

# DEPARTMENT OF TAXATION

## 2010 Fiscal Impact Statement

1. **Patron** David A. Nutter

2. **Bill Number** HB 999

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

3. **Committee** Senate Finance

4. **Title** Local Property Taxes; Separate  
Classification for Certified Renewable  
Energy Manufacturing Equipment

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

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

This bill would create a separate classification of property for purposes of the Real Property Tax for improvements to real property designed and used primarily for the purpose of manufacturing a product from renewable energy. Localities would be permitted to levy their local Real Property Tax on such improvements at a rate that does not exceed the rate levied on other real property in the locality. This bill would also create a separate classification of property for purposes of the Tangible Personal Property Tax for tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy. Localities would be permitted to levy their Tangible Personal Property Tax on such property at a rate that does not exceed the rate levied on the general class of tangible personal property in the locality.

The effective date of this bill is not specified.

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

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

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

This bill would have no impact on state revenues. To the extent that localities elect to decrease the rate of tax imposed upon the new classifications, this would result in a decrease in revenue in those localities.

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

All localities

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

## 11. Other comments:

### Property Tax Exemptions

Article X, § 1 of the *Constitution of Virginia* authorizes the General Assembly to define and classify taxable subjects, and to segregate the several classes of property so as to specify and determine upon what subjects State taxes, and upon what subjects local taxes may be levied.

### Tangible Personal Property Tax Classifications

Currently, there are forty categories of property that are classified as separate classes of property for purposes of the Tangible Personal Property Tax. Thirty-five of these categories may be taxed at a rate not to exceed the general rate imposed on tangible personal property; four may be taxed at a rate not to exceed the general rate imposed on machinery and tools; and one may be taxed at a rate equal to the general rate imposed on real property.

### Real Property Tax Classifications

Under current law, all real estate is considered to be one class of property subject to the same rate of tax. In the 2002 and 2003 General Assembly Sessions, however, separate classifications of real property were created composed of improvements to real property located in the Cities of Fairfax and Roanoke. Each city may levy a tax on this property at a different rate than the tax imposed upon the land on which such property is located. The alternative rate may not be zero, and may not exceed the rate of tax that is applied to the land on which the real property improvement is located.

The 2007 General Assembly session created separate classifications of real property for real property used for or zoned to permit commercial or industrial uses in the counties and cities embraced by the Northern Virginia and Hampton Roads Transportation Authorities. Governing bodies of localities embraced by these areas may impose additional real property taxes.

The 2007 General Assembly session also created a separate classification of real property for energy-efficient buildings. Local governing bodies may levy a tax on the value of such buildings at a different rate than that levied on other real property, provided the rate does not exceed that applicable to the general class of real property. An energy efficient building is defined to include any building that exceeds the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by at least 30 percent.

### Proposal

This bill would create a separate classification of property for purposes of the Real Property Tax for improvements to real property designed and used primarily for the purpose of manufacturing a product from renewable energy. Under the terms of this bill, local governing bodies would be permitted, by ordinance, to levy tax on the value of such

improvements at a rate that does not exceed the rate applicable to the general class of real property.

This bill would also create a separate classification of property for purposes of the Tangible Personal Property Tax for tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy. Under the terms of this bill, local governing bodies would be authorized to levy tax on this property at a rate that does not exceed the rate applicable to the general class of tangible personal property.

Current law defines “renewable energy” as energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, energy from waste, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas or nuclear power. Renewable energy also includes the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.

The effective date of this bill is not specified.

#### Similar Legislation

**Senate Bill 656** is identical to this bill.

**Senate Bill 113** would provide for a voter referendum at the November 2, 2010 election to approve or reject a Virginia constitutional amendment that would authorize the General Assembly to define as a separate subject of taxation any real or personal property, equipment, facilities, or devices, constructed or designed to conserve energy and natural resources.

cc : Secretary of Finance

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