

# DEPARTMENT OF TAXATION

## 2011 Fiscal Impact Statement

1. **Patron** David L. Englin

2. **Bill Number** HB 1676

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Retail Sales and Use Tax; Registration with  
Local Commissioners of the Revenue

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would give dealers seeking to register for the general Retail Sales and Use Tax and out-of-state contractors that are subject to the special use tax in Virginia the option of registering with the local commissioner of the revenue, rather than registering with the Tax Commissioner, and would give local commissioners the authority to issue certificates of registration.

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 Impact

TAX considers implementation of this bill as "routine" and does not require additional funding.

Revenue Impact

This bill is expected to have no impact on revenue generated from the Retail Sales and Use Tax. To the extent that local commissioners discover that use taxes have been distributed to the wrong locality, correcting such errors would result in a shift of revenue between localities, rather than an increase in total revenue generated by the Retail Sales and Use Tax.

**9. Specific agency or political subdivisions affected:**

All localities  
TAX

**10. Technical amendment necessary: No.**

**11. Other comments:**

Current Law

*Special Construction Equipment Use Tax*

Under current law, a special state use tax is imposed on the storage or use of all motor vehicles, machinery, tools or other equipment brought into Virginia for use in construction contracts. The special use tax does not apply to articles purchased in a state that does not impose a similar tax upon Virginia contractors. Before such property is brought into Virginia, the owner or lessee of the property must register with the Tax Commissioner, and must subsequently file quarterly reports and remit any taxes due.

*Retail Sales and Use Tax*

Individuals who wish to conduct business as dealers subject to the general Retail Sales and Use Tax in Virginia must file an application with the Tax Commissioner for a certificate of registration for each place of business he or she will operate in Virginia. Engaging in business as a dealer in Virginia without obtaining a certificate of registration, or after a certificate of registration has been suspended or revoked is a Class 2 misdemeanor.

The applications set forth the name of the business, the location of the place or places of business, and any other information the Tax Commissioner deems necessary. Once the application process is completed, the Tax Commissioner issues to each applicant a separate certificate of registration for each place of business in Virginia. Under current law, the Tax Commissioner is authorized to revoke and suspend any one or more of the certificates of registration, if the taxpayer fails to comply with the application requirements, provided a hearing is held, and the Tax Commissioner has provided proper notice to the registrant, as provided by law.

A holder of a certificate of registration that wishes to change locations for his business or ceases to conduct business at the place specified in his certificate must inform the Tax Commissioner in writing 30 days after he has ceased to conduct such business.

TAX's registration process is available on the Internet at TAX's website. Using this process, a business is able to register for all taxes administered by TAX and a separate certificate of registration is issued for each business location. Currently, local commissioners of the revenue can register applicants for the Retail Sales and Use Tax, and other state taxes, into TAX's systems through, "Business One Stop," an Internet application offered by the Virginia Department of Business Assistance, the function of which is to provide taxpayers with a single location through which they can handle all of the processes related to registering a business in Virginia.

## Proposal

This bill would give dealers seeking to register for the general Retail Sales and Use Tax and out-of-state contractors that are subject to the special use tax in Virginia the option of registering with the local commissioner of the revenue, rather than registering with the Tax Commissioner, and would give local commissioners the authority to issue certificates of registration.

Under the terms of this bill, the local commissioner would have the authority to determine what additional information would be needed in the registrant's application. The local commissioner of the revenue would need to implement procedures to ensure that the applications he receives contain substantially the same information as, and is substantially similar to the applications required by the Tax Commissioner.

The bill would authorize the local commissioner of the revenue to issue the applicable certificate of registration to the taxpayer, for the business that is located in the commissioner of the revenue's county, city, or town. The bill would also allow the Tax Commissioner to revoke and suspend certificates of registration issued by the local commissioner of the revenue, as well as those issued by TAX.

Under the terms of the bill, once the registrant obtains his certificate(s) of registration, if he wishes to change locations for his business, he would be permitted to complete the process for changing business locations with the local commissioner of the revenue, who would be authorized to issue a revised certificate of registration. The local commissioner would be authorized to revise only those certificates of registration that his office has issued. The commissioner of the revenue would need to provide the Tax Commissioner with a copy of the revised certificate of registration or any writing by the registrant giving notice that the business is ceasing operation.

When a business registers with TAX or through Business One Stop, it is able to register for all taxes administered by TAX. Under this bill, the business would be able to register for the Special Construction Equipment Use Tax and Retail Sales and Use Tax in each locality in which they operate separately. For businesses that are liable for other taxes or have locations in more than one locality, it would still be necessary to register with TAX or through Business One Stop.

It is possible that having a separate registration process administered by local commissioners of the revenue, only applicable for a particular locality, with different requirements may lead to confusion by businesses. In addition, it will be necessary for TAX and local commissioners of the revenue to create processes to ensure that the registration system operated by the locality and by TAX contain the same data.

Currently, commissioners of the revenue have access into TAX's systems, which allows them to view data they need to determine if a business is registered in the proper locality.

The effective date of this bill is not specified.

## Similar Bills

**House Bill 2183** is identical to this bill.

**Senate Bill 1226** would: 1) authorize local commissioners of the revenue and treasurers to enter into agreements with the Commissioner of DMV to act as an agent and maintain a branch office; 2) change the fixed compensation for nonautomated DMV agencies; 3) give dealers seeking to register for sales and use tax and out-of-state contractors subject to the special use tax in Virginia the option of registering with the local commissioner of the revenue; 4) give local commissioners the authority to examine the documents of transportation companies to determine which dealers are shipping taxable tangible personal property; and 5) require local commissioners to verify that taxpayers seeking a local business license have satisfied all the licensing requirements.

**House Bill 2444** would authorize local commissioners of the revenue to examine books and records of dealers and transportation companies, and would require that they report on the results of their examination to the Tax Commissioner, including but not limited to any local use tax that has been incorrectly distributed to a county or city.

cc : Secretary of Finance

Date: 1/29/2011 KP  
DLAS File Name: HB1676F161