

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** David A. Nutter

2. **Bill Number** HB 999

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Tangible Personal Property Tax; Separate
Classification for Certified Renewable
Energy Manufacturing Equipment

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would add certified renewable energy manufacturing equipment, facilities, and devices to the existing separate class of property encompassing certain certified solar and recycling items, in order to authorize the local governing body to exempt or partially exempt such property from local property taxation. The bill would require the Department of Mines, Minerals and Energy to promulgate regulations setting forth criteria for certifiable renewable energy manufacturing equipment.

Under current law, certified solar energy equipment, facilities, or devices and certified recycling equipment facilities or devices constitute a separate class of property for local taxation purposes. Governing bodies are authorized to exempt or partially exempt such property from local taxation.

The effective date of this bill is not specified.

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

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

This bill would have no impact on state revenues. To the extent that localities elect to exempt or partially exempt from local taxation the separate class of property under which certified renewable energy manufacturing equipment, facilities, or devices would fall, this would result in a decrease in revenue in those localities.

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

All localities

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

11. Other comments:

Classification for Solar Energy Property and Recycling Property

Under current law, certified solar energy equipment, facilities or devices and certified recycling equipment, facilities or devices constitute a separate class of property for local taxation purposes. Localities may partially or fully exempt such property from local taxation. "Certified recycling equipment, facilities, or devices" is defined as machinery and equipment which is certified by the Department of Waste Management as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, 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 in the Commonwealth. "Certified solar energy equipment, facilities, or devices" is defined as 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 providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy, such as petroleum products, natural gas, or electricity.

Property Tax Exemptions

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation by general law, and provides that exemptions of property from taxation shall be strictly construed. Under Article X, § 6(d), the General Assembly may define as a separate subject of taxation any property used primarily for the purpose of transferring or storing solar energy. Property used for the purpose of transferring additional types of energy is not covered under this constitutional provision. Similarly, property used for the purpose of manufacturing solar energy is not covered under this provision.

Proposal

This bill would add certified renewable energy manufacturing equipment, facilities, and devices to the existing separate class of property encompassing certain certified solar and recycling items, in order to authorize the local governing body to exempt or partially exempt such property from local property taxation. "Certified renewable energy manufacturing equipment" would be defined as 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 manufacturing a renewable energy product. "Renewable energy" is defined as "energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definition of which shall be liberally construed), energy from waste, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas, or nuclear power. Renewable energy shall also include the proportion of the thermal or electric energy from a facility that results from the co-firing of bio-mass." Thus, the term "renewable energy" encompasses other types of energy in addition to solar energy. Based on this definition, "certified renewable energy manufacturing equipment" would include equipment used for the purpose of manufacturing other energy products, in addition to solar energy products.

The bill would require the Department of Mines, Minerals and Energy to promulgate regulations setting forth criteria for certifiable renewable energy manufacturing equipment.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 656 is identical to this bill.

Senate Bill 113 would provide for a voter referendum at the November 2, 2010 election to approve or reject a Virginia constitutional amendment that would authorize the General Assembly to define as a separate subject of taxation any real or personal property, equipment, facilities, or devices, constructed or designed to conserve energy and natural resources.

cc : Secretary of Finance

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