INTERIM REPORT OF THE
JOINT SUBCOMMITTEE STUDYING

Business, Professional and Occupational License Tax

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

HOUSE DOCUMENT NO. 78

COMMONWEALTH OF VIRGINIA
RICHMOND
1994

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Interim Report of the Joint Subcommittee Studying the Business, Professional, and Occupational License Tax

To
The Governor and the General Assembly of Virginia

Richmond, Virginia
January 1994

TO: The Honorable George F. Allen, Governor of Virginia,
and
the General Assembly of Virginia

I. EXECUTIVE SUMMARY

House Joint Resolution 526 (see Appendix A), passed by the 1993 General Assembly, established a joint subcommittee to study the business, professional, and occupational license tax imposed by local jurisdictions and to consider alternative means of taxation.

In its deliberations, the subcommittee considered options for restructuring or replacing some or all of such taxes with alternative revenue neutral business taxes which are fairer, easier to understand and apply, and more efficient to administer.

The BPOL tax has been a controversial tax for many years. Some in the business community do not think the categories of occupations are appropriate. Some think the tax rates are unfair. A majority of those objecting to the tax agree the tax should not be levied on the gross receipts of a business. However, local jurisdictions depend substantially on the BPOL tax revenues and, therefore, will not give them up without some alternative which will provide a comparable amount of funds in order to provide requires services. An equitable distribution of the financial responsibilities for those local services is of paramount concern to the localities.

The subcommittee considered amending the current BPOL tax statute as well as repealing the statute and replacing it with a different method of taxation. In order to decide, the subcommittee met twice to hear testimony from those representing the business community as well as local jurisdictions. In addition an advisory committee consisting of business people and local jurisdiction officials was appointed by the chairman of the joint subcommittee. The advisory committee, which also met twice, was to develop some viable alternatives for the joint subcommittee to consider. Their focus was on the administration of the BPOL tax because the subcommittee quickly discovered that eliminating the tax was impossible without an alternative revenue producer.

Realizing the enormity of their task and wanting to find the best solution and not just a quick fix, the subcommittee decided to extend the study for an additional year.

II. INTRODUCTION

The business, professional and occupational license ("BPOL") tax has been a controversial tax for many years. The fact that the tax is levied on the gross receipts, not profits, of certain businesses is an often stated criticism against the tax. HJR 526, the resolution adopted by the 1993 General Assembly and establishing the joint subcommittee for this study, specifically provides "...WHEREAS, a tax measured by gross receipts bears no necessary relationship to the profitability of the business which may pay the tax nor does such a tax give any consideration to the competitive situation a particular industry may face nor of the economic situation in general;...." This summarizes the problem the business community has with the tax.

Local governments, however, have come to rely on the revenues produced by the BPOL tax so its elimination without a replacement is unfeasible. Both the business community and local government agree that a fair, equitable, and predictable tax structure which provides both a stable revenue stream and a fair taxing system is needed.

The joint subcommittee consisted of 15 members as follows: Delegates David G. Brickley, Mitchell Van Yahres, Linda T. Puller, James M. Scott, and Harry R. Purkey; Senators E.M. Holland, Charles J. Colgan, Kevin G. Miller, and Robert L. Calhoun; Connie Bawcum; Helena L. Dodson; Judith S. Fox; Mark Jinks; George C. Newstrom; and Carl W. Stenberg, III.

In accordance with HJR 526, the joint subcommittee investigated several options for restructuring or replacing some or all of the BPOL taxes with alternative revenue neutral business taxes which are fairer, easier to understand and apply, and more efficient to administer. In making its determinations the subcommittee considered the following factors:

(1) What is the purpose of the BPOL tax?
(2) How have the economic conditions changed since the current BPOL tax law was enacted?
(3) Will such changes be better addressed by amending the current law or by repealing it and replacing it with a different method of taxation?
(4) What method of taxation will be fair and equitable to business as well as provide a comparable revenue stream to local government?
(5) How can the administration of the tax be improved?

