

**DEPARTMENT OF TAXATION
2018 Fiscal Impact Statement**

1. **Patron** Michael J. Weibert
3. **Committee** Senate Finance
4. **Title** Property Tax Exemption; Non-profit Organizations

2. **Bill Number** HB 894
House of Origin:
 Introduced
 Substitute
 Engrossed
- Second House:**
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would clarify that the property tax exemption by designation or classification for real or personal property, or both, owned by a nonprofit organization, includes property owned by a single member limited liability company ("LLC") whose sole member is a nonprofit organization.

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:**

Administrative Costs

Localities could have unknown administrative costs as a result of this bill.

This bill would have no impact on state administrative costs.

Revenue Impact

There could be an unknown revenue impact to localities as a result of this bill.

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:

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 three-fourths 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 that 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.

Under federal income tax law, the Internal Revenue Service does not issue letters designating LLCs to be exempt from federal income taxation under Internal Revenue Code ("IRC") § 501(c). However, a single member LLC owned by an IRC § 501(c) organization is treated as an IRC § 501(c) organization.

Proposal

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The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/13/2018 SK
DLAS File Name: HB894F161