

Commission on Local Government

Estimate of Local Fiscal Impact

2022 General Assembly Session

Bill: HB 152

Special Session:

Patron: March

Date: 1/19/2022

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Sales and use tax; payment card processing fees. Provides a sales and use tax exemption for the portion of any transaction that is a payment card processing fee, defined in the bill. The bill also provides such an exemption from local meals taxes.

Executive Summary:

Localities evaluated a negative fiscal impact ranging from \$0 - \$1.6 million.

Many of the respondents reported unknown fiscal impacts from the bill, due to several factors. Localities indicated that processing fees are frequently borne by the business, rather than the consumer, and as such would reduce real revenue for the business or be incorporated into the item price. They further noted that the fees collected will range widely by the vendor or method of payment used, and further complicates the tax reduction. Almost all stated that their offices do not separate revenue derived from processing fees in their sales tax revenues, making estimation difficult.

However, localities did note that the bill would likely produce a negative fiscal impact. The loss would come from a loss in sales tax revenue, and would particularly impact localities which rely heavily on meals or sales tax as a revenue source. They also noted that the negative impact may increase over time, as card payments increasingly replace cash ones. One locality reported potentially needing additional software and increased administrative costs stemming incurred in collecting and calculating the discount for transactions.

Local Analysis:

Locality: Amherst

Estimated Fiscal Impact: \$0.00

We have no way of knowing what percentage of sales and use as well as meals tax is attributable to processing fees.

Locality: Augusta County

Estimated Fiscal Impact: \$0.00

There is minimal impact on revenue related to this bill as very few local government transactions would require sales tax to be calculated. For the County, there are some parks and recreation fees that require sales tax. Credit card processing fees are paid by the County and not passed to the consumer. If this were not the case, then there may be software set up or programming to ensure that the fee is calculated properly through the system to exclude it from sales tax calculations.

We also feel that restaurants do not pass on their credit card processing fees onto customers. A restaurant receipt shows the cost of the meal x sales tax rate and cost of the meal x meals tax rate. It is rare to see a business that will pass on credit card processing fees without appropriate signage, and usually for large purchases.

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**Locality:** Chesterfield County

**Estimated Fiscal Impact:** \$1,390,000.00

Based on estimated taxable sales projected for FY2023, and an assumed average processing fee of 2%, total reduction to local sales and use tax collections would total \$1,390,000. Low-end estimate was used for average processing fee to account, in part, for share of cash payments that would not be impacted by this change.

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Locality: City of Alexandria..

Estimated Fiscal Impact: \$1,600,000.00

At a 3% fee, Should the merchant pass this on to the customer, then the City would have an adverse revenue loss. This would reduce local sales and meals tax by a maximum of approximately \$1.6 m. At this time, the City has no data from which to calculate a hard estimate. As written, there is ambiguity because credit card fees are normally paid by the merchant, not the buyer. Additionally, it does not impose the same reduction to the State sales tax portion.

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**Locality:** City of Danville

**Estimated Fiscal Impact:** \$0.00

We have no ability to estimate the impact of this bill.

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Locality: City of Manassas

Estimated Fiscal Impact: \$93,000.00

The estimated fiscal impact to the City of Manassas is calculated using an average of 2% of the total sale amount as the typical credit card transaction fee that merchants pay to credit card processors. However, this fee paid by merchants is not typically itemized on a customer's bill. Therefore, the ability to exclude this amount from the local tax would appear to be limited which would make the fiscal impact less than the estimate of \$93,000.

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**Locality:** City of Roanoke

**Estimated Fiscal Impact:** \$801,723.00

We estimated that card processing fees average 2.5% of a transaction. We also used data from the Federal Reserve to determine that 70% of non-bill pay transactions are done with debit/credit (or mobile) cards. Using these two assumptions, we recalculated our FY23 revenue estimates for Sales, Prepared Food and Beverage, Transient Occupancy, Cigarette, Admissions and Admissions (Civic Facilities) by removing the estimated card processing fees from Taxable Sales.

