**SJR 361: Joint Subcommittee Studying Manufacturing Needs and the Future of Manufacturing in Virginia**
June 7, 2005
Forest

The second meeting of the Joint Subcommittee Studying Manufacturing Needs and the Future of Manufacturing in Virginia was held at Barr Laboratories' Forest facility. Delegate Lacey Putney welcomed the members to the Lynchburg region.

Workforce Issues

Catherine Higgins of Barr Labs gave the members an overview of the company's operations. Recruitment and retention of qualified workers is critically important to pharmaceutical firms. Barr Labs invests over $10,000 per employee in recruitment and training during the first 45 days of employment. Issues of concern to the human resources department include the increasing cost of health care benefits and possible amendments in the Family and Medical Leave Act.

Tax Issues

Rocco Rositano, Senior Director of Taxation at Barr Labs, recommended that future tax legislation foster an atmosphere that encourages the growth of manufacturing in Virginia. He suggested that states use their corporate income tax laws to benefit manufacturers. He praised the use of a single-factor formula to apportion a corporation's income among all states in which it does business, as preferable to formulas used in most states that include property and payroll, as well as sales, components in their apportionment formulas. Illinois, Connecticut, Nebraska, Iowa, Maryland and Texas were reported to have adopted the single-factor (sales) formula, which benefits manufacturers because they have a disproportionate share of property and payroll in states where their manufacturing facilities are located. Mr. Rositano suggested that any decrease in corporate income taxes paid by in-state manufacturers is usually offset by increases in taxes paid by other corporations that do not maintain significant facilities in the state.

The use of incentives, including training grants, investment tax credits and personal property tax abatements, to attract and maintain manufacturers was described as mutually beneficial to the states and corporations. Benefits to states include increasing employment and tax base as a result of making the jurisdictions more attractive for corporations to locate or expand operations.

Mr. Rositano criticized state legislation that would narrow the sales and use tax exemption for purchases by manufacturers of inputs used in the manufacturing process. It was observed that property taxes account for approximately 47 percent of the total business tax burden in Virginia. Of the states where Barr Labs has facilities, a personal property tax is levied in Ohio and Virginia but not in New York and New Jersey. Legislation has been introduced in Ohio that would phase out the personal property tax on businesses.

In response to a request made at the joint subcommittee's prior meeting, staff summarized bills and legislative studies from the prior decade that pertain to the local machinery and tools tax. The bill that most directly addressed the issue of lack of uniformity of assessment ratios was

House Bill 2502 (1999). This bill, which failed, would have established a state-wide uniform schedule for valuation of machinery and tools used in the coal mining industry, based on a declining percentage of the original cost. Of the numerous legislative studies that have examined Virginia's tax system, the most germane was the Tax Department's study, pursuant to House Joint Resolution 527 of the 1993 Session, of defining "manufacturer" as a business engaged in any of the activities listed in Standard Industrial Classification (SIC) codes 20 through 39, for all state and local taxes. The comprehensive study report sets out the implications of adopting such a uniform definition of a manufacturer, and ultimately concludes that while using an SIC-based definition will increase uniformity in classification among all localities, other issues, such as whether equipment is "machinery and tools" used in manufacturing, will not be resolved by a uniform definition of "manufacturer," and concludes that recommendation for or against adoption of an SIC-based classification is premature.

Another study that addressed machinery and tools tax issues of interest to the Joint Subcommittee was conducted pursuant to the second enactment clause of House Bill 2085 (1999). In addition to establishing an appeals process for local business taxes (including machinery and tools tax), the bill included a second enactment clause that directed the Virginia Municipal League, Virginia Association of Counties, Commissioners of Revenue Association, Virginia Chamber of Commerce, and Virginia Manufacturers Association to propose recommendations to address uniform methods of valuation, rate classification and associated local revenue impacts for local business taxes to the House Finance and Senate Finance Committees. The group reported to the Chairmen of the House and Senate Finance Committees that "[a]fter careful thought and deliberation, it was determined that a statewide uniform method of valuation was not in anyone's best interest -- neither the taxpayers' nor the localities'. Therefore, the interested parties' recommendation is to leave alone the current method of valuation with regard to local business taxes."

Natural Gas Issues

The joint subcommittee recognizes the negative effect that rising natural gas prices have had on Virginia's manufacturers, as it is both an energy resource and a raw material used in the production of chemicals, fertilizer, and other goods.

Senator Wagner reported that the federal Energy Policy Act under debate in Congress does not currently contain a provision allowing coastal states to opt out of the moratorium on new offshore oil and gas exploration and production. The Senate Energy and Natural Resources Committee reported a version of the bill on May 26, 2005, that provides for an inventory of Outer Continental Shelf oil and gas reserves. The bill, a version of which has passed the House of Representatives, may be further amended when it is debated on the Senate floor this month.

William Brinker of North Carolina-based Enerdyne Power Systems gave members an overview of issues relating to landfill gas projects in Virginia. Using landfill gas offers an opportunity to avoid flaring or releasing the odiferous substance into the atmosphere while concurrently allowing users to avoid burning fuels, such as coal, that create more environmental pollution, while saving money on fuel costs. However, because landfill gas has a lower percentage of methane than natural gas, and thus a lower BTU rating, it does not directly compete with

conventional natural gas. Nationwide there are 320 landfill gas projects. Currently there are 10 landfill gas projects developed in Virginia, and there are over 30 landfills with development potential. Mr. Brinker noted that the development of a landfill gas project can be difficult and take a long time, in part because landfill gas developers do not have the right to exercise the power of eminent domain to acquire rights-of-way. Brinker suggested that landfill gas projects could be encouraged by creating income tax credits for industries that use landfill gas and by creating industry awareness of local landfill gas utilization opportunities.

Paul Ruppert of Dominion Resources addressed the siting of liquefied natural gas (LNG) import terminals. LNG is natural gas that is cooled to minus 263 degrees Fahrenheit, at which temperature the gas displaces 1/600th of its room temperature volume. In its condensed state, the gas can be transported economically by specially-designed vessels. Considerations for siting a marine terminal, where the LNG can be offloaded from vessels and vaporized, include a water depth of at least 40 feet, tanker access, sufficient acreage to ensure safety and security, and proximity to the existing gas transmission pipeline grid. The process for obtaining LNG terminal permits from federal, state and local governments and completing a terminal may take 5 to 6 years. The version of the Federal Energy Bill that has passed the House provides for federal preemption of the role of state regulators in siting LNG terminals.

Currently there are four active marine import terminals in this country. Approximately 30 terminal projects (including both on-shore and off-shore vaporizing facilities) have been proposed. It was suggested that the facilities with the best prospects for completion are those involving the expansion of an existing terminal, projects in the West Gulf Coast area, and projects in Mexico and Canada. Not all LNG sites are marine terminals; there are several LNG facilities in the United States, including three in Virginia, where gas is stored in a liquefied state to supplement storage capacity or distribution facilities.

None of the proposed LNG marine terminals are in Virginia. The absence of Virginia sites was attributed in part to the absence of large transmission pipelines that could transport gas from the coast to markets. This situation was contrasted to Dominion's Cove Point LNG facility, which is located in close proximity to major existing pipeline systems. Mr. Ruppert concluded that the potential does exist for the development of LNG and pipeline facilities in Virginia, and further investigation is needed.

Next Meeting

The next meeting of the joint subcommittee is tentatively scheduled to be held on August 25, 2005, in Pulaski County. Issues to be addressed include the income apportionment for corporate income tax purposes and a multi-state comparison of the tax burden on the manufacturing sector.

Chairman: The Honorable Frank W. Wagner, Chairman
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