DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement

1. **Patron** William M. Stanley, Jr.

2. **Bill Number** SB 112
House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

Second House:
____ **In Committee**
____ **Substitute**
____ **Enrolled**

3. **Committee** Senate Finance

4. **Title** Machinery and Tools Tax; Business, Professional, and Occupational License Tax; Appropriation

5. **Summary/Purpose:**

This bill would require the General Assembly to appropriate an amount sufficient to pay on behalf of taxpayers the total amount of Business, Professional, and Occupational License ("BPOL") Tax and Machinery and Tools Tax owed to a locality beginning in any calendar year in which the unemployment rate of the locality in the most recent calendar year for which data is available is equal to or greater than twice the statewide average unemployment rate. The appropriation would continue until the locality's annual unemployment rate in the most recent calendar year for which data is available is equal to or less than the statewide average unemployment rate. The locality would be required to show the amount received as a credit on the tax bill to applicable taxpayers. A locality would be prohibited from imposing the BPOL Tax or the Machinery and Tools Tax at a tax rate higher than the rate in effect on December 31, 2013 in any calendar year that it receives the appropriation. The bill would also require the Department of Taxation to develop guidelines implementing the provisions of the bill.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.
ITEM(S): 261, Department of Accounts

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

8. **Fiscal implications:**

Administrative Costs

The Department has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

To the extent that revenues are appropriated to localities that have an unemployment rate equal to or greater than the statewide average in the most recent calendar year for which data is available, a reduction of an equal amount of General Fund support from other areas in the introduced budget would be required. According to the Bureau of Labor Statistics, the average unemployment rate for Virginia in 2012 was 5.9 percent. In 2012, the cities of Martinsville and Williamsburg had unemployment rates equal to or greater than twice the statewide average, 16.0 percent and 13.4 percent respectively, as well as the towns of Ashland and Clifton Forge, 12.5 percent and 13.1 percent. However, the Bureau of Labor Statistics is scheduled to release calendar year 2013 unemployment data on February 28, 2014 and it is likely that more or different localities could also qualify. Additionally, because the appropriation would continue until the unemployment rate of a locality was equal to or less than the statewide average unemployment rate, and not twice the statewide average unemployment rate, the number of localities receiving an appropriation would tend to increase and result in an increasing cost to the General Fund over time.

According to the Auditor of Public Account's Comparative Report of Local Government Revenues and Expenditures, the city of Martinsville received approximately $0.1 million in machinery and tools tax revenues and $1.7 million in BPOL tax revenues in Fiscal Year 2012, the city of Williamsburg received approximately $1.3 million in machinery and tools tax revenues and $1.6 million in BPOL tax revenues in Fiscal Year 2012, the town of Ashland received approximately $19,000 in machinery and tools tax revenues and $0.4 million in BPOL tax revenues in Fiscal Year 2012, the town of Clifton Forge received approximately $3,000 in machinery and tools tax revenues and $0.2 million in BPOL tax revenues in Fiscal Year 2012.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Machinery and Tools Tax

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 the general class 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.

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. Beginning July 1, 2011, localities may elect to impose the BPOL Tax on the Virginia taxable income of the business. Currently, no locality has made this election.

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 require the General Assembly to appropriate an amount sufficient to pay on behalf of taxpayers the total amount of Business, Professional, and Occupational License ("BPOL") Tax and Machinery and Tools Tax owed to a locality beginning in any calendar year in which the unemployment rate of the locality in the most recent calendar year for which data is available is equal to or greater than twice the statewide average unemployment rate. The appropriation would continue until the locality's annual unemployment rate in the most recent calendar year for which data is available is equal to or less than the statewide average unemployment rate. The locality would be required to show the amount received as a credit on the tax bill to applicable taxpayers. A locality would be prohibited from imposing the BPOL Tax or the Machinery and Tools Tax at a tax rate higher than the rate in effect on December 31, 2013 in any calendar year that it receives the appropriation. The bill would also require the Department of Taxation to develop guidelines implementing the provisions of the bill.

The effective date of this bill is not specified.

Similar Legislation

House Bill 434 would prohibit a locality from increasing the rate of its business machinery and tools tax, merchants' capital tax, and BPOL tax and fees above the locality's rates in effect as of January 1, 2014.

House Bill 435 would prohibit a locality from increasing the rate of its business machinery and tools tax, merchants' capital tax, and BPOL tax and fees above the locality's rates in effect as of January 1, 2014. The bill would also establish refundable income tax credits equal to 33 percent of such taxes paid during the taxable year beginning with taxable year 2014.

cc : Secretary of Finance

Date: 1/13/2014 AM
DLAS File Name: SB112F161