The subcommittee met twice and heard testimony from representatives of the business community as well as local jurisdictions. In addition, an advisory committee, appointed by the subcommittee chairman and comprised of business people and local jurisdiction representatives, met twice. The advisory committee focused on the administration of the tax in developing recommendations for the subcommittee. Its members included Mr. John L. Knapp, Ms. Betty Long, Mr. R. Michael Amyx, Ms. Ellen Davenport, Mr. James D. Campbell, The Honorable Robert P. Vaughan, The Honorable Gerald H. Gwaltney, Mr. Ira F. Cohen, William L.S. Rowe, Esquire, Mr. Charles K. Trible, Ms. Sandra D. Bowen, Dr. Edward H. Bersoff, Mr. Michael W. Dawkins, and Mr. Jim DePasquale.

III. BACKGROUND

HISTORY

The license tax has existed for quite some time in Virginia. Practically unheard of in the colonial period, it was recognized as a source of revenue at the state level following the War of 1812, when the state government assumed Virginia's quota of the costs of that war. The license tax rates not only increased but were extended to more businesses. In addition, the tax was imposed at a flat rate for the "privilege" of establishing a business in a city or town which had to provide services to those businesses. By 1850, the policy of levying a license tax on practically all well-established businesses and professionals was adopted. In an attempt to provide a more equitable tax structure in the 20th century, the gross receipts basis of taxation was instituted because businesses had very different business volumes and the flat tax rate did not account for such differences. Today, the BPOL tax remains an important source of revenue to localities.

Although an important revenue source, the BPOL tax has been subject to criticism and study for many years, especially during the 1970s. BPOL tax rates were actually frozen at their December 31, 1974, level during the 1975 Session of the General Assembly at the recommendation of the Revenue Resources and Economic Commission, which was conducting a study that resulted in the publication of Fiscal Prospects and Alternatives: 1976. Included in the publication is a detailed analysis of the BPOL tax -- its advantages and disadvantages. The analysis points out the importance of the tax as a source of revenue and also discusses the inequities of the tax structure as it then existed. The tax was based on gross receipts, which had no relation to profitability. Further, different types of business had different levels of profitability relative to their receipts. For example, a grocery store would have a relatively low profit margin but a relatively high volume of gross receipts. However, other types of business have high profit margins with lower gross receipts. Finally, there were some extremely high tax rates for certain types of business in some localities.

The following year, in its 1977 Report to the Governor and General Assembly,[1] the commission focused on one alternative for restructuring the framework of the BPOL tax. The intent was to categorize activities that had displayed similar operating ratios over a recent time period and to set maximum tax rates per gross receipts for those classes reflecting the same relative differences in profitability. The report suggested that the state also could require that in addition to being within the state maximums, each locally set rate for each business category must be relative to the operating ratios for all categories. The report indicated that guidelines developed by the Department of Taxation would provide some assurance to the various categorized businesses that tax rates would reflect their general ability to pay and that no business would be subject to special treatment, because a rate change for one category would be accompanied by similar changes for other categories.

This 1977 report resulted in a proposal by the commission in its 1978 Report to the Governor and the General Assembly.[2] An excerpt from the 1978 report explains the proposal.

