

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Richard H. Black

2. **Bill Number** SB 175

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed House and Senate

4. **Title** Real Property Tax and Tangible Personal
Property Tax; Exemption for Religious
Bodies

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would specify that the real property tax exemption for churches and religious bodies includes: 1) property used primarily for outdoor worship activities; 2) property used for ancillary and accessory purposes as allowed under the local zoning ordinance, the dominant purpose of which is to support or augment the principal religious worship use; and 3) property used as required by federal, state, or local law. The bill contains an enactment clause indicating that the “dominant purpose” language is intended to follow the Virginia Supreme Court’s interpretation in *Virginia Baptist Homes, Inc. v. Botetourt County*, 276 VA 656 (2008).

Under current law, buildings with land they actually occupy and personal property owned by churches or religious bodies are exempt from local taxes when exclusively occupied or used either for religious worship or for the residence of the minister of the church or religious body. Additional adjacent land reasonably necessary for the convenient use of any such building is also exempt from state and local tax.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

As this bill would expand the pool of property used by churches and religious bodies that is exempt from real property tax, the bill would result in a decrease in revenue for localities, the magnitude of which is unknown. This bill would have no impact on state revenues.

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

All localities

10. Technical amendment necessary: No.

11. Other comments:

Article X, Section 6 of the *Constitution of Virginia* exempts from state and local taxation real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers. In addition, the *Constitution* exempts property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural or public park and playground purposes. The *Constitution* allows this property to be classified or designated as exempt by an ordinance adopted by the local governing body, subject to any restrictions and conditions provided by the General Assembly. While the General Assembly may restrict or condition these exemptions, it is constitutionally prohibited from extending them.

Pursuant to these constitutional provisions, the General Assembly has enacted statutes providing for these exemptions. One such statute exempts by classification buildings, with land they actually occupy, and the personal property owned by churches or religious bodies, and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, as well as any additional adjacent land reasonably necessary for the convenient use of any such building. Local commissioners of the revenue have interpreted this provision to exempt, for example, church buildings, as well as attached parking lots. Vacant lots or lots not attached to the church building are not exempt.

Dominant Purpose Test

In the October, 2008 Virginia Supreme Court case, *Virginia Baptist Homes, Inc. v. Botetourt County*, 276 Va. 656 (2008), the Court held that an upscale resort-style retirement community owned by Virginia Baptist Homes, Inc. ("VBI") was exempt from real and personal property taxation. VBI, a nonprofit entity organized to provide homes for aged Baptists in Virginia, had been designated tax-exempt by the General Assembly as a religious and benevolent organization under Va. Code § 58.1-3650.33. VBI purchased land and loaned funds to assist in the creation and operation of a luxury retirement community, known as the Glebe. Glebe residents were required to meet strict income and financial requirements to be admitted. The trial court held that VBI was not used exclusively for religious or benevolent purposes, and therefore did not qualify for exemption. On appeal, the Supreme Court held that because VBI's sole purpose when it received tax-exempt designation by the General Assembly was to operate retirement homes for the elderly, and the organization's purpose had not changed, the Glebe met the statutory requirements.

As part of its analysis, the court applied a longstanding "dominant purpose" test to determine whether the exemption applies. The test questions whether the property in question promotes the purpose of the institution seeking the tax exemption, and may be applied when the qualifying status of the property owner or the property itself is challenged.

Proposal

This bill would specify that the real property tax exemption for churches and religious bodies includes: 1) property used primarily for outdoor worship activities; 2) property used for ancillary and accessory purposes as allowed under the local zoning ordinance, the dominant purpose of which is to support or augment the principal religious worship use; and 3) property used as required by federal, state, or local law. The bill contains an enactment clause indicating that the “dominant purpose” language is intended to follow the Virginia Supreme Court’s interpretation in *Virginia Baptist Homes, Inc. v. Botetourt County*, 276 VA 656 (2008).

The effective date of this bill is not specified.

Similar Legislation

House Bill 156 is identical to this bill.

cc : Secretary of Finance

Date: 3/28/2014 KP
DLAS File Name: SB175FER161