

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Kathy J. Byron

3. **Committee** Passed House and Senate

4. **Title** Bank Franchise Tax

2. **Bill Number** HB 1896

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would require banks to file their annual bank franchise tax returns electronically. The Department of Taxation ("the Department") would be required to maintain a secure online portal to receive returns and other required submissions for use by commissioners of the revenue or other assessing officers. Any bank would be permitted, in accordance with procedures established by the Tax Commissioner, to elect a 60-day filing extension for the return and schedules. In addition, all localities imposing a local bank franchise tax would be required to provide electronic processes for banks to access real estate assessment records.

The Department would be required to convene a work group to develop potential alternative methods for filing and allocation of bank franchise revenue for consideration in the 2024 General Assembly Session.

The provisions of this bill would generally become effective on January 1, 2025. However, the provision pertaining to the proposed workgroup would become effective in due course, and the work group would be required to complete its work by December 1, 2023.

6. **Budget amendment necessary:** Yes.

Items: 274 and 276, Department of Taxation

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7a. **Expenditure Impact:**

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|---------------------------|-----------------------|-------------------------|--------------------|
| 2023-24 | \$844,280 | 2 | GF |
| 2024-25 | \$233,970 | 2 | GF |
| 2025-26 | \$156,000 | 2 | GF |
| 2026-27 | \$156,000 | 2 | GF |
| 2027-28 | \$156,000 | 2 | GF |
| 2028-29 | \$156,000 | 2 | GF |

8. Fiscal implications:

Administrative Impact

This bill would result in estimated administrative costs to the Department of: \$844,280 in Fiscal Year 2024; \$233,970 in Fiscal Year 2025; and \$156,000 in Fiscal Year 2026 and each fiscal year thereafter. These costs would be incurred for purposes of hiring and retaining two full time employees to administer the Department's added responsibilities with respect to the tax under this bill and system updates to allow the Department to accept electronic records from the localities. These costs assume that the filing extension provided under this bill would be automatic, as is the case with the corporate and individual income tax filing extensions.

This bill would require localities to provide electronic access to real estate assessment records. The cost to localities is unknown.

Revenue Impact

This bill would have no impact on General Fund or local revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation
Cities, counties, and towns

10. Technical amendment necessary: No.

11. Other comments:

Current Law

An annual Bank Franchise tax is imposed on a bank's net capital at the rate of \$1 per \$100. Counties, cities and towns are authorized to impose a local bank franchise tax on banks at an amount equal to 80 percent of the state tax. A credit against the state tax is allowed in the amount of the local taxes imposed. Therefore, banks pay a total bank franchise tax of \$1 per \$100 on their net capital, but it is effectively split 80 percent to localities and 20 percent to the state. Banks located in multiple jurisdictions divide the bank franchise tax among those jurisdictions based on the percentage of the bank's total deposits held at the branches located in each jurisdiction.

There is currently an \$18 million cap on the bank franchise tax that limits the maximum amount of tax paid by any one taxpayer. If at least five banks pay this maximum amount for three consecutive calendar years, the cap would be increased to \$20 million beginning in the calendar year immediately following the third consecutive year. After two years at \$20 million, the cap would be increased by three percent annually.

Banks located in a jurisdiction that imposes a local bank franchise tax must file a return in duplicate with the Commissioner of the Revenue for the locality in which the principal office of the bank is located by March 1. The bank is also required to file applicable schedules

with the assessing officer of every county, cities and town where a branch is located. The banks have until June 1 to pay the proper tax to each locality and to the Department.

Proposed Legislation

This bill would require banks to file their annual bank franchise tax returns electronically. The Department of Taxation would be required to maintain a secure online portal to receive returns and other required submissions for use by commissioners of the revenue or other assessing officers.

In addition, all localities imposing a local bank franchise tax would be required to provide electronic processes for banks to access real estate assessment records. The Department's system would not be able to give banks access to local real estate assessment records, so each locality would have to provide that information electronically.

This bill would permit any bank, in accordance with procedures established by the Tax Commissioner, to request a 60-day filing extension for the return and schedules by filing the appropriate form with the Department and local commissioner. The Department revised its procedures for granting extensions to file income tax returns to eliminate the requirement for filing a form to request an extension. The Department would consider adopting a similar automatic, formless procedures for bank franchise tax under this bill.

The three-month period between the due date for filing and the due date for payment provides an opportunity for localities and the Department to reconcile the schedules claiming deductions from net capital for real estate assessed values and allocating 80 percent of the state tax among localities based on schedules of deposits through branches. The 60-day extension may affect the ability of the Department and local commissioners to reconcile these schedules.

The Department would be required to convene a work group to develop potential alternative methods for filing and allocation of bank franchise revenue for consideration in the 2024 General Assembly Session. The work group would be required to include representatives from the Virginia Bankers Association, Virginia Association of Counties, Virginia Municipal League, Commissioners of the Revenue Association of Virginia and other appropriate stakeholders. At a minimum, the work group would be required to evaluate proposals to allow banks to submit their bank franchise tax payments to the Commonwealth, the formula used to redistribute funds to local governments, the impact of the new method of collecting and distributing funds on counties, cities, and towns, the timeline for implementation of any proposed changes, and the cost to the Commonwealth and local governments of implementing these changes. The work group would be required to report its findings and recommendations to the General Assembly by December 1, 2023.

The provisions of this bill would generally become effective on January 1, 2025. However, the provision pertaining to the proposed workgroup would become effective in due course, and the work group would be required to complete its work by December 1, 2023.

Similar Legislation

Senate Bill 1182 is identical to this bill.

cc : Secretary of Finance

Date: 2/23/2023 JPJ
HB1896FER161