> The proposal places ceilings on the local business, professional, occupational license tax as follows:
>
> | CATEGORY OF ENTERPRISE | TAX RATE PER $100 GROSS RECEIPTS |
> |---|---|
> | Contracting | .16 |
> | Retail Sales | .20 |
> | Finance, real estate, and professional services | .58 |
> | Repair, personal and business services, and all other business | .36 |
>
> No such local license tax shall exceed $30 or the rate per $100.00 of the enterprise's gross receipts as stated above, whichever is greater. Massage parlors, fortune tellers, and carnivals, are allowed as exceptions and no ceilings are placed on these businesses.
>
> *NOTE:* The relationship between the ceiling rates reflects the relative differences in operating ratios between broad categories of similar activities, i.e., the gross profit ratios for similar business activities as reported by the Internal Revenue Service in Statistics of Income: Business Income Tax Returns, 1970.
>
> The Department of Taxation will be responsible for drafting regulations enumerating the various types of businesses which fall within the four broad categories. Local governments will have the option of setting varied rates for sub-categories of businesses as long as the rates do not exceed the ceiling rate of the major category.
>
> Any local government which presently has rates higher than the proposed ceilings is frozen at the same amount of dollars it collected in FY 1977-78 until such time as it is able to reduce its rates to the ceiling rates without a loss of revenue. When the

[1] Revenue Resources and Economic Commission, Report to the Governor and the General Assembly on Local Fiscal Issues, A Staff Report (December, 1977).
[2] Revenue Resources and Economic Commission, Report to the Governor and the General Assembly, Senate Doc. No. 16 (1978).

locality has adjusted its rates at or below the ceiling, it may once more collect additional revenues as inflation and/or economic growth increases the tax base.

The administrative procedure for a locality that must roll back its BPOL rates is explained by the following example:

a) A locality is frozen at FY 1977-78 BPOL dollars (until such time as its tax rates are within the ceilings). For example, assume $100,000 is collected in FY 1977-78.
b) In FY 1978-79, assume $106,000 is collected.
c) The locality must lower the tax rates for the subsequent tax year on one or more of the categories which was above the ceiling rate. The rate (rates) must be lowered so that the total receipts in the next fiscal year can reasonably be expected to be the amount received in FY 1977-78 less the $6,000 in receipts which was over-collected.

The merchants' capital tax is repealed. This tax source yielded $2,806,321 for counties in tax year 1976 (Department of Taxation Annual Report 1976-77, Table 5.6). Some towns also levy this tax, but the total dollars collected is not available. It is perceived that counties now levying a merchants' capital tax would adopt a BPOL tax.

Any county license tax imposed shall not apply within the limits of any town located in such county. This is the present law (58.1-266.1(7), *Code of Virginia*).[3]

Today's BPOL tax provisions, found in §§ 58.1-3700 through 58.1-3735, include many of the recommendations made by the Revenue Resources Commission in its 1978 report. The categories and maximum tax rates are identical to those recommended by the commission.

ADMINISTERING THE TAX

In Virginia, the governing body of any locality may levy and provide for the assessment and collection of local license taxes on businesses, trades, occupations, and professions. Whenever a local jurisdiction imposes a BPOL tax, the basis for the tax, whether it is gross receipts or otherwise, will be the same for all individuals engaged in the same business. Some occupations and businesses are exempt from the tax (e.g., some public service corporations, manufacturers who sell merchandise at wholesale at the place of manufacture, and affiliated corporations).[4]

For counties, the license tax imposed does not apply in any town in the county where the town has a similar tax, unless the town's governing body makes provision for the county tax to apply.

The situs for BPOL tax purposes is any county, city, or town in which the individual maintains an office or place of business. If such taxable situs is in more than one local jurisdiction, the tax due in any one jurisdiction is based on only the amount of business attributable to that local jurisdiction.

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[3] Id. at 3-5.
[4] Va. *Code* § 58.1-3703 B.

In general, the limits on the BPOL tax rates are as follows:

> [N]o local tax imposed ... shall be greater than thirty dollars or the rate set forth below for the class of enterprise listed, whichever is higher:
>
> 1. For contracting, and persons constructing for their own account for sale, sixteen cents per $100 of gross receipts;
> 2. For retail sales, twenty cents per $100 of gross receipts;
> 3. For financial, real estate and professional services, fifty-eight cents per $100 of gross receipts; and
> 4. For repair, personal and business services, and all other businesses and occupations not specifically listed or excepted in this section, thirty-six cents per $100 of gross receipts.[5]

These rates are the same as recommended by the Revenue Resources Commission in its 1978 report.

