2004 Special Session I

Budget Bill - HB5001 (Chapter 4)

Bill Order » Office of Finance » Item 286

Department of Taxation

Item 286	First Year - FY2005	Second Year - FY2006
Revenue Administration Services (73200)	**$43,719,261**	**$45,237,375**
Administrative Processing (73201)	$9,719,084	$9,719,084
Revenue Law and Fee Compliance (73203)	$33,030,788	$34,641,902
Tobacco Master Settlement Agreement Enforcement (73209)	$969,389	$876,389
Fund Sources:		
General	$37,390,055	$38,908,169
Special	$6,218,200	$6,218,200
Trust and Agency	$101,006	$101,006
Dedicated Special Revenue	$10,000	$10,000

Authority: Title 3.1, Chapters 18, 25.3 and 27; Title 58.1, Code of Virginia.

A. The Department is hereby authorized to request and receive a treasury loan to fund the necessary start-up costs associated with the implementation of a local income tax and/or sales and use tax modification. The Department shall not incur such costs unless a locality(ies) takes action to put the tax options on a referendum. The treasury loan shall be repaid for these costs from the local income tax and/or sales and use tax revenues.

B. Pursuant to § 58.1-1803, Code of Virginia, the Tax Commissioner is hereby authorized to contract with private collection agencies for the collection of delinquent accounts. The State Comptroller is hereby authorized to deposit collections from such agencies into the Contract Collector Fund (§ 58.1-1803, Code of Virginia) from which the private collection agencies shall be paid. Any balance in the fund remaining after such payment shall be deposited into the appropriate general, nongeneral, or local fund no later than June 30 of each year.

C. There is hereby appropriated, for each year of the biennium, revenues from the sales tax on fuel in certain transportation districts to cover only the direct cost of administration incurred by the Department in collecting this tax as provided by § 58.1-1724, Code of Virginia.

D.1. The Department of Taxation is authorized to retain, as special revenue, its reasonable share of any court fines and fees to reimburse the Department for any ongoing operational collection expenses.

2. Any form of state debt assigned to the Department of Taxation for collection may be collected by the Department in the same manner and means as state taxes may be collected pursuant to Title 58.1, Chapter 18, Code of Virginia.

E. Pursuant to § 3.1-336.2, Code of Virginia, the Department of Taxation shall diligently enforce the non-participating manufacturer statute of the 1998 Tobacco Master Settlement Agreement. Towards this effort, the

Department shall aggressively track manufacturers, audit records, pursue leads for potential criminal action, and provide accurate and reliable data to the Office of the Attorney General to pursue appropriate legal action. The general fund shall be reimbursed on a proportional basis from the Tobacco Indemnification and Community Revitalization Fund and the Virginia Tobacco Settlement Fund for costs associated with enforcement of the Master Settlement Agreement pursuant to transfers directed by Item 502 paragraphs A.2. and B.2. and § 3-1.01, paragraphs R.1. and R.2. of this act.

F.1. The Department shall continue a comprehensive Personal Property Tax Relief Act Compliance Program (the Compliance Program) begun in 2003 to enhance taxpayer knowledge of and compliance with the provisions of Chapter 35.1, Title 58.1, Code of Virginia, the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act), and to establish cost-effective compliance verification and audit procedures to ensure that relief under PPTRA is provided only to qualifying vehicles as defined in the Act. The Department of Motor Vehicles (DMV), the Department of Accounts, local commissioners of the revenue and other local assessing officials, city, county and town treasurers and directors of finance in localities that do not have an elected treasurer shall cooperate with the Department and shall, upon the request of the Department, provide all information and assistance necessary to continue the Compliance Program.

2. The Personal Property Tax Relief Act Compliance Program shall include, without limitation, the following components:

a. Provisions for informing motor vehicle owners, prominently and in plain English, at the time of vehicle titling, renewal registration, local motor vehicle licensing pursuant to § 46.2-752, Code of Virginia, personal property tax assessment and personal property tax billing, of the limitations upon qualification for relief under the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act).

b. Development of a process for periodic, informed certification by vehicle owners of vehicle use and characteristics that are determinative of eligibility for relief under the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act), utilizing to the maximum extent possible existing procedures and communications between governmental entities and affected taxpayers.

c. Compliance assurance measures that ensure the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act) relief is not provided to owners of vehicles that are not qualifying vehicles under the Act.

3. As part of the Personal Property Tax Relief Act Compliance Program, the Department of Motor Vehicles (DMV) shall require, as a part of each application for initial and renewal vehicle registration for vehicles potentially eligible for the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act) relief on and after January 1, 2003, a certification by the vehicle owner as to its use for business purposes. Certification information collected by the Department of Motor Vehicles (DMV) shall be made available to commissioners and other local assessing officials for use in discharging their responsibilities for qualifying vehicles for relief under the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act).

