

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Phillip P. Puckett

3. **Committee** Senate Finance

4. **Title** Business, Professional, and Occupational
License Tax; Uniform Ordinances

2. **Bill Number** SB 154

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide that localities may incorporate or adopt by reference the uniform ordinance provisions in *Va. Code* § 58.1-3703.1(A) for the Business, Professional and Occupational License ("BPOL") tax. The bill would also provide that ordinances only levying a license tax for the severance of coal, gas, or oil would not be required to include provisions substantially similar to those set forth for license requirements and situs of gross receipts if the ordinance requires the person engaging in the severance to obtain a license. The bill would also provide that any ordinance adopted prior to July 1, 2012, that incorporated or adopted the *Va. Code* § 58.1-3703.1(A) provisions by reference include provisions substantially similar to the uniform ordinance provisions.

Virginia Code § 58.1-3703.1 provides uniform ordinance provisions for the BPOL tax. The statute includes provisions for license requirements, due dates and penalties, situs of gross receipts, limitations and extensions, administrative appeals, judicial review, and rulings. Currently, ordinances levying a license tax must include provisions substantially similar to *Va. Code* § 58.1-3703.1(A) to be valid.

This bill would be declarative of existing law.

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

7. **No Fiscal Impact.** (See Line 8.)

8. Fiscal implications:

This bill would have no impact on state or local revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
Localities imposing the BPOL Tax

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

11. Other comments:

BPOL Tax

The Business, Professional and Occupational License (BPOL) tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business. The BPOL tax is a tax on gross receipts, not net income. Under current BPOL law, any locality may charge a license fee in an amount not to exceed:

- \$50 for any locality with a population of 25,000 and greater
- \$30 for any locality with a population smaller than 25,000

The locality may not assess a license tax on gross receipts upon which it charges a license fee. Additionally, the locality may not impose a license tax on a business with gross receipts:

- less than \$100,000 in any locality with a population greater than 50,000
- less than \$50,000 in any locality with a population of 25,000 but no more than 50,000.

Any business with gross receipts in excess of these thresholds may be subject to license tax at a rate not to exceed the rates set forth below:

- Contracting - sixteen cents per \$100 of gross receipts
- Retail sales - twenty cents per \$100 of gross receipts
- Financial, real estate and professional services - fifty eight cents per \$100 of gross receipts
- Repair, personal and business services, and all other businesses - thirty six cents per \$100 of gross receipts.

Localities that imposed a higher rate structure on January 1, 1978 are allowed to continue to impose the tax at those rates.

Uniform Ordinance Provisions

Virginia Code § 58.1-3703.1 provides uniform ordinance provisions for the BPOL tax. *Virginia Code* § 58.1-3703.1(A) sets forth the limitations and requirements of the BPOL tax, including provisions for license requirements, due dates and penalties, situs of gross receipts, limitations and extensions, administrative appeals, judicial review, and rulings. Ordinances levying a license tax must include provisions substantially similar to *Va. Code* § 58.1-3703.1(A) to be valid.

Proposal

This bill would provide that localities may incorporate or adopt by reference the uniform ordinance provisions in *Va. Code* § 58.1-3703.1(A) for the BPOL tax. The bill would also provide that ordinances only levying a license tax for the severance of coal, gas, or oil would not be required to include provisions substantially similar to those set forth for license requirements and situs of gross receipts if the ordinance requires the person

engaging in the severance to obtain a license. The bill would also provide that any ordinance adopted prior to July 1, 2012, that incorporated or adopted the *Va. Code* § 58.1-3703.1(A) provisions by reference include provisions substantially similar to the uniform ordinance provisions.

This bill would be declarative of existing law.

Similar Legislation

House Bill 10 would direct the Department of Taxation to conduct a study of the BPOL Tax with the input of business, industry, and local government representatives in order to determine whether the current business classifications and tax rates reflect today's economy.

House Bill 24 would provide that localities that did not impose the BPOL tax for license year 2011 may impose the BPOL tax on the Virginia taxable income of a business, but may not impose the BPOL tax on gross receipts. However, the BPOL tax on certain public service corporations would continue to be required to be imposed on gross receipts.

House Joint Resolution 4 would direct the Department of Taxation to conduct a study of the BPOL tax with the input of business, industry, and local government representatives in order to determine whether the current business classifications and tax rates reflect today's economy.

cc : Secretary of Finance

Date: 1/17/2012 AM
DLAS File Name: SB154F161