

Senate Bills with Proposed Amendments

SB 944 (Deeds)

Retail Sales and Use Tax; exemption for animal meat

General Assembly Action: Provides an exemption from the Retail Sales and Use Tax for the fabrication of animal meat, grains, vegetables, and other foodstuffs when the purchaser supplies the foodstuffs and they are consumed by the purchaser or his family, or when the purchaser is a tax-exempt organization, or when the purchaser donates the foodstuffs to a tax-exempt organization.

Governor's Action: Adds an additional category for exemption from the Retail Sales and Use tax for computer equipment purchased or leased between July 1, 2010 and June 30, 2020, for use in a data center that is (a) located in a Virginia locality, (b) generates capital investment on or after July 1, 2009 of at least \$150 million, and (c) results in the creation of at least 50 new jobs that pay at least one and one half times the prevailing average wage in the locality.

- Prior to claiming the exemption, a memorandum of understanding must be executed with the Economic Development Partnership Authority.

The amendment was requested by the Virginia Economic Development Partnership as a tool to use in the recruitment of such data centers. According to TAX, the fiscal impact is unknown.

The exemption would sunset on June 30, 2020.

SB 949 (Howell)
Donor Registry and Public Awareness Fund

General Assembly Action: Requires the Virginia Transplant Council to operate or contract out the operations of the Virginia Donor Registry. The bill changes membership and duties of the Council and changes the name of the Transplant Council Education Fund to the Donor Registry and Public Awareness Fund.

Requires driver's licenses or identification cards containing organ donor information to be modified, if the donor does not reconfirm his willingness to be a donor, when licenses or identification cards are renewed.

Requires the Department of Motor Vehicles to develop a process for collecting voluntary contributions to the Donor Registry Public Awareness Fund from those applying for or renewing a driver's license or identification card.

- Requires DMV to include information in each application or renewal packet about the existence of the Fund and to determine if applicants would like to make a voluntary \$1.00 contribution to the Fund.

Governor's Action: Applies the DMV notification requirement to all electronic transactions and removes language referring to a \$1.00 donation.

- Requires that DMV notify those conducting electronic transactions of the opportunity to voluntarily contribute to the Virginia Donor Registry and Public Awareness Fund.
- Procedures for DMV walk-in customers would not be changed.

SB 1021 (McEachin)
**Retail Sales and Use Tax; revenue generated on premises of
new stadium to be used to pay bonds**

General Assembly Action: Adds the City of Richmond to the list of municipalities eligible to receive certain sales tax revenues generated by qualifying public facilities in their jurisdiction to repay bonds issued to pay the costs of such facilities.

- The bill would expand qualifying public facilities to include sports facilities designed for use primarily as baseball stadiums for minor league professional baseball affiliated teams or structures attached thereto.
- This bill would also expand the list of bonds eligible to be repaid from certain Retail Sales and Use Tax revenues generated by public facilities to include the repayment of bonds issued on or after July 1, 2009, but before July 1, 2012.

Governor's Action: Proposes a technical amendment to add baseball stadium to list of authorized projects in one section of the statute. A second amendment clarifies that for a sports facility, eligible sales tax revenues to be dedicated for bond repayment are those generated by transactions taking place on the premises of a baseball stadium or in structures attached to the stadium, i.e., restaurants, shops, etc.

SB 1321 (Locke) - Identical to HB 2056
Advanced Shipbuilding Training Facility Grant Program

General Assembly Action: Established a training facility grant program relating to advanced shipbuilding activities involving nuclear warships for the U.S. Navy. Grants would be paid to an eligible shipbuilder based in Newport News that (i) makes a capital

investment of at least \$300 million; (ii) creates at least 1,000 new full-time jobs; and (iii) maintains an accredited apprenticeship program.

- A maximum of \$25 million in grants would be paid, beginning in FY 2013 through FY 2017, with a provision authorizing an additional \$25 million in grants thereafter, if recommended by the Secretary of Commerce and Trade based on an economic impact analysis and subsequently approved by the General Assembly.
- Grant funds are to be used to finance the costs of a new training facility for the apprenticeship program.

Governor's Action: Technical amendments clarify that the grant program is for a training facility and that the time period to establish eligibility for the first \$25 million in grants is from January 1, 2009 through December 31, 2011, not through July 1, 2012.

SB 1325 (Stosch) Neighborhood Assistance Act Tax Credit

General Assembly Action: Changes the administration of the Neighborhood Assistance Act Tax Credit and the eligibility for an allocation of tax credits. Also extends the sunset date from July 1, 2009, to July 1, 2011.