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Locality: City of Virginia Beach

Estimated Fiscal Impact: \$1,641,608.00

It is currently impossible to know for sure the amount of restaurant meals tax is generated via credit card payments; however, using the national average of 75% card usage by consumers when dining out and the City's FY22 budgeted revenue for meals tax the following can be estimated.

FY 22 Budgeted Meals Tax Revenue \$62,537,453
Meal Tax Sales \$1,137,044,600
% Using Credit/Debit Card 75%
Sales from Credit Cards \$ 852,783,450
3.5% Processing Fee \$29,847,421
Potential Loss of Revenue \$1,641,608

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**Locality:** City of Winchester

**Estimated Fiscal Impact:** \$0.00

In reading HB152, since taking debit and or credit card as a form of payment, the "payment card processing fee" is the cost of doing business. So most company I believe just add this to the cost of what they are selling and then the tax calculated against what the customer buys a small portion of that tax would have been applied against the "payment card processing fee." If this bill passes the way I read it, then the businesses that accept debit and credit card payments would have to figure out how much "payment card processing fee" is charged for each transaction and then the calculation of tax against that amount could not be taxed. I would guess the businesses would have to find some form of cash register software so that "payment card processing fee" are not taxed. It appears to me it would create additional book work and reconciliation to keep tabs on what "payment card processing fee" your business is being charged for accepting debit and credit cards as a form of payment.

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Locality: County of Albemarle

Estimated Fiscal Impact: \$0.00

Estimating the impact of HB 152 is challenging as the locality does not have enough tax payer information as to whether the sales tax collected was based on a total including processing fee. Fiscal impact is likely minimal.

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**Locality:** County of Mecklenburg

**Estimated Fiscal Impact:** \$100,000.00

While there would be a fiscal impact from this bill; no concrete impact can be quantified. Currently, tax remittance is not segregated into categories of processing fees; therefore, it would not be possible to know what amount of current revenues comes from such charges. Additionally, processing fees differ from locations and type of cards used and some vendors do not add the amount into individual cost determinants, but take it as a cost of doing business. Thus, even a sample from certain vendors could not accurately portray the market. Furthermore, not all transactions on current tax revenues are made from electronic payments and it is not known what the card to check to cash, or other means of payment breakdown would be.

Nevertheless, since most credit card charges average between 1.5% to 3%, then if all transaction were electronic and countable, and all businesses denoted it as a separate item, then the impact of this bill could be to reduce over \$100,000 of revenue from the 1% local option sales tax based on current tax proceeds.

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Locality: Hanover County

Estimated Fiscal Impact: \$300,000.00

It is difficult to know the portion of our localities' sales are conducted via credit card, which ones are charged a fee, and the fees that are charged. However, we conclude that passage of this legislation will likely result in a reduction in revenues for the County. Quantifying the exact amount is difficult to determine, however, we're providing a rough estimate of a reduction of \$300k in revenue. This reduction in revenue would need to be offset by expenditure reductions to public services or increases in other sources of local revenues.

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**Locality:** Montgomery County

**Estimated Fiscal Impact:** \$225,000.00

Using an average credit card processing fee of 2% and estimates for our sales tax and food and beverage tax, we estimate a loss of revenue of approximately \$225,000 annually.

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Locality: Norfolk

Estimated Fiscal Impact: \$0.00

No impact

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**Locality:** Nottoway County

**Estimated Fiscal Impact:** \$15,000.00

There is a decent amount of revenue collected from payment card processing fees. As this trend continues to become popular, especially in this new no-contact or limited-contact society we have now the potential for revenue growth is strong.

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Locality: Prince George County

Estimated Fiscal Impact: \$15,000.00

There is no accurate way to determine the impact of this change. We do not receive a breakdown on Sales and Use Taxes received that shows basis for collection and the split of cash, check vs. credit/debit card payments. Similarly, we do not receive such information from our local restaurants with meals tax remittances.

