

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** J. Chapman Petersen

2. **Bill Number** SB 1226

3. **Committee** Senate Transportation

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Department of Motor Vehicles; Department of Taxation; Grants Additional Powers and Duties to Local Commissioners of the Revenue

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would authorize local commissioners of the revenue and local treasurers to enter into agreements with the Commissioner of the Department of Motor Vehicles to act as agents of the Commissioner of DMV to operate as "Select Services" branches. Additionally, the bill would change the formula for funding non-automated DMV offices.

This bill would also give dealers seeking to register for the Retail 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, rather than registering with the Tax Commissioner, and would give local commissioners the authority to issue certificates of registration.

The bill would also give local commissioners the authority to examine the documents of transportation companies to determine which dealers are shipping taxable tangible personal property, and would require the local commissioner to report to TAX on the results of such examination. The bill would not give local commissioners authority to make assessments. Finally, the bill would require local commissioners in localities that impose local license fees and taxes to verify that every taxpayer seeking a local business license who is subject to the state licensing requirements has satisfied the requirements and obtained a state license.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs for DMV Proposal

There are no information technology resources required to implement this legislation. However, if each commissioner of the revenue, treasurer, or local governing body, jointly

or separately requests to establish a branch office or an automated agency, an additional 224 offices would be opened throughout the Commonwealth. The average cost to DMV for each Select operated by constitutional officers is \$45,000 per year. The cost to DMV could exceed \$10 million if all 224 offices were to open.

Administrative Costs for TAX Proposal

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

Revenue Impact for DMV Proposal

The proposed compensation provisions codify existing budget language and the current compensation plan. Therefore, these provisions would have no additional impact on state revenues.

Revenue Impact for Retail Sales and Use Tax Proposal

This bill is expected to have no impact on revenue generated from the Retail Sales and Use Tax. Certain provisions of the bill may lead to local commissioners of the revenue discovering that use taxes have been distributed to the wrong locality, and to that extent, correcting such errors would result in a shift of revenue between localities.

9. Specific agency or political subdivisions affected:

TAX
Department of Motor Vehicles
All localities

10. Technical amendment necessary: No.

11. Other comments:

Current Law

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.

In addition, individuals who wish to conduct business as dealers 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.

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

Currently, local commissioners of the revenue can register applicants for the Retail Sales and Use Tax, and other state taxes, directly 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

Department of Motor Vehicles

This bill would also authorize local commissioners of the revenue and local treasurers to enter into agreements with the Commissioner of the Department of Motor Vehicles to act as agents of the Commissioner of DMV and to operate as "select services" branches.

In addition, the bill would change the formula for funding nonautomated DMV offices from 3 ½% to 4 ½% of the first \$500,000 of gross collections made by the agency; and from 2% of the next \$500,000 to 5% of all gross collections in excess of \$500,000.

Retail Sales and Use Tax, Special Use Tax

This bill would give dealers seeking to register for the Retail 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, rather than registering with the Tax Commissioner.

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.

The bill would also authorize the local commissioner of the revenue to examine the books, records, and other documents of all transportation companies that conduct their business by truck, rail, water, or airplane in order to determine what dealers are importing articles of tangible personal property that are liable for the tax. If the local commissioner of the revenue exercised this authority, he would be required to report the results of the examination to the Tax Commissioner, including any local use tax that has been incorrectly distributed.

The bill would also authorize the commissioner of the revenue to examine a dealer's books and records beyond the three-year statute of limitations period, if the commissioner has reasonable evidence that the dealer has committed fraud, or that the dealer was required by law to file a return and failed to do so. The local commissioner would need to report the results of the examination to the Tax Commissioner, as soon as practicable.

Finally, this bill would require local commissioners of the revenue in those localities that impose the local license fee or tax to verify that every taxpayer applying for a local business license who is subject to the state licensing requirements has satisfied the requirements and obtained a state license. If the local commissioner determines that a taxpayer is attempting to operate a business without the appropriate state license, the commissioner would be required to report the taxpayer to the Department of Professional and Occupational Regulation.

The effective date of this bill is not specified.

Similar Bills

House Bill 1676 and **House Bill 2183** (*identical*) would give dealers seeking to register for the Retail 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, rather than registering with the Tax Commissioner.

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.

Senate Bill 776 would authorize local commissioners of the revenue, local treasurers, and local governing bodies in localities that do not have branch offices or automated agencies to enter into agreements with the Commissioner of the Department of Motor Vehicles to act as agents of the Commissioner to operate as "Select Services" branches.

Senate Bill 1225 would authorize local commissioners of the revenue, local treasurers, and local governing bodies in localities that do not have branch offices or automated agencies to enter into agreements with the Commissioner of the Department of Motor Vehicles to act as agents of the Commissioner to operate as "Select Services" branches, and would change the formula for funding non-automated DMV offices.

cc : Secretary of Finance

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