DEPARTMENT OF TAXATION
2016 Fiscal Impact Statement

1. Patron Dave A. LaRock

2. Bill Number HB 736

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

3. Committee House Finance

4. Title Real Property Tax; Repeals Certain Exemptions for Nonprofits in Frederick County

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

5. Summary/Purpose:

This bill would repeal the current property tax exemptions available for property located in Frederick County and owned by the following organizations: Potomac Appalachian Trail Club; The Nature Conservancy; The People-to-People Health Foundation, Inc.; Cedar Creek Battlefield Foundation, Inc.; Frederick United Methodist Housing Development; Northern Shenandoah Valley Association for Retarded Citizens; The Stone House Foundation; the Windy Hill Foundation, Frederick County; the Wayside Foundation for the Arts, Inc., Shenandoah Valley Community Residences, Inc.; Special Love, Inc.; Wayside Museum of American History and Arts; The National Wildlife Federation; Robert E. Rose Memorial Foundation, Inc.; Northwestern Workshop, Inc.; Shalom Et. Benedictus, Inc., Westminster-Canterbury of Winchester, Inc.; and Winchester Chapter of the Izaak Walton League of America. With respect to Westminster-Canterbury of Winchester, Inc.'s property tax exemption, the bill would repeal the exemption only for that portion of the property that is located in the County of Frederick.

Under current law, these organizations are among several that have a designated exemption from local property taxation for property that they own and that is used for religious, charitable, patriotic, benevolent, cultural or public park and playground purposes. Property is exempt by designation when the law designates the property of a named organization as exempt. Currently, if a local governing body wishes to remove organizations whose property is designated as tax-exempt from its exempt property list, it must do so through legislative action.

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:

This bill would increase local property tax revenues in Frederick County by an unknown amount.

This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Frederick County

10. Technical amendment necessary: No.

11. Other comments:

Property Tax Exemptions by Classification or Designation

Prior to January 1, 2003, the *Constitution of Virginia* authorized the General Assembly to exempt from local taxation real and tangible personal property owned by certain nonprofit organizations and used for religious, charitable, patriotic, benevolent, cultural, or public park or playground purposes by classification or by designation by a ¾ vote in each house. Property is exempt by classification if it fits within a class of property which the General Assembly has established as exempt. Property is exempt by designation when the law designates the property of a named organization as exempt.

On January 1, 2003, a constitutional amendment took effect that authorized local governing bodies to grant exemptions from local property taxation by ordinance, within the parameters established by the General Assembly. The property tax exemptions established by the General Assembly and existing prior to January 1, 2003 remain in effect, but can be revoked.

The General Assembly has set forth a process localities must follow in enacting local property tax exemptions. Ordinances exempting property by designation require a public hearing with notice of such hearing. Before adopting an ordinance, the local governing body must consider the following questions:

- Whether the organization is exempt from taxation pursuant to § 501(c) of the *Internal Revenue Code*;
- Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued for use on the property;
- Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services rendered;
- Whether any part of the net earnings of the organization inures to the benefit of any individual, and whether any significant portion of the service provided by the organization is generated by funds received from donations, contributions, or local state or federal grants;
- Whether the organization provides services for the common good of the public;
- Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;

- The revenue impact to the locality and its taxpayers of exempting the property; and
- Any other pertinent criteria, facts or circumstances.

The local ordinance exempting the property must state the specific use on which the exemption is based. The continuance of the exemption must be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption will be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

If a local governing body wishes to remove organizations whose property is designated as tax-exempt from its exempt property list, it must do so through legislative action. The locality may submit to the General Assembly a list of organizations it wishes to remove from its exempt property list no later than the first calendar day of any General Assembly Session, unless removal of the property exemption is requested by the Governor.

Frederick County Exemptions By Designation

Potomac Appalachian Trail Club

Current law provides an exemption from all state and local taxes for certain real property owned by the Potomac Appalachian Trail Club and used solely for public park and playground purposes. The exemption applies to limited sections of the Appalachian Trail and camping sites, shelters and other facilities related to the Appalachian Trail and designated as such by the Division of Parks of the Department of Conservation and Economic Development.