In administering the BPOL tax, localities follow guidelines provided by the Department of Taxation, which define and explain the four categories of business named above. Because each local jurisdiction administers the tax, there are differences in rates as well as which businesses are subject to the tax.

RECENT LEGISLATION

During the 1993 General Assembly Session, Senate Bill 775 was offered. The legislation was strongly supported by local governments because it gave them more flexibility regarding the BPOL tax rate it could levy on certain high technology businesses. The legislation failed.

Another bill, House Bill 1352, dealt with a narrow issue which was studied for the past two years by a joint subcommittee (HJR 361). That subcommittee examined the issue of whether certain nonprofit hospitals, colleges and universities should be exempt from the BPOL tax. The exemption which was in effect for the two years of the study and was set to expire July 1, 1993, was extended under this year's legislation until July 1, 1997. The legislation passed.

ACTIVITIES OF THE JOINT SUBCOMMITTEE

The purpose of the study was explained by staff during the joint subcommittee's June organizational meeting, which was also its first meeting. Staff also discussed the history of the tax, its problems and the issues on which the subcommittee needed to focus. This followed the election of Delegate David G. Brickley as chairman of the subcommittee and Senator Edward M. Holland as vice chairman.

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[5] Va. *Code* § 58.1-3706.

During the second meeting, which was held in August, representatives from the business community and local government voiced their concerns about the business, professional, and occupational license (BPOL) tax and offered suggestions for possible changes.

Business Concerns. The recurring theme from the business sector was how inequitable and regressive the BPOL tax is and the complexity of its administration. A business subject to the tax in one locality may not be subject to it in a neighboring locality, or the rates for the same business might be different. This can create bookkeeping nightmares for businesses located in more than one locality, particularly smaller businesses.

Finally, many businesses believe that the definition of gross receipts is much too broad. Some in the business community would like to see the definition refined to include only those receipts generated within the taxing local jurisdiction and only those receipts generated by the classified business.

Determining into which BPOL tax category businesses fall also can be confusing. The guidelines prepared by the Department of Taxation for use by the localities in making this determination have not been updated in several years. A great deal of flexibility is afforded the local jurisdictions, which makes it difficult for businesses to plan with any certainty.

Local Government Concerns. Local government representatives emphasized how important the BPOL tax revenues are to the localities that levy the tax. In most of those localities, the tax ranks fourth in producing revenues, exceeded only by real estate, personal property, and local sales taxes. Repealing the tax should not be considered without a replacement tax or an increase in the rates of some other existing tax to generate comparable revenues. Also, the elimination of the BPOL tax by the substitution of another tax raises the issue of who or what group should pay this alterntive tax, as one taxpayer's BPOL reduction would become another taxpayer's tax increase.

Local government officials agreed that administration of the tax can be problematic and expensive. While open to the call for improvements to administering the tax, local officials generally did not want to hand over the reins completely to the Department of Taxation.

Possible Solutions. Suggested solutions to the problems enumerated during the meeting included:

- gradual repeal of the BPOL tax over a 10-year period;
- immediate repeal of the tax and enactment of local business net income tax;
- revision of classifications and rates to reflect the current economy;
- administration and audit of BPOL tax by the Virginia Department of Taxation;
- short-term exemptions or reduced rates for new businesses;
- designation of threshold level of receipts before BPOL tax applies;
- creation of model ordinance for use by localities;
- statewide mechanism for protest resolution; and
- change appeal deadlines and procedures.

At the suggestion of one of the speakers, an advisory committee composed of individuals from the business and local government sectors was established to assist the joint subcommittee in developing mutually acceptable options addressing the BPOL tax problems.

The advisory committee for the BPOL tax study met in Richmond in October. The committee had a round table discussion and while no consensus was reached, the following suggestions regarding possible changes in the BPOL tax and how it is currently administered were examined:

(1) Replace the BPOL tax system of four classifications having four different maximum rates with one classification having one rate.

