DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement

1. Patron Frank W. Wagner

2. Bill Number SJ 86

House of Origin:

X **Introduced**

_____ **Substitute**

_____ **Engrossed**

Second House:

_____ **In Committee**

_____ **Substitute**

_____ **Enrolled**

3. Committee Senate Rules

4. Title Business, Professional, and Occupational License Tax; Study on Classifications and Rates

5. Summary/Purpose:

This resolution would direct the Department of Taxation to study the impact of a state income tax credit for local machinery and tools taxes paid by manufacturers on the Commonwealth, local governments, and manufacturers, including any anticipated increase in investments in machinery and tools. The Department would be required to solicit the input of business, industry, and local government representatives and recommend to the Governor and the General Assembly the elements of such income tax credit, including the date on which local machinery and tools tax rates then in effect would be used to compute the credit. The Department would be required to complete its meetings by November 30, 2012 and submit its findings and recommendations no later than the first day of the 2013 General Assembly Session.

The effective date of this resolution is not specified.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

This resolution would have no impact on state or local revenues. Based on similar studies, the Department estimates that conducting this study would require some diversion of efforts from other functions.

9. Specific agency or political subdivisions affected:

Department of Taxation
Localities imposing the Machinery and Tools Tax

10. Technical amendment necessary: No.

11. Other comments:

<u>Machinery and Tools Tax</u>

Generally, machinery and tools used in manufacturing, mining, water well drilling, processing or reprocessing, radio and television broadcasting, dairy, dry cleaning or a laundry business are segregated as a separate class of tangible personal property and are subject to local taxation only. The tax rate imposed on machinery and tools may not exceed that imposed on other classes of tangible personal property.

As established in a 1950 opinion of the Tax Commissioner, machinery and tools used in the manufacturing business are those machinery and tools (1) actually and directly used in manufacturing processes and (2) those machinery and tools used in the manufacturing business that are necessary in the particular manufacturing business and are used in connection with operation of machinery that is actually and directly used in manufacturing processes.

<u>Governor's Economic Development and Jobs Creation Commission</u>

In 2010, the Governor's Economic Development and Jobs Creation Commission (“Commission”) issued a report which contained 50 specific recommendations and identified the BPOL and Machinery and Tools as taxes that placed certain businesses at a competitive disadvantage.

The Commission found that the Machinery and Tools Tax hinders manufacturing in Virginia because, as manufacturers invest in new technologies and equipment, their taxes increase. Several of Virginia’s competitive states have repealed their Machinery and Tools Taxes, including Alabama, Kentucky, North Carolina, South Carolina and Georgia. The Commission determined that Virginia must offer manufacturers a competitive tax environment which will result in job creation and larger capital investment.

The Commission recommended that the General Assembly reclassify as intangible personal property and exempt from state and local taxation, i) machinery and tools used for business purposes, for the first three years after being brought into the Commonwealth for the first time, and ii) machinery and tools purchased on and after July 1, 2011, for the first three years following the date of purchase. Additionally, the Commission recommended that the General Assembly reclassify as intangible personal property, machinery and tools that have been in use for at least 10 years and located in a locality in which the assessed value of the machinery and tools is greater than one percent of the original cost when it was purchased new.

While the Commission determined that a complete repeal of the Machinery and Tools Tax is in the best interest of both manufacturers and the Commonwealth, the Commission developed this proposal to avoid creating a financial hardship for local governments. This proposal was calculated to motivate industry to purchase new equipment and tools, transfer machinery and tools from out-of-state to Virginia and/or restart idled machinery and tools.

Proposal

This resolution would direct the Department of Taxation to study the impact of a state income tax credit for local machinery and tools taxes paid by manufacturers on the Commonwealth, local governments, and manufacturers, including any anticipated increase in investments in machinery and tools. The Department would be required to solicit the input of business, industry, and local government representatives and recommend to the Governor and the General Assembly the elements of such income tax credit, including the date on which local machinery and tools tax rates then in effect would be used to compute the credit. The Department would be required to complete its meetings by November 30, 2012 and submit its findings and recommendations no later than the first day of the 2013 General Assembly Session.

The effective date of this resolution is not specified.

Similar Legislation

House Bill 298 would create a separate class of property for purposes of the Machinery and Tools Tax for machinery and tools used directly in cleaning motor vehicles by a motor vehicle cleaning business.

House Bill 512 and **Senate Bill 549** would reclassify as intangible personal property and exempt from state and local taxation, i) machinery and equipment used by farm wineries; and ii) machinery and tools that have not been in service for more than three years.

cc : Secretary of Finance

Date: 2/2/2012 AM
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