

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Mark L. Cole

2. **Bill Number** HB 10

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Business, Professional, and Occupational
License Tax; Limits on Imposition and Rates

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide that a locality may not impose the Business, Professional and Occupational License ("BPOL") tax or fee at a rate higher than the rate imposed by the locality for license year 2011. The bill also provides that any locality that elects to impose the BPOL tax on Virginia taxable income may not thereafter impose the tax on gross receipts.

Currently, the *Va. Code* limits the rates that localities may impose for the BPOL tax and fee. The maximum rates for the BPOL fee are determined by the population of the locality and the maximum rates for the BPOL tax are determined by the type of business. Localities that imposed a higher rate structure on January 1, 1978 are allowed to continue to impose the tax at those rates.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

This bill would have no impact on state revenues. To the extent that localities may not increase the rates of the BPOL tax or fee in excess of the rate imposed for license year 2011 and localities that did not impose the BPOL tax or fee for license year 2011 would no longer be able to impose a new BPOL tax on gross receipts, this bill would have an unknown revenue impact on localities. In Fiscal Year 2010, the BPOL tax generated more than \$632.2 million for the counties, cities, and towns that imposed the tax. The BPOL tax is imposed in all 39 cities, 46 of the 95 counties, and many of the towns of the Commonwealth.

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

All localities that impose the BPOL tax or fee.

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.

Proposal

This bill would provide that a locality may not impose the Business, Professional and Occupational License ("BPOL") tax or fee at a rate higher than the rate imposed by the locality in license year 2011. The bill also provides that any locality that elects to impose the BPOL tax on Virginia taxable income may not thereafter impose the tax on gross receipts.

The effective date of this bill is not specified.

Similar Legislation

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.

Senate Bill 154 would provide that localities may incorporate or adopt by reference the provisions in *Va. Code* § 58.1-3703.1(A) setting forth the limitations and requirements of the BPOL tax in order to meet the requirement that ordinances levying a license tax must include provisions substantially similar to *Va. Code* § 58.1-3703.1(A).

cc : Secretary of Finance
Date: 1/14/2012 AM
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