(2) Create a uniform system of classifications to be used statewide along with a model ordinance.

(3) Create an appeals process with the Department of Taxation through which a business owner could object to the classification in which his business has been placed by the locality.

(4) Refine the definition of gross receipts so it is better understood and easier to apply.

(5) Request that the Department of Taxation update the guidelines used by the localities in classifying businesses. The last update was done in 1984.

(6) Grant the Department of Taxation the power to issue regulations and make rulings regarding classifications which would provide more guidance to localities and businesses.

The second meeting of the advisory committee was held in January just one week prior to the beginning of the 1994 General Assembly Session. The discussion centered around developing a model ordinance and uniform system of classification, and refining the definition of gross receipts. After reviewing many of the major issues involved, it was decided that the first draft of a model ordinance would be attempted by staff with the Department of Taxation's assistance. It will then be circulated among the advisory committee for comment before going to the joint subcommittee as a recommendation.

At the conclusion of both meetings, the advisory committee emphasized what an important study this is which should not be rushed. Any changes to be made should be considered carefully and as many ramifications understood as possible. Therefore, the committee supported extending the BPOL Tax Study for another year. Chairman Brickley indicated that, with the approval of the joint subcommittee, he intended during the upcoming session to offer a resolution extending the study for one more year, a resolution asking the Department of Taxation to assist with the development of a model ordinance and uniform system of classification, and a bill requiring the Department of Taxation to update the guidelines used by the localities to classify businesses for BPOL tax purposes.

IV. ISSUES

1. *SHOULD THE BPOL TAX BE REPEALED, AND IF SO, HOW CAN THE LOCAL JURISDICTIONS REPLACE THE LOST REVENUES?*

2. *WHAT, IF ANY, CHANGES CAN BE MADE TO IMPROVE THE ADMINISTRATION OF THE BPOL TAX?*

V. FINDINGS AND CONCLUSIONS

After determining that the BPOL tax could not be eliminated because a comparable alternative revenue producer could not be created, the subcommittee decided to focus on the administration of the tax. Both the business community and local jurisdiction representatives agreed that improvements in how the BPOL tax is administered could be made.

Because the BPOL tax is local option, it is the local jurisdiction which decides whether or not to levy the tax. Once that decision is reached, the local jurisdiction has some leeway on whom it levies the tax. This capability can cause confusion for businesses operating in more than one local jurisdiction. One jurisdiction might levy the tax on a certain business while another neighboring jurisdiction exempts that business. Or one jurisdiction might charge a lower rate than a neighboring jurisdiction does on the same business. Finally, the definition of gross receipts is open to varying interpretations by each locality.

In order to alleviate some of these discrepancies the subcommittee recommends the following:

1. ***By joint resolution, extend the study (HJR 526) for one additional year in order to properly address the problems with the BPOL tax (see Appendix B).***

2. ***By joint resolution, request the Department of Taxation to assist the joint subcommittee with the creation of a model ordinance and uniform classification system (see Appendix C).***

3. ***By legislation changing the applicable statute, require the Department of Taxation to update the classification guidelines and make them available by January 1, 1995, for use by local jurisdictions (see Appendix D).***

The joint subcommittee extends its gratitude to everyone who contributed to a successful year of study. We look forward to continuing our work in 1994.

