

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** Kathy J. Byron

2. **Bill Number** HB 80

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Real and Personal Property Taxes; Certified Property

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would provide that once real or personal property, machinery, equipment, facilities, devices, or real estate improvements have been certified by a state or local certifying authority for the purposes of certain local property tax exemptions, such property is deemed exempt as of the date the property is placed in service. The bill would apply to the local property tax exemptions for 1) certified pollution control equipment and facilities; 2) certified stormwater management developments and property; 3) certified solar energy equipment, facilities, and devices; and 4) certified recycling equipment, facilities, and devices.

Under current law, certified pollution control equipment and facilities are exempt from local taxation. Additionally, the governing body of any locality is authorized to exempt or partially exempt certified stormwater management developments and property, certified solar energy equipment, and certified recycling equipment from local taxation. These property tax exemptions are effective beginning with the first tax year in which the certification is in effect on tax day, which is generally January 1.

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:**

To the extent that localities would be required to allow the exemption on certified property from the date that the property was placed in service, even if the property did not have the required certification on tax day, this bill would have an unknown negative impact on local revenues. 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:

Effective Date of Certain Property Tax Exemptions

The Department of Taxation recently issued a ruling, Public Document 15-18 (02/09/2015), concerning the effective date of the mandatory local property tax exemption for pollution control equipment. The taxpayer had placed pollution control equipment into service prior to the locality's tax day, January 1, 2013. The equipment, however, was not certified as pollution control equipment by the Department of Environmental Quality until March 2013. The Department's ruling was based on *Va. Code* § 58.1-3515, which establishes January 1 as tax day, or the effective date of assessment, and the status of all taxpayers liable for taxation on property and the value of all such property is fixed as of that date. In order to qualify for the exemption for certified pollution control equipment provided in *Va. Code* § 58.1-3660, the property must be certified by the Department of Environmental Quality. Accordingly, the Tax Commissioner held that pollution control equipment must be certified by the tax day of a year in order for the equipment to qualify for the property tax exemption for certified pollution control equipment for that year.

Exemption for Certified Pollution Control Equipment

Under current law, certified pollution control equipment and facilities are exempt from local taxation. 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 air or water pollution 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 includes, 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.

Additionally, solar energy equipment, facilities and devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy, are exempt from taxation, whether or not such property has been certified to the Department of Taxation by a state certifying authority. The exemption for solar photovoltaic systems only applies to projects equaling 20 megawatts or less, as measured in alternating current generation capacity.

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.

Local Option Exemption for Certified Solar Energy Equipment

Any locality may also grant a local option exemption from local taxation for certified solar energy equipment, facilities and devices. Certified solar energy equipment, facilities or devices are any property, including real or personal property, equipment, facilities, or devices, certified by the local certifying authority to be designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy. The local certifying authority is the local building department.

Local Option Exemption for Certified Recycling Equipment

A locality may also grant a local option exemption from local taxation for certified recycling equipment, facilities and devices. Certified recycling equipment, facilities or devices are machinery and equipment which is certified by the Department of Environmental Quality as integral to the recycling process and for use primarily for the purpose of abating or preventing air or water pollution, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations.

Local Option Exemption for Certified Stormwater Management Developments

Any locality may also grant a local option exemption from local taxation for certified stormwater management developments and property. Certified stormwater management developments and property are any real estate improvements constructed from permeable material, such as, but not limited to, roads, parking lots, patios, and driveways, which are otherwise constructed of impermeable materials, and which the Department of Environmental Quality has certified to be designed, constructed, or reconstructed for the primary purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth by minimizing stormwater runoff.

Proposal

This bill would provide that any real or personal property, machinery, equipment, facilities, devices, or real estate improvements required to be certified by a state or local certifying authority to qualify for the local tax exemptions for 1) certified pollution control equipment and facilities; 2) certified stormwater management developments and property; 3) certified solar energy equipment, facilities, and devices; and 4) certified recycling equipment, facilities, and devices would be deemed exempt, once certified, as of the date the property is placed in service.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/23/2016 AM
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