Property of Westminster-Canterbury of Winchester

Current law exempts from local taxes property located partly in the City of Winchester and partly in the County of Frederick that is owned by the Westminster-Canterbury of Winchester, Inc., and used exclusively for charitable and benevolent purposes.

Other Exemptions

Current law designates additional organizations as exempt from local property taxation when the property is owned by certain organizations in Frederick County and used exclusively for charitable and benevolent purposes on a nonprofit basis. The following organizations have local property tax exemptions on such property:

- Property owned by the Nature Conservancy and used exclusively for conservation and public park purposes;
- Property owned by the People-to-People Health Foundation;
- Property owned by Frederick United Methodist Housing Development Corporation;
- Property owned by the Cedar Creek Battlefield Foundation, Inc.
- Property owned by the Northern Shenandoah Valley Association for Retarded Citizens;
- Property owned by the Stone House Foundation;

- Property owned by the Windy Hill Foundation, Frederick County;
- Property owned by the Wayside Foundation for the Arts, Inc.;
- Property owned by Shenandoah Valley Community Residences, Inc;
- Property owned by the Northwestern Workshop, Inc.;
- Property owned by the Winchester Chapter of The Izaak Walton League of America.

While the following organizations are also designated as exempt under current law, they no longer own property in Frederick County.

- Property owned by the National Wildlife Federation;
- Property owned by Robert E. Rose Memorial Foundation Inc.;
- Personal property owned by Shalom Et. Benedictus, Inc.;
- Property owned by Special Love, Inc.
- Property owned by the Wayside Museum of American History and Arts

2015 Amendments to Frederick County Ordinance

On December 9, 2015, the Frederick County Board of Supervisors voted to amend Section 155-153 of the *Code of Frederick County* in order to designate the real and personal property owned by specified nonprofit organizations and used in accordance with the organization's exempt purposes, as exempt from local property taxes. The following organizations are exempt under the ordinance:

- ARC – Northern Shenandoah Valley, Incorporated (formerly known as Winchester – Frederick County Association for Retarded Citizens and as Northern Shenandoah Valley Association for Retarded Citizens, Inc);
- Bell Grove Inc.;
- Blue Ridge Hospice, Inc.;
- Cedar Creek Battlefield Foundation, Inc.;
- Conservation Club;
- Fort Collier Civil War Center, Inc.;
- Frederick United Methodist Housing Development Corp.;
- Kernstown Battlefield Association, Inc.;
- Leary Educational Foundation, Inc.;
- Nature Conservancy;
- NW Works;
- People-to-People Health Foundation, Inc.;
- Potomac Appalachian Trail Club;
- Salvation Army;
- Shenandoah Valley Battlefields Foundation
- Shenandoah Valley Community Residences
- Stone House Foundation
- Wayside Foundation for the Arts, Inc.
- Winchester Chapter of the Izaak Walton League
- Woodmen of the World
- Youth Development Center, Inc.

Proposal

This bill would repeal the current property tax exemptions available for property located in Frederick County and owned by the following organizations: Potomac Appalachian Trail Club; The Nature Conservancy; The People-to-People Health Foundation, Inc.; Cedar Creek Battlefield Foundation, Inc.; Frederick United Methodist Housing Development; Northern Shenandoah Valley Association for Retarded Citizens; The Stone House Foundation; the Windy Hill Foundation, Frederick County; the Wayside Foundation for the Arts, Inc., Shenandoah Valley Community Residences, Inc.; Special Love, Inc.; Wayside Museum of American History and Arts; The National Wildlife Federation; Robert E. Rose Memorial Foundation, Inc.; Northwestern Workshop, Inc.; Shalom Et. Benedictus, Inc., Westminster-Canterbury of Winchester, Inc.; and Winchester Chapter of the Izaak Walton League of America. With respect to Westminster-Canterbury of Winchester, Inc.'s property tax exemption, the bill would repeal the exemption only for that portion of the property that is located in the County of Frederick.

Because of the December 9, 2015 amendment to Frederick County's ordinance, and because of the fact that five organizations designated as exempt under current law no longer own property in Frederick County, only two organizations would lose their property tax exemption under this bill: 1) Windy Hill Foundation; and 2) to the extent it has property located in Frederick County, Westminster-Canterbury of Winchester, Inc.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/16/2016 KP
DLAS File Name: HB736F161