close or reduce operations." Any reduction no matter how small would trigger a taxpayer to become a qualified taxpayer and could not be readily disputed given the subjectivity.

With this foundation, it is a reasonable assumption that the county would not be able to charge ANY penalties or interest. For the small County of Rappahannock, this year over year annual revenue of penalties and interest amounts to \$200,000. So not only would incremental penalties and interest that are actually due in some way to COVID-19 (that would presumably increase collected penalties and interest to a greater sum than the \$200,000 typically collected) be lost, the typical annual amount of penalties and interest would also be lost.

**Locality:** Rockingham County

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

This bill is estimated to cost the County at least \$100,000. If we have to reimburse for penalties and interest already paid it would also be a very burdensome process. How would the taxpayer provide proof that they meet the requirements of the bill would also be an issue.

**Locality:** Town of Blacksburg

**Estimated Fiscal Impact:** \$50,000.00

The impact is not only the loss of the penalties and interest on the taxes but the impact on collection of the taxes. Without the penalties and interest, the taxpayer may not pay late but may not pay at all. This causes a larger bill at the end of the event than they may be able to pay. Also some taxes are ones collected from the customer and then remitted to the locality by a business. These "trust" funds may be used for operations and not segregated and paid as due and then the business is unable to pay at the end of the event.

**Locality:** Town of Christiansburg

**Estimated Fiscal Impact:** \$250,000.00

\$160,000 is the revenue from penalties for FY 2020 and those amounts are reduced due to April and May waivers, so we would approximate \$200,000 for water sewer and storm water fees. BPOL would add another \$40,000-50,000, so we estimate \$250,000 total. The Town does not have an income tax,

**Locality:** Town of Herndon **Estimated Fiscal Impact:** \$20,000.00

The Town of Herndon estimates the financial impact of Bill Number HB5006 to be a reduction in the collection of real estate tax interest and penalties in the amount of \$20,000 .

**Locality:** Town of Luray **Estimated Fiscal Impact:** \$2,500.00

Lost revenue for any previous payment is challenging as realized revenues are automatically considered available for expenses.

**Locality:** Town of Marion. **Estimated Fiscal Impact:** \$2,500.00

While waiving fees would impact the town, it would likely be minimal due to our penalty rate structure

**Locality:** Town of Warsaw **Estimated Fiscal Impact:** \$1,000.00

Meals tax late fee waivers over the assigned 6 month period will have an estimated fiscal impact of approximately \$1,000 for our locality.

**Professional and Other Organization**

**Analysis:**

**Organization:** Accomack-Northampton Planning District Commission

The number of qualified taxpayers are concentrated in localities with the highest unemployment. According to the VEC June 2020 Preliminary Estimated Labor Force Components, the highest employment locality is Falls Church City (pop. 14,617) showing a year over year increase in unemployment of 216 persons (1.4% of the population potentially qualified) The lowest employment locality is Petersburg City (pop. 31,346) showing a year over year increase in unemployment of 1,729 persons (5.5% of the population potentially qualified).

Accomack County ranked the 63rd highest employment locality tied with Cumberland, Fairfax, Lee and Fairfax City and is showing a year over year increase in unemployment of 913 persons. Northampton County is ranked 108th highest employment locality tied with Carroll, James City County, Pulaski and Galax City.

As of August 12, 2020, Accomack County had collected \$89,832 in penalties and interest since July 1, 2020. The previous four months (March 1 - June 30) the county collected \$210,822. It is unknown how many unemployed persons paid penalties and interest and this includes all penalties and interest on uncollected taxes but the estimated direct fiscal impact of this change on August 12, 2020 could be as high as \$140,000 (estimated total penalties and interest June 2020-August 12, 2020) if all collections were from qualified taxpayers and the uncollected taxes were subject to this change. The average daily penalty and interest collection is currently at \$2,994.

**Organization:** Northern Neck PDC

No negative impact.

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