4. As part of the Personal Property Tax Relief Act Compliance Program, for any vehicle with a value in excess of $1,000, commissioners and other local assessing officials responsible for determining vehicle qualification for the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act) relief, and treasurers and other local officials responsible for local vehicle registration and for the issuance of personal property tax bills to vehicle owners, shall implement provisions for certification by the vehicle owner as to vehicle use for business purposes:

a. In jurisdictions where an affirmative personal property tax return is required of the taxpayer, certification shall be obtained at the time of filing a return of personal property. In cases where this method fails to obtain the requisite taxpayer certification, then at the time of any one of the following:

1) Application for, or issuance of evidence (such as a decal or local license plate) of, initial or renewal local vehicle

licensing pursuant to § 46.2-752, Code of Virginia.

2) Payment of personal property tax bill, where a bill is required to be issued pursuant to applicable law and where payment can be construed as a certification of vehicle usage.

3) Any other communication with the vehicle owner requiring an affirmative response or responsive action on the part of the owner.

b. In jurisdictions where a File By Exception method is used for personal property tax returns, at the time of the following:

1) The File By Exception process in which citizens shall be required to notify the locality of any changes in vehicle usage on an exception basis, and either

2) Payment of personal property tax bill, where a bill is required to be issued pursuant to applicable law and where payment can be construed as a certification of vehicle usage, or

3) Application for, or issuance of evidence (such as a decal or local license plate) of, initial or renewal local vehicle licensing pursuant to § 46.2-752, Code of Virginia.

5. Recertification required by paragraph F.4. of this Item shall be obtained on an annual basis.

6. The Department shall periodically audit the personal property tax records of localities for the purpose of ascertaining compliance with the provisions of this paragraph and of other provisions of Chapter 35.1, Code of Virginia. In the event the Department determines that the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act) relief has been provided to a specific nonqualifying vehicle, the Department shall identify to the commissioner or other assessing official each case in which relief was granted to a nonqualifying vehicle owner. Each such commissioner or other assessing offical shall promptly identify to the local treasurer or other local collection official each case in which relief was granted to a nonqualifying vehicle owner. The local treasurer or other local collection official shall notify the Department of Motor Vehicles and the State Comptroller through established procedures. The State Comptroller shall make appropriate adjustments, as may be required, to future PPTRA reimbursements to the locality with respect to each overpayment. Statistical sampling techniques that do not identify specific nonqualifying vehicles as to which PPTRA relief nevertheless was granted may be used by the Department in the preparation of reports of overall compliance rates with respect to PPTRA, but shall not, in and of themselves, be used as the basis for ratably reducing PPTRA reimbursements or making setoffs against future PPTRA reimbursements to a locality except in a locality where an audit by the Department determines it is substantially noncompliant as defined by standards of compliance established annually by the Tax Commissioner.

7. Each commissioner or other local assessing official responsible for making determinations regarding qualification of vehicles for the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act), with the guidance and assistance of the Department and the PPTRA Compliance Task Force, shall continue the program of compliance assurance measures that are designed to identify and to audit likely cases of PPTRA relief being obtained for nonqualifying vehicles. Each such commissioner or other assessing official shall promptly identify to the local treasurer or other local collection official each case in which relief was granted to a nonqualifying vehicle owner. The local treasurer or other local collection official shall notify the Department of Motor Vehicles and State Comptroller through established procedures. The State Comptroller shall make appropriate adjustments, as may be required, to future PPTRA reimbursements to the locality with respect to the overpayment. Each such commissioner or other official shall report annually to the Department regarding the program instituted and the results obtained. In developing local compliance assurance measures, the commissioner or other responsible local official shall utilize locally available information, such as that relating to business licensing, activities and taxation, that will tend to identify potential recipients of PPTRA relief with respect to nonqualifying vehicles in a cost-effective manner.

8. In order to assist commissioners and other responsible local officials in identifying potential recipients of the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act) relief with respect to nonqualifying vehicles, the Department shall make available to commissioners and such officials information in its possession or otherwise available to it that will tend to identify taxpayers claiming exclusions or deductions relating to the use of vehicles for business purposes. Nothing in § 58.1-3, Code of Virginia, shall be construed to prohibit the transfer to commissioners and other local officials of such information for the limited purposes described in this item.

9. The Department shall report to the Chairmen of the Senate Finance and House Appropriations Committees by November 1 of each year on total overpayments by the Commonwealth that have been identified for the prior fiscal year.

10. The Tax Commissioner is authorized to promulgate administrative guidelines to implement the Personal Property Tax Relief Act of 1998 (PPTRA, or the Act) Compliance Program. Such guidelines shall not be subject to the provisions of the Administrative Process Act.

G. Notwithstanding § 3-1.01 Q 1 or Q 2 of this act, the administration of the Personal Property Tax Relief Act of 1998 shall remain with the Department of Motor Vehicles after January 1, 2004.