

# DEPARTMENT OF TAXATION

## 2004 Fiscal Impact Statement

1. **Patron** Harry J. Parrish

2. **Bill Number** HB 1076

3. **Committee** Senate Finance

**House of Origin:**

       **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Real and Personal Property Tax Exemptions:  
Certain Charitable and Other Related  
Organizations

**Second House:**

  X   **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would clarify the process localities must follow in determining whether real or personal property of certain charitable and other related organizations may be exempt from local property taxes. It creates different procedures to be used in exempting such property by designation and in exempting property by classification.

This bill would also modify the grandfathering of property tax exemptions for nonprofit organizations granted through classification by the General Assembly to include property that was taxed by the locality prior to January 1, 2003 that a court determines should have been exempted.

Emergency Clause: This bill is in force effective January 1, 2003, and ordinances adopted pursuant to the bill will be made effective on or after January 1, 2003.

### 6. **No Fiscal Impact**

7. **Budget amendment necessary:** No.

### 8. **Fiscal implications:**

This bill would have no impact on state revenues. It only clarifies the administrative procedures a locality must follow in exempting the property of certain charitable and other related organizations. However, to the extent that organizations denied an exemption qualify for a grandfathered exemption, this bill would have an unknown negative impact on local revenues.

### 9. **Specific agency or political subdivisions affected:**

All localities.

10. **Technical amendment necessary:** No.

## 11. Other comments:

This bill develops different procedures to be used in exempting property by designation or classification.

Specific to adopting an ordinance exempting real or personal property by **designation**, the bill would require that local governing body consider eight specific questions.

1. Whether the organization is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code of 1954.
2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property.
3. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders.
4. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions, or local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in-kind or other material services.
5. Whether the organization provides services for the common good of the public.
6. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office.
7. The revenue impact to the locality and its taxpayers of exempting the property.
8. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such-ordinance.

In cases regarding the adoption of an ordinance establishing an exemption by **classification**, the bill would require that the local governing body hold a public hearing no sooner than five days after notice of the hearing has been published in a newspaper. The ordinance must state the specific use on which the exemption is based, and continuance of the exemption is contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. Exemptions cannot be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

The bill provides that real and personal property tax exemptions both by designation and classification claimed after January 1, 2003 shall be established only if a locality has adopted an ordinance pursuant to *Va. Code* § 58.1-3651 as amended by this bill.

Also, this bill would adjust the current law regarding the grandfathering of property tax exemptions. Prior to January 1, 2003, the Constitution only allowed local property tax exemptions for nonprofit organizations to be issued by the General Assembly. A constitutional amendment that took effect on January 1, 2003 allows local governing bodies to grant such exemptions by ordinance, subject to restrictions and conditions provided by general law enacted by the General Assembly. Legislation in the 2003 Session of the General Assembly established a process that localities must follow when issuing exemptions. This legislation also grandfathered property that had been previously exempted by the General Assembly if the property was actually exempted by the locality as of December 31, 2002.

This bill would also modify the grandfathering of property tax exemptions to include property that was taxed by the locality prior to January 1, 2003 that a court later determines should have been exempted.

Date: 2/23/2004 /SRL