

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** Janet D. Howell

2. **Bill Number** SB 73

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed House and Senate

4. **Title** Churches; Recordation Taxes and
Local Tangible Personal Property Taxes

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would provide that deeds conveying real estate to an incorporated church or religious body, deeds of trust given by an incorporated church or religious body, and deeds conveying real estate from an incorporated church or religious body are exempt from state and local recordation taxes in the same manner as the deeds and deeds of trusts of other churches. This bill would also provide that the real and personal property of an incorporated church or religious body qualifies for exemption from local property taxation in the same manner as property owned by other churches.

This bill contains an emergency clause and would be effective from its passage. Any recordation taxes or property taxes assessed on or after January 1, 2004 through the enactment date of this bill that would be exempted under this bill would be refunded, if paid, with interest.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

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

8. **Fiscal implications:**

Prior to a federal court decision on April 15, 2002, Virginia did not allow churches to incorporate. As any church and religious body that incorporates as a result of this decision already enjoys an exemption from recordation and property taxes, this bill would have an unknown minimal impact on state or local revenues to the extent that churches or religious bodies qualify for refunds.

This bill contains an emergency clause and would be effective January 1, 2004. Any recordation and property taxes assessed on or after January 1, 2004 through the enactment date of this bill would be refunded, if paid.

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

All localities.

10. Technical amendment necessary: No.

11. Other comments:

Article IV, §14 (20) of the Constitution of Virginia forbids the General Assembly from granting a charter of incorporation to any church or religious denomination. On April 15, 2002, in Falwell v. Miller, the U.S. District Court for the Western District of Virginia ruled that Article IV, §14 (20) of the Constitution of Virginia is unconstitutional. As a result of this litigation, the State Corporation Commission has granted a corporate charter to the Thomas Road Baptist Church and approximately 300 other churches.

This bill would exempt from state and local recordation taxes deeds conveying real estate to incorporated churches or religious bodies, deeds of trust given by incorporated churches or religious bodies, and deeds conveying real estate from incorporated churches or religious bodies in the same manner as the deeds and deeds of trust of unincorporated churches and religious bodies. The state and localities would be required to refund any state or local recordation taxes assessed on or after January 1, 2004 through the enactment date of this bill, if paid, with interest.

The real and personal property of incorporated churches and religious bodies would qualify for exemption from local property taxation in the same manner as property owned by other churches. Localities would be required to refund any local property taxes assessed on or after January 1, 2004 through the enactment date of this bill, if paid, with interest.

cc : Secretary of Finance

Date: 3/15/2004 JEM