DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement

1. Patron Phillip P. Puckett

2. Bill Number SB 338

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

3. Committee Senate Finance

4. Title Local Gas Severance Taxes

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

5. Summary/Purpose:

This bill would impose the local gas severance tax, the local gas road improvement tax, and the additional local gas severance tax on the gross receipts from gases severed within a county or city. The gross receipts would be computed by multiplying the volume of gas, measured in per thousand cubic feet ("MCF"), severed from the earth in the locality by the average price received per MCF. The bill would provide that if more than 50 percent of the gas severed in the Commonwealth during the reporting period is sold to an affiliated party or in an transaction that is not arm's-length, then the average price received per MCF would be the New York Mercantile Exchange average price for gas per MCF. For purposes of calculating the average price, the bill would provide a deduction for production costs of $0.75 per MCF of gas severed during the reporting period as well as a deduction for transportation costs equal to the lesser of i) $0.25 per MCF of gas severed during the reporting period or ii) the taxpayer's average actual costs per MCF charged for the reporting period by unaffiliated parties for transporting gas through federally regulated pipelines. The deductions for production and transportation costs would not be allowed for taxpayers engaged in the production and operation of severing gases from the earth in connection with coal mining.

Currently, the local gas severance tax, the local gas road improvement tax, and the additional local gas severance tax are imposed on the gross receipts from the sale of gases severed from the earth. Gross receipts are defined as the fair market value measured at the time the coal or gases are utilized or sold for utilization in the locality or at the time they are placed in transit for shipment from the locality.

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:

To the extent that this bill changes the measurement of gross receipts for the purposes of the gas severance taxes, this bill would have an unknown impact on local revenues.

9. Specific agency or political subdivisions affected:

Localities imposing gas severance taxes

10. Technical amendment necessary: No.

11. Other comments:

<u>Local Severance Taxes</u>

Under current law, localities are generally prohibited from imposing a license tax or fee on any person engaged in the business of severing minerals from the earth for the privilege of selling the severed minerals at wholesale at the place of severance.

However, localities are authorized to levy a severance tax that is capped at one percent of the gross receipts from the sale of coal or gases severed within such county. The gross receipts are the fair market value measured at the time the coal or gases are utilized or sold for utilization in the locality or at the time they are placed in transit for shipment from the locality. In calculating the fair market value, no person engaging in the production and operation of severing gases from the earth in connection with coal mining is permitted to take any deductions, including but not limited to, depreciation, compression, marketing fees, overhead, maintenance, transportation fees and personal property taxes. The City of Norton and the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise all impose the severance tax at a rate of one percent.

Those localities that comprise the Virginia Coalfield Economic Development Authority may also impose a local coal and gas road improvement tax that is capped at a rate of one percent of the gross receipts from the sale of coal and gases severed within the locality. The revenues generated from this tax are allocated as follows: 75% are paid into a special fund in each locality called the Coal and Gas Road Improvement Fund, where at least 50% are spent on road improvements and 25% may be spent on new water and sewer systems within the locality; and the remaining 25% of the revenue is paid to the Virginia Coalfield Economic Development Fund. The Virginia Coalfield Economic Development Authority is comprised of the City of Norton, and the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise.

In addition, a county or city may allocate 25% of the revenue in the Coal and Gas Road Improvement Fund to the construction, repair, or enhancement of water and sewer systems; however, if this option is initiated by the county or city, it must develop and adopt by resolution an annual plan for such projects and their funding. 2004 House Bill 1426 (Chapter 871, 2004 Acts of Assembly) provided that any revenues dedicated for water and sewer systems would be distributed directly to the local public service authority.

A county or city may also levy an additional license tax on every person engaging in the business of severing gases from the earth at a rate not to exceed one percent of the gross receipts from the sale of gases severed within such locality. The revenue received from the tax is paid into the general fund, except for the localities that comprise the Virginia Coalfield Economic Development Authority. In those localities, 50% of the revenues are paid to the Virginia Coalfield Economic Development Fund.

Proposal

This bill would impose the local gas severance tax, the local gas road improvement tax, and the additional local gas severance tax on the gross receipts from gases severed within a county or city. The gross receipts would be computed by multiplying the volume of gas, measured in per thousand cubic feet ("MCF"), severed from the earth in the locality by the average price received per MCF. The bill would provide that if more than 50 percent of the gas severed in the Commonwealth during the reporting period is sold to an affiliated party or in an transaction that is not arm's-length, then the average price received per MCF would be the New York Mercantile Exchange average price for gas per MCF. For purposes of calculating the average price, the bill would provide a deduction for production costs of $0.75 per MCF of gas severed during the reporting period as well as a deduction for transportation costs equal to the lesser of i) $0.25 per MCF of gas severed during the reporting period or ii) the taxpayer's average actual costs per MCF charged for the reporting period by unaffiliated parties for transporting gas through federally regulated pipelines. The deductions for production and transportation costs would not be allowed for taxpayers engaged in the production and operation of severing gases from the earth in connection with coal mining.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1028 and **Senate Bill 552** (similar) would extend the sunset date for the local gas road improvement and Virginia Coalfield Economic Development Authority tax.

Senate Bill 505 would dedicate a portion of the revenues from the local additional license tax on every person engaging in the business of severing gases from the earth to the newly established Natural Gas Vehicle Incentive Fund.

cc : Secretary of Finance

Date: 1/17/2014 AM
DLAS File Name: SB338F161