

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** George L. Barker

2. **Bill Number** SB 1073

3. **Committee** Passed by House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Real Property Tax; Localities May Establish
Income or Financial Worth Limitations for
Real Property Tax Relief for Elderly or
Disabled

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. **Summary/Purpose:**

This bill would provide the necessary statutory authorization required by the constitutional amendment to Article X, § 6(b) of the *Constitution of Virginia*, adopted by voters authorizing the General Assembly to permit local governments to establish their own income or financial worth limitations for purposes of granting property tax relief for homeowners who are 65 years of age or older, or permanently and totally disabled.

The provisions of this bill would be effective for tax years beginning on or after January 1, 2011. The bill contains an emergency clause, and would be in force from its passage.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. **Fiscal implications:**

This bill would have no impact on state revenues. To the extent that a locality enacts an exemption or deferral program that differs from the program localities are currently authorized to provide, this bill would have an unknown positive or negative revenue impact on the locality.

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

All localities

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

11. **Other comments:**

Current Law

Virginia authorizes localities to adopt exemption/deferral programs for the elderly or handicapped to provide tax relief for persons sixty-five years of age or older and for those

who are permanently and totally disabled. The governing body of any locality may elect to adopt an exemption program, a deferral program, a combination of both, or none of the above. Income and net financial worth restrictions were incorporated in the exemption/deferral programs to direct tax relief to those whose incomes and financial worth are sufficiently low to merit such relief.

In order to qualify for a real estate tax exemption or deferral, an elderly or disabled individual's total combined gross income from all sources, including the income of relatives living in the dwelling and, at the option of each locality, nonrelatives living in the dwelling that are not tenants or paid caregivers, may not exceed \$50,000 during the previous year. Any amount up to \$10,000 of income of each person who does not qualify for the exemption and is not the spouse of an owner living in the dwelling may be excluded from the total combined gross income. The net combined financial worth of the applicant and spouse may not exceed \$200,000, but localities may annually increase net worth limitations by a percentage equal to the Consumer Price Index to account for inflation.

Several localities are authorized to use higher total income and combined net worth limits.

The following cities and counties are authorized to increase their income limits to \$67,000 and their net worth limits to \$350,000:

- Cities of Charlottesville, Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach
- Counties of Chesterfield, Goochland, Hanover, Henrico, and Powhatan

The following cities and counties are authorized to increase their income limits to \$75,000 and their net worth limits to \$540,000:

- Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park

Counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, and Stafford

Constitutional Amendment

Article XII of the *Constitution of Virginia* sets forth the process for constitutional amendments to take effect in Virginia. An amendment is proposed in the Senate or House of Delegates. The proposed amendment must be agreed upon by a majority of all the members of both the House of Delegates and the Senate in two General Assembly sessions, with an intervening election, and then submitted to voters. If a majority of the voters vote in favor of the amendment, the amendment becomes part of the Constitution on the date prescribed by the General Assembly in submitting the amendment to the voters.

On November 2, 2010 voters approved a constitutional amendment to Article X, § 6 of the *Constitution of Virginia*, authorizing the General Assembly to permit localities to establish their own income or financial worth limitations for purposes of granting property tax relief for homeowners who are 65 years of age or older, or permanently and totally disabled.

Prior to this, the *Constitution* limited the authority of the General Assembly to permit localities to provide such relief in situations where the General Assembly deemed the persons to bear an extraordinary tax burden on the property in relation to his income or financial worth.

Proposal

This bill would provide the necessary statutory authorization required by the constitutional amendment to Article X, § 6(b) of the *Constitution of Virginia*, adopted by voters authorizing the General Assembly to permit local governments to establish their own income or financial worth limitations for purposes of granting property tax relief for homeowners who are 65 years of age or older, or permanently and totally disabled.

Under the terms of the bill, if the governing body establishes an annual income limitation, the annual income must be computed by adding together the total income received during the preceding calendar year, without regard to whether a tax return is actually filed by: 1) owners of the dwelling who use it as their principal residence, 2) owners' relatives who live in the dwelling, and (3) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner. Income would be limited to only those sources of income that are subject to tax under federal income tax laws, regulations, rules, or policies.

The bill would also require that if the governing body establishes a net financial worth limitation, net financial worth must be computed by adding together the total net financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, of the dwelling.

The bill would also authorize localities that provide exemptions or deferrals pursuant to this bill to exempt or defer the real property taxes on up to ten acres of the land on which the qualifying dwelling is situated.

Under the terms of this bill, any applicable local ordinance that is in effect as of January 1, 2011, including any ordinance adopted pursuant to the exemption and deferral laws in effect prior to enactment of this bill, would be valid. Additionally, any income or financial worth limitation included in that ordinance would be deemed to have been established by the local governing body pursuant to authorization granted by the General Assembly.

The provisions of this bill would be effective for tax years beginning on or after January 1, 2011. The bill contains an emergency clause, and would be in force from its passage.

Similar Bills

House Bill 2278 is identical to this bill.

House Bill 1645 and **Senate Bill 987** would provide the necessary statutory authorization required by the constitutional amendment to Article X, § 6 of the *Constitution of Virginia*, adopted by voters authorizing the General Assembly to exempt from taxation real property that is the principal residence of a veteran (or widow or widower of a veteran) if the

veteran has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent combat-related, permanent, and total disability.

cc : Secretary of Finance

Date: 3/1/2011 KP
DLAS File Name: SB1073FER161.doc