- The bill provides that nonprofit organizations serving individuals with family annual income not in excess of 180 percent of the federal poverty guidelines for educational programs and 150 percent of the federal poverty guidelines for all other programs would be eligible for an allocation of neighborhood assistance tax credits (current regulations establish eligibility at 150 percent of the federal poverty guidelines for all programs).

- Expands types of eligible educational services to include scholastic assistance, i.e., programs that offer counseling or supportive services to students or their parents in developing a postsecondary academic or vocational education plan.
- Establishes a \$0.5 million annual limit in tax credits for each neighborhood organization or a grouping of neighborhood organization affiliates (except for a grouping of affiliates that was approved for more than \$0.5 million in credits for education proposals in any fiscal year prior to FY 2010.)
- Splits administration of tax credits between the Department of Education (DOE) and the Department of Social Services (DSS), with the provision that DOE would allocate up to \$4.9 million in tax credits each year for education proposals and DSS would allocate up to \$7.0 million in tax credits for all other proposals.
- Reduces the tax credit cap from \$12.0 million to \$11.9 million, and directly appropriates \$100,000 to DOE to support an administrative position. (**This change was made in the House substitute to SB 1325.**)

Governor's Action: Strikes the fourth enactment clause that directly appropriates \$100,000 general funds to the Department of Education for an administration position to support the program.

SB 1387 (Stolle)

Assessment for Construction, Renovation, or Maintenance of a Courthouse

General Assembly Action: Allows localities to assess an additional \$3.00 fee as part of the costs in each civil, criminal, or traffic case to be used solely for the construction of a courthouse. Such fee shall not be assessed in any civil action if the amount in controversy is \$500 or less.

- The additional fee may only be assessed by localities that, on or after January 1, 2009, operated a courthouse not in compliance with the current safety and security guidelines contained in the Virginia Courthouse Facility Guidelines *and* the courthouse cannot be feasibly renovated to correct the non-compliance.

Governor's Action: Changes the eligibility for imposition of the additional \$3.00 courthouse fee to those localities operating substandard courthouses on or after January 1, 2008, rather than January 1, 2009. This date was chosen to accommodate a court order for the Manchester Courthouse in the City of Richmond.

In a second amendment, specifies that the additional funds generated by the fee may be used for the reconstruction, or renovation of an existing courthouse, or the adaptive reuse of a building as a courthouse, in addition to construction. (This amendment may be in conflict with the provision on line 26 of SB 1387, which states that the additional fee may only be assessed if the existing courthouse, "...cannot be feasibly renovated to correct such non-compliance.")

House Bills with Proposed Amendments

HB 1830 (Fralin)

Setoff Debt Collection Act; setoff against federal tax returns for local debt

General Assembly Action: Allows local governments, with the Department of Taxation's assistance, to collect past due local debts or accounts from federal income tax refunds.

Governor's Action: Limits the provisions of the bill to only delinquent local taxes. This amendment will make the bill identical to SB 1292, which passed the General Assembly and has been signed by the Governor.

HB 2056 (Hamilton) - Identical to SB 1321

Advanced Shipbuilding Training Facility Grant Program

General Assembly Action: Established a training facility grant program relating to advanced shipbuilding activities involving nuclear warships for the U.S. Navy. Grants would be paid to an eligible shipbuilder based in Newport News that (i) makes a capital investment of at least \$300 million; (ii) creates at least 1,000 new full-time jobs; and (iii) maintains an accredited apprenticeship program.

- A maximum of \$25 million in grants would be paid, beginning in FY 2013 through FY 2017, with a provision authorizing an additional \$25 million in grants thereafter, if recommended by the Secretary of Commerce and Trade based on an economic impact analysis and subsequently approved by the General Assembly.
- Grant funds are to be used to finance the costs of a new training facility for the apprenticeship program.

Governor's Action: Technical amendments clarify that the grant program is for a training facility and that the time period to establish eligibility for the first \$25 million in grants is from January 1, 2009 through December 31, 2011, not through July 1, 2012.

HB 2098 (Orrock)
Real property tax; agriculture use assessment

General Assembly Action: Provides that real property that otherwise qualifies for agricultural, horticultural, forest, or open space use assessment is not disqualified solely because a portion of the property is used for a different purpose or utility lines are located on the property.

- The portion of property used for a different purpose would be deemed a separate piece of property for assessment purposes.

Governor's Action: Clarifies that zoning designations and special use permits can be considered in determining whether the real property qualifies for special land use assessment but shall not be the sole consideration in making that determination.