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**Locality:** Rappahannock County

**Estimated Fiscal Impact:** \$1.00

Credit card processing fees reportedly range from 1.5% to 3.5% ... it is hard to determine what portion of sales and use tax is resultant from purchases from credit cards, but that might not be important from a locality perspective because if revenue from sales and use tax is reduced by a percent or two, the locality will have to make up that revenue through another avenue that remains available. With BPOL also under consideration of removal, the practical option for localities is to raise real estate and personal property taxes to make up the difference. Shifting sales and use taxes (collected in part from visitors and online patrons) shifts the revenue burden completely on to locals in a way that is heavily regressive and would hit those on a fixed income. If the revenue sources remained part of sales and use tax collection fixed income citizens can moderate purchases ... but they cannot moderate their home ownership.

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Locality: Richmond County

Estimated Fiscal Impact: \$0.00

n/a

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**Locality:** Town of Blacksburg

**Estimated Fiscal Impact:** \$114,000.00

Currently restaurants in Town do not separate payment card processing fees. They are a cost of doing business included in the total cost. For online services, those costs are after the tax is applied. If the restaurants started to separate payment card processing fees, it could cost the Town \$114,000. This is based on an estimated 2% payment card processing fees on the FY22 budget for meals tax.

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Locality: Town of Christiansburg

Estimated Fiscal Impact: \$510,000.00

A separate discount for merchant service fees would cost the Town approximately \$80,000 per 1% of discount offered. We would estimate an average discount of 5% or \$400,000. The discount at the sales tax level would impact state revenues and not the Town unless the state passed that discount down to the local portions. If the state did so, that cost would be approximately \$22,000 per 1% so assuming a 5% discount it would be \$110,000. This would be an approximate total of \$510,000.

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**Locality:** Town of Leesburg

**Estimated Fiscal Impact:** \$0.00

We are not aware of this being done and we don't follow this practice. We have no breakout of sales tax that would allow us to estimate this amount.

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Locality: Town of Luray

Estimated Fiscal Impact: \$500,000.00

The amount of customers using credit cards is ever increasing, so the amount of revenue provided to the local government will decrease.

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**Locality:** Town of Marion.

**Estimated Fiscal Impact:** \$20,000.00

N/A  
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Locality: Town of Scottsville

Estimated Fiscal Impact: \$4,160.00

This bill would reduce the tax revenue of all localities using the meals and local sales tax, including small towns like Scottsville.

The bill basically provides a tax deduction for restaurant expenses, where none such currently exists. Processing fees vary, but range 1.5% to 3.5% depending on the processing company's tiering and strategy. When a customer pays by card, the business pays a processing fee, and consequently pockets less real revenue. Some businesses respond to this by offering a discount if customers pay cash, or running a cash-only business. Scottsville has one very successful cash-only restaurant.

Scottsville's Meals Tax revenue budget is \$160,000 for the current fiscal year: this is the single largest local revenue source for the Town. Sales tax is another \$48,000 and is also very significant. Deducting this revenue would be a substantial and harmful impact to local budget.

The impact is calculated as follows: (\$160,000 meals tax revenue + \$48,000 sales tax revenue) (0.025 transaction fees) (80% of payments use a processor according to the Federal Reserve research below) = \$4,160 impact.

The Town's own-source revenue is about \$500,000 so deducting this amount is significant.

The meals tax and sales tax generally calculate on the gross sales. Deducting certain overhead expenses from the tax calculation could lead to further erosion of the tax base in the future.

<https://www.frbsf.org/cash/publications/fed-notes/2021/may/2021-findings-from-the-diary-of-consumer-payment-choice/>

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**Locality:** Town of Warsaw

**Estimated Fiscal Impact:** \$4,000.00

My interpretation of the proposed bill allows for the possibility of credit card processing companies to pass fees on to the locality itself if it cannot collect certain transaction fees. Although I understand the merits of the bill, it will necessitate a local increase in certain fees in order to make up for this new expense.

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Locality: Wise County

Estimated Fiscal Impact: \$0.00

I'm not sure how we could determine this amount because this would be for companies that are selling goods. It would not affect the county website because we do not charge sales tax on our tax payments.

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