Respectfully submitted,

Delegate David G. Brickley, **CHAIRMAN**
Senator E.M. Holland, **VICE CHAIRMAN**
Delegate Mitchell Van Yahres
Delegate Linda T. Puller
Delegate James M. Scott
Delegate Harry R. Purkey
Senator Charles J. Colgan
Senator Kevin G. Miller
Senator Robert L. Calhoun
Connie Bawcum
Helena L. Dodson
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VI. APPENDICES

A. House Joint Resolution No. 526 (1993)

B. Draft Resolution Extending the Study for One Year

C. Draft Resolution Requesting Department of Taxation to Assist in Preparing Model Ordinance and Uniform Classification System

D. Draft Legislation Requiring the Department of Taxation to Update Classification Guidelines

APPENDIX A

House Joint Resolution No. 526 (1993)

HOUSE JOINT RESOLUTION NO. 526

Establishing a joint subcommittee to study the business, professional, and occupational license tax imposed by localities and to consider alternative means of taxation.

Agreed to by the House of Delegates, February 18, 1993
Agreed to by the Senate, February 16, 1993

WHEREAS, the Commonwealth, within certain limits, has granted localities the authority to issue business, professional and occupational licenses and to charge a tax on the issuance thereof (the "BPOL" tax); and

WHEREAS, such taxes are imposed on the gross receipts generated by the businesses which may be subject to it; and

WHEREAS, a tax measured by gross receipts bears no necessary relationship to the profitability of the businesses which may pay the tax nor does such a tax give any consideration to the competitive situation a particular industry may face nor of the economic situation in general; and

WHEREAS, a business may be a high-volume, low-profit business and incur a large tax liability, while a low-volume, high-profit business will incur a small tax liability; and

WHEREAS, a progressive tax structure is considered one bearing some relationship to a taxpayer's ability to pay and not necessarily to its sales volume or revenue; and

WHEREAS, certain taxpayers in Virginia suffer a much larger local BPOL tax liability than state or federal income tax liability; and

WHEREAS, the BPOL tax may be placing the Commonwealth at a competitive disadvantage in terms of attracting new business to the state and, in fact, may constitute a disincentive for remaining in Virginia or locating here in the first instance; and

WHEREAS, the BPOL tax has become an increasingly important source of local tax revenues, and it would be unfair to reduce or eliminate this source of revenue without replacing it; and

WHEREAS, other forms of taxation may represent a fairer and more easily administered taxing system; and

WHEREAS, the interests of business and government coincide in the area of creating a fair, equitable, and predictable tax structure which provides government with a stable revenue stream and business with a fair taxing system without making the decision to do business in Virginia a competitive disadvantage; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the business, professional, and occupational license taxes by localities and to consider options for restructuring or replacing some or all of such taxes with alternative revenue neutral business tax or taxes that are fairer, easier to understand and apply, and more efficient to administer.

The joint subcommittee shall consist of 15 members who shall be appointed in the following manner: five members of the House of Delegates to be appointed by the Speaker of the House; four members of the Senate to be appointed by the Senate Committee on Privileges and Elections; three members of the business community, at least one of whom shall be from the high technology sector; one member of the academic community having knowledge and experience in the area of local government taxation; and a representative from the Virginia Municipal League and the Virginia Association of Counties. The Governor shall appoint all of the nonlegislative members.

The joint subcommittee shall complete its work in time to submit its findings and recommendations, if any, to the Governor and the 1994 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The indirect costs of this study are estimated to be $9,680; the direct costs shall not exceed $10,800.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

APPENDIX B

Draft of the
Resolution Extending the Study for One Year

1994 SESSION

HOUSE JOINT RESOLUTION NO. 110

Offered January 24. 1994

Continuing the joint subcommittee studying the BPOL tax.

Patrons—Brickley, Cranwell, Darner, Moss, Puller, Purkey, Scott and Van Yahres; Senators: Calhoun, Colgan, Holland, E.M. and Miller, K.G.