HB 2099 (Orrock)
George Washington Toll Road Authority

General Assembly Action: Creates the George Washington Toll Road Authority encompassing the City of Fredericksburg and the County of Spotsylvania for the purposes of improving the transportation system within the Route 3 corridor by alleviating highway congestion, promoting highway safety, expanding highway construction, increasing the utility and benefits and extending the services of public highways, including bridges, tunnels and other highway facilities, both free and toll facilities.

The Authority is provided the ability to issue revenue or revenue refunding bonds backed by toll-supported revenues. However, the toll revenues shall not exceed \$1.00 without express approval of the local government bodies embraced by the Authority. Under no circumstance shall any debt of the Authority be considered an obligation of the Commonwealth or the local governments.

Governor's Action: Removes provisions granting eminent domain powers to the Authority.

HB 2437 (Byron) **Corporate Income Tax; Apportionment for Manufacturers**

General Assembly Action: Modifies the corporate apportionment formula by allowing manufacturing companies to use a single factor apportionment based on sales to determine their Virginia taxable income (current law uses payroll, property and double-weighted sales to determine Virginia tax liability).

- The modification would be phased in by increasing the weight of the sales factor as follows: for taxable years beginning on or after July 1, 2011, but before July 1, 2013, qualifying corporations may elect to use a triple-weighted sales factor; for taxable years beginning on or after July 1, 2013, but before July 1, 2014, qualifying corporations may elect to use a quadruple-weighted sales factor; and for taxable years beginning on or after July 1, 2014, and thereafter, qualifying corporations may elect to use only Virginia sales (single sales factor) to apportion Virginia taxable income.
- Provides that once a corporation elects to use the alternate apportionment, it must do so for at least three taxable years.

- In addition, a taxpayer making this election would be required to certify to TAX that the average weekly wages of its full-time employees was greater than the lower of the state or local average weekly wages for the taxpayer's industry.
- Requires corporations to maintain at least a base year level of employment in the Commonwealth for the first three taxable years after electing to use the alternate apportionment (base year employment is the average number of full-time employees in the taxable year that ended immediately prior to the first tax year that alternative apportionment is used).
- If a corporation does not satisfy this criterion, TAX is directed to assess the corporation the difference between taxes calculated under the standard apportionment in which sales are double-weighted and the alternate apportionment. In addition, a ten percent penalty would be assessed and interest would accrue.
- **The base year employment provision was added to the bill when it was before the Senate Finance Committee as an accountability measure to ensure that the lowered tax burden made available to manufacturing companies will in fact protect Virginia jobs.**

Governor's Action: Adds a "non-severability clause" to clarify that the provisions of the bill related to job retention are integral to the ability to elect a single sales factor since jobs are essential to the fiscal health of the Commonwealth. The language indicates that if the job retention section is held to be invalid or unconstitutional, then the ability to elect a single sales factor would be invalid as well.

The Major Business Facility Jobs Tax Credit has a "non-severability clause" to ensure that tax benefits tied to in-state business activity

accrue only to those companies that meet specified conditions. The Governor's proposed amendment to HB 2437 parallels the Major Business Facility clause.

- TAX advised that a similar clause be added relative to the single sales factor so manufacturers having the option of lowering their Virginia tax liability are those that retain or increase Virginia jobs within a three-year window of receiving the tax preference.

HB 2479 (Hugo) **Commercial Property Tax Rates in Northern Virginia**

General Assembly Action: Reduced from \$0.25 per \$100 to \$0.125 per \$100 the rate of additional real property tax that may be imposed on commercial and industrial properties by the counties and cities embraced by the Northern Virginia Transportation Authority. An enactment clause says the provisions **of the Act** shall expire on June 30, 2013.

Localities embraced by the Northern Virginia Transportation Authority may elect to impose additional real property taxes on all commercial and industrial property or on commercial and industrial property located in regional transportation tax districts created within the locality's boundaries with the revenues generated being used exclusively for transportation purposes that benefit the locality imposing the tax.

Governor's Action: Clarifies that only the reduction in the maximum commercial real property tax rates authorized in HB 2479 will expire on June 30, 2013.

HB 2517 (Lohr)
**Standards of Learning; Board of Education to Provide Option of
Industry Certification**

General Assembly Action: Directs the Board of Education, in prescribing Standards of Learning assessments, to also provide the option of industry certification and state licensure examinations in lieu of administering tests to assess the progress of students. The legislation would codify current practice.

Governor's Action: Clarifies that the Board of Education can select which certifications and examinations are appropriate to use in the optional industry certification and state licensure assessment of student progress.