

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** Harry R. Purkey

2. **Bill Number** HB 2084

3. **Committee** Passed House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Real and Personal Property Taxes; Pollution
Control Equipment

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from state and local property taxation for all certified pollution control equipment and facilities. This bill would also exclude the land on which such equipment or facilities are located from the definition of certified pollution control equipment.

Under current law, the governing body of any locality is authorized to exempt or partially exempt certified pollution control equipment and facilities from local taxation. Localities are required to exempt certified pollution control equipment and facilities consisting of equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, including equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as landfill gas or synthetic or natural gas recovered from waste, placed in service on or after July 1, 2006 from local property taxes.

The provisions of this bill would become effective for tax years beginning on or after January 1, 2011.

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

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

8. **Fiscal implications:**

As real property and tangible personal property are not subject to taxation by the state, this bill would have no impact on state revenues. To the extent that localities have not exercised their authority to exempt pollution control facilities and such facilities are currently subject to local taxation, this bill would result in a decrease in local revenues, the magnitude of which is unknown. Currently, according to the Weldon Cooper Center for Public Service's Tax Rates 2008, the (15) cities of Bedford, Danville, Hopewell, Lynchburg, Manassas, Newport News, Norfolk, Petersburg, Portsmouth, Radford, Richmond, Roanoke, Salem, Waynesboro and Winchester; the (22) counties of Alleghany, Amherst, Bedford, Campbell, Chesterfield, Cumberland, Dinwiddie, Franklin, Frederick,

Giles, Henrico, Isle of Wight, King William, Montgomery, Orange, Prince William, Pulaski, Shenandoah, Spotsylvania, Warren, Wise, and York; and the (3) towns of Front Royal, West Point, and Wytheville provide an exemption for pollution control facilities. The remaining 24 cities, 73 counties, and 146 of the 150 towns that responded to the Weldon Cooper Center's survey do not provide such an exemption. To the extent that localities are currently exercising their authority to exempt pollution control facilities and are exempting the land on which such equipment is situated, this bill would result in an increase in local revenues, the magnitude of which is unknown.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Property Tax Exemptions

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation by general law. Article X, § 6 (d) provides that the General Assembly may define as a separate subject of taxation any property used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and by general law may allow the governing body of any locality to exempt such property from taxation, or by general law may directly exempt such property from taxation. Additionally, Article X, § 6 provides that exemptions of property from taxation shall be strictly construed.

Under current law, any locality may grant a local option exemption from local taxation for certified pollution control equipment and facilities. Additionally, localities are required to provide an exemption for certified pollution control equipment and facilities consisting of equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, including equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as landfill gas or synthetic or natural gas recovered from waste, placed in service on or after July 1, 2006.

Certified pollution control equipment and facilities are any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the appropriate state certifying authority has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority.

The state certifying authority is the State Water Control Board for water pollution; the State Air Pollution Control Board for air pollution; the Department of Mines, Minerals and Energy for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities and any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

Proposal

This bill would make the current local option exemption from local property taxation for all certified pollution control equipment and facilities mandatory. This bill would also exclude the land on which such equipment or facilities are located from the definition of certified pollution control equipment.

The provisions of this bill would become effective for tax years beginning on or after January 1, 2011.

cc : Secretary of Finance

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