Referred to Committee on Rules

WHEREAS, House Joint Resolution No. 526, adopted by the 1993 Session of the General Assembly, established a joint subcommittee to study the business, professional, and occupational license (BPOL) tax imposed by local governments; and

WHEREAS, the joint subcommittee was to consider options for restructuring or replacing such tax with an alternative revenue-neutral business tax or taxes that are fairer, easier to understand and apply, and more efficient to administer; and

WHEREAS, the joint subcommittee met twice to review data and to hear testimony from both the business community as well as local governments concerning the BPOL tax; and

WHEREAS, the joint subcommittee appointed an advisory committee consisting of representatives from local government and business to assist the joint subcommittee by developing recommendations concerning the BPOL tax; and

WHEREAS, the advisory committee met twice and discussed possible changes which would improve the administration of the BPOL tax but needs more time to finalize its recommendations; and

WHEREAS, the joint subcommittee realizes this is an important undertaking and any proposed changes must be thoroughly examined and understood prior to their adoption: now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the joint subcommittee studying the business, professional, and occupational license tax be continued. The membership of the joint subcommittee shall continue as established by House Joint Resolution No. 526 of the 1993 Session of the General Assembly. Vacancies shall be filled by the Governor, the Speaker of the House of Delegates, and the Senate Committee on Privileges and Elections, as appropriate. The joint subcommittee shall continue to review the BPOL tax, particularly the administration of it.

The joint subcommittee shall submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly in accordance with the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The direct costs of this study shall not exceed $7800.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

APPENDIX C

Draft of the
Resolution Requesting Department of Taxation
to assist in preparing
Model Ordinance and Uniform Classification System

1994 SESSION

HOUSE JOINT RESOLUTION NO. 111

Offered January 24, 1994

Requesting the Department of Taxation to cooperate with the Joint Subcommittee Studying the Business, Professional, and Occupational License Tax by developing a model ordinance and uniform system of classification.

Patrons—Brickley, Cranwell, Darner, Moss, Puller, Purkey, Scott and Van Yahres; Senators: Calhoun, Colgan, Holland, E.M. and Miller, K.G.

Referred to Committee on Rules

WHEREAS, the business, professional, and occupational license (BPOL) tax is currently being studied by a joint subcommittee established by House Joint Resolution 526 during the 1993 Session of the General Assembly; and

WHEREAS, the Joint Subcommittee is focusing its study on the administration of the BPOL tax; and

WHEREAS, the Joint Subcommittee, with the assistance of an advisory committee, has determined that a model ordinance and a uniform system of classification might be useful in administering the tax; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Taxation be hereby requested to cooperate with the Joint Subcommittee Studying the BPOL Tax by developing a model ordinance and a uniform system of classification to be used by local governments which impose the BPOL tax. The Department may seek input from representatives of local government and the business community as the Department deems necessary in its work on this project.

The details and results of the developed model ordinance and the uniform system of classification shall be included in the report of the Joint Subcommittee to the Governor and the 1995 Session of the General Assembly.

APPENDIX D

Draft of the
Legislation Requiring the Department of Taxation to
Update Classification Guidelines

1994 SESSION

HOUSE BILL NO. 505

Offered January 24, 1994

A BILL to amend and reenact § 58.1-3701 of the Code of Virginia, relating to business, professional, and occupational license tax.

Patrons—Brickley, Cranwell, Darner, Moss, Puller, Purkey, Scott and Van Yahres; Senators: Calhoun, Holland, E.M. and Miller, K.G.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3701 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3701. Department to promulgate guidelines.

The Department of Taxation shall promulgate guidelines defining and explaining the categories listed in subsection A of § 58.1-3706 for the use of local governments in administering the taxes imposed under authority of this chapter. In preparing such guidelines, the Department shall not be subject to the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) but shall cooperate with and seek the counsel of local officials and interested groups and shall not promulgate such guidelines without first conducting a public hearing. *Such guidelines shall be updated during the 1994 taxable year and available for distribution to local governments on January 1, 1995. Thereafter, the guidelines shall be updated triennially.*

The Tax Commissioner shall have the authority to issue advisory written opinions in specific cases to interpret the provisions of this section and the guidelines issued pursuant to this subsection. The guidelines and opinions issued pursuant to this section shall not be applicable as an interpretation of any other tax law.