

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** James M. LeMunyon

3. **Committee** House Rules

4. **Title** Study; state and local tax reform; report.

2. **Bill Number** HB 214

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would create a joint subcommittee to perform a one-year study on reforming state and local taxes. The joint subcommittee would assume the tasks of the Joint Subcommittee to Evaluate Tax Preferences, which the bill dissolves.

The effective date of this bill is not specified.

6. Budget amendment necessary: Yes.

Item 1, Enactment of Laws.

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

The joint subcommittee created by this bill would incur costs that cannot exceed \$30,540 without approval of the Joint Rules Committee. However, these costs would be offset by savings from the dissolution of the existing Joint Subcommittee to Evaluate Tax Preferences.

Revenue Impact

The bill would have no impact on state and local tax revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation, Division of Legislative Services; Division of Legislative Automated Systems, Office of the Clerk of the House of Delegates.

10. Technical amendment necessary: No.

11. Other comments:

Over the past two decades the General Assembly has required several studies of all or select aspects of Virginia's tax system.

Commission on Virginia's State and Local Tax Structure

The 1999 session of the General Assembly adopted House Joint Resolution 578 that established the Commission on Virginia's State and Local Tax Structure. The Commission was directed to examine all aspects of the state and local tax structure and the proper division of revenues and responsibilities for services between the two levels of government. The General Assembly also directed the Commission to examine a number of specific issues. The voting members of the Commission unanimously endorsed eleven proposals and published its report. See House Document No. 22 [2001].

Joint Subcommittee to Study and Revise Virginia's State Tax Code

The 2001 session of the General Assembly adopted House Joint Resolution 685 and Senate Joint Resolution 387 that created the Joint Subcommittee to Study and Revise Virginia's State Tax Code. The Joint Subcommittee was directed to:

- (i) examine the report and recommendations of the Commission on Virginia's State and Local Tax Structure for the 21st Century;
- (ii) seek broad input from all levels of government, the private sector, and citizens concerning the sufficiency of the Commonwealth's current tax system;
- (iii) consider the necessity and sufficiency of current taxes, fees, deductions and credits as well as the rates of taxation;
- (iv) consider current revenue capacity of localities and the sufficiency of their revenue tools;
- (v) clarify the definition of manufacturer for purposes of the business, professional, and occupational license tax;
- (vi) examine the number and costs of tax credits and deductions authorized each year;
- (vii) determine the loss in sales tax due to electronic commerce;
- (viii) evaluate the real estate assessment appeals process, the need for any changes to the process, and the effect that such changes would have on taxpayers and local governments;
- (ix) consider the long-term effect on the Commonwealth's revenues of the phase-out of personal property tax;
- (x) evaluate the appropriateness of the merchants capital tax and the business, professional and occupational license tax;
- (xi) consider a plan to more equitably address exemptions, deductions, and rates for personal and business income taxes; and
- (xii) determine the equitable division of support to be assumed by the state and localities for education and mandated services in light of the reforms recommended by the Commission.

The Joint Subcommittee was continued in 2002, but the joint resolution to continue it another year failed to pass in the 2003 session of the General Assembly. In its two years of existence the Joint Subcommittee held over a dozen meetings and adopted numerous recommendations. A final report was drafted but never published. Details of the Joint Subcommittee's actions can be found at <http://dls.virginia.gov/taxcode.htm>.

JLARC Tax Preferences Study

The 2010 session of the General Assembly adopted Senate Joint Resolution 21, which required the Joint Legislative Audit and Review Commission (JLARC) to conduct a two-year examination of Virginia individual income tax, corporate income tax, and retail sales and use tax preferences. In its report, JLARC was required to do the following:

- Determine which individual income, corporate income, and sales and use tax preferences are being claimed or taken and to what extent;
- Provide an estimate of the fiscal impact of all such tax preferences claimed or taken;
- Examine the public policies for which the tax preferences were established and whether the desired public policies have been achieved;
- Report on whether other states routinely provide a sunset date for their tax preferences; and
- Establish a proposed mechanism or processes for the ongoing evaluation of the effectiveness of such tax preferences in bringing about the desired public policies for which the tax preferences were established.

JLARC issued its final report in January 2012, which was published as Senate Document No. 4 [2012]. In its report, JLARC provided an overview of Virginia's tax preferences and the overall fiscal impact of these preferences. JLARC then divided existing preferences into various categories and determined the utilization of preferences within each category. The report identified several factors that hinder the effectiveness of certain tax preferences, including the limited use of sunset dates in tax preference bills and the lack of a formal process for evaluating the effectiveness of tax preferences.

The report concluded with the suggestion that the General Assembly establish a joint subcommittee to oversee an ongoing evaluation process. This suggestion led to the creation of the Joint Subcommittee to Evaluate Tax Preferences in 2012.

Joint Subcommittee to Evaluate Tax Preferences

The 2012 session of the General Assembly enacted HB 777 that created the Joint Subcommittee to Evaluate Tax Preferences. The creation of the joint subcommittee was a recommendation of the Joint Legislative Audit and Review Commission (JLARC) in its review of the effectiveness of Virginia's tax preferences. See Senate Document No. 4 [2012].

The Joint Subcommittee is responsible for the following:

- Undertaking a systematic review of Virginia's tax preferences;

- Establishing procedures and performance measures to evaluate the effectiveness of tax preferences;
- Recommending a process and guidelines for establishing expiration dates for tax preferences; and
- Submitting an annual report to the General Assembly and the Governor of its recommendations, including which tax preferences should be continued, expanded, modified, or eliminated.

The Joint Subcommittee published two annual executive summaries of its actions for 2012 and 2013: Report Document No. 87 [2013] and Report Document No. 114 [2014], respectively. In 2014 the Joint Subcommittee prepared executive summaries of its recommendations on four tax preferences: Partial Exemption for Food (Sales Tax), Drugs and Other Medical Items (Sales Tax), Exemption for Nonprofit Organizations (Sales Tax), and Social Security & Railroad Retirement Benefits Deduction (Income Tax). The Joint Subcommittee recommended continuing all four of the tax preferences, and possibly expanding the sales tax exemption for food.

Proposal

This bill would dissolve the existing Joint Subcommittee to Evaluate Tax Preferences and create a new joint subcommittee to evaluate all state and local taxes and subsume the tasks of the dissolved subcommittee.

The new joint subcommittee would be directed to recommend modifications to state and local taxes that would:

- (i) serve to make the Commonwealth's state and local taxes simpler, more transparent, more efficient, more stable, fairer, less burdensome on economic activity, less burdensome on citizens with the lowest incomes by reducing or eliminating taxes on them, and, to the extent feasible, broader based in exchange for lower rates;
- (ii) produce sufficient revenue for the foreseeable future; and
- (iii) make the Commonwealth more competitive in relation to other states regarding job creation, business creation, and business expansion.

The joint subcommittee would be directed to examine the work, recommendations, and reports from relevant private and public sources of information, including but not limited to the dissolved Joint Subcommittee to Evaluate Tax Preferences, the JLARC Tax Preferences Study, the Joint Subcommittee to Study and Revise Virginia's State Tax Code, and the Commission on Virginia's State and Local Tax Structure. The joint subcommittee would be directed to submit an executive summary of its findings and recommendations no later than the first day of the 2017 Regular Session of the General Assembly.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/15/2016 JPJ
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