DEPARTMENT OF TAXATION
2019 Fiscal Impact Statement

1. Patron Betsy B. Carr

2. Bill Number HB 1669

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

3. Committee House Finance

4. Title Local Disposable Paper and Plastic Bag Tax

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

5. Summary/Purpose:

This bill would allow any locality to impose a $0.05 tax on each disposable plastic bag or disposable paper bag provided to consumers by retailers in grocery stores, convenience stores, and drug stores. The bill would authorize retailers that timely collect the tax to retain one cent for every five cents collected. The plastic bag tax would not apply to:

- Durable plastic bags, with handles designed for multiple reuse;
- Plastic bags used to carry ice cream, meat, fish, poultry, leftover restaurant food, newspapers, or dry cleaning;
- Plastic and paper bags used to carry alcoholic beverages or prescription drugs; and
- Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.

The tax would be administered by the Department of Taxation ("the Department"). Under the terms of the bill, the Department would be required to develop guidelines implementing this tax. The local ordinance required to impose the tax must provide that the locality will use the revenue from the tax for pollution and litter mitigation.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

6. Budget amendment necessary: Yes.
Item 273, Department of Taxation

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

8. Fiscal implications:

Administrative Costs

If the Department is able to implement this legislation by the effective date, it would incur administrative costs of $216,787 in Fiscal Year 2020 and then $13,661 annually

thereafter. Such expenses would be associated with forms and systems changes, and notifying taxpayers of the new tax.

However, due to uncertainty about the systems and processing changes that may be required for the 2018 and 2019 income tax filing seasons, it is possible that the Department may not have the ability to implement the changes set forth in this bill by the proposed effective date. During 2017, Congress enacted the Tax Cuts and Jobs Act, which made substantial changes to federal tax law. At this time, it is uncertain what Virginia tax policy changes will be adopted in reaction to the federal law. Accordingly, the Department will reevaluate its costs once action is taken and may request additional funding or an amendment to delay the effective date of this legislation.

The Department would need the following budget amendment to recover its costs from the revenues collected:

Y. The Department of Taxation is hereby appropriated revenues from the Disposable Paper Bag and Plastic Bag Tax to recover any administrative costs for collecting the tax incurred by the Department of Taxation as provided by § 58.1-3835 (C), Code of Virginia.

Revenue Impact

This bill would have no impact on state revenues.

The tax proposed in this bill could result in a local revenue gain beginning in Fiscal Year 2020. The magnitude of the revenue gain from this tax depends upon the localities that impose the tax, the number of bags used, and consumer shopping behavior.

The proposed tax is similar to the bag tax adopted in the District of Columbia and in Montgomery County, Maryland. The tax in both jurisdictions is at the rate of 5 cents per plastic or paper bag, with 1 cent retained by the retailer. Based upon the revenue generated from these similar bills and taking into account the larger population in Virginia, the tax proposed in this bill could potentially generate between $20.0 million and $26.5 million annually.

9. Specific agency or political subdivisions affected:

Department of Taxation
Localities that choose to impose the tax

10. Technical amendment necessary: No.

11. Other comments:

Neighboring Localities

District of Columbia: Currently, the District of Columbia imposes a fee on disposable carry-out bags. Retailers that sell food or alcohol must charge a $0.05 fee for each paper or plastic disposable bag provided to customers at the point of sale. Retailers may retain

$0.01 of the tax collected or $0.02 if the retailer allows customers a credit for providing their own bags for packaging purchases.

Montgomery County, Maryland: Montgomery County enacted legislation in 2011 that imposes a five-cent fee on every paper or plastic carryout bag provided by retail establishments in the County, and allows retailers to retain 1 cent for the bags they sell a customer. Revenues from the tax are deposited into the County's Water Quality Protection Charge fund.

Proposal

This bill would allow any locality to impose a $0.05 tax on each disposable plastic bag or disposable paper bag provided to consumers by retailers in grocery stores, convenience stores, and drug stores. The plastic bag tax would not apply to:

- Durable plastic bags, with handles designed for multiple reuse;
- Plastic bags used to carry ice cream, meat, fish, poultry, leftover restaurant food, newspapers, or dry cleaning;
- Plastic and paper bags used to carry alcoholic beverages or prescription drugs; and
- Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.

The bill would also authorize retailers that timely collect the tax to retain one cent for every five cents collected. The retailer would not be entitled to any additional dealer discount available under current law.

The tax would be administered by the Department of Taxation. The Tax Commissioner would be required to collect, administer, distribute and enforce the tax in the same manner as the Retail Sales and Use tax. In addition, the Tax Commissioner would be required to develop and make publicly available guidelines implementing the provisions of this bill. Such guidelines would be exempt from the provisions of the Administrative Process Act.

Each locality imposing the bag tax would be required to do so by ordinance. The ordinance would be required to (i) be provided to the Tax Commissioner at least six months prior to the date upon which the tax is to be effective, by certified copy; (ii) provide that the locality will use the revenue from the tax for pollution and litter mitigation; and (iii) provide for the tax to be effective on the first calendar day of any calendar quarter.

The bill would also require that, after the Department has been reimbursed its direct costs of administering and collecting this tax, the remaining funds are to be distributed by the Comptroller to the respective county or city imposing the tax as soon as practical after the end of each month for which the tax is remitted.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

Similar Legislation

Senate Bill 1070 is identical to this bill except that it would be effective July 1, 2020.

Senate Bill 1116 is substantively identical to this bill but revenues collected from the tax would be set aside to fund initiatives of the Chesapeake Bay Watershed Implementation Plan.

House Bill 2092 would impose a tax on disposable plastic bags and also would authorize localities to prohibit the sale or provision of any single use product for which there is not a suitable recyclable or compostable alternative.

cc : Secretary of Finance

Date: 1/13/2019 SK
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