

Commission on Local Government

Estimate of Local Fiscal Impact
2011 General Assembly Session

Bill: HB 1588 **Patron:** Iaquinto **Date:** January 21, 2011

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

I. Bill Summary

This bill would shift the burden of proof from the taxpayer to the assessor when the taxpayer appeals the assessment of real property to a board of equalization or to a circuit court, and would remove the presumption that the assessor's valuation of real property is correct. The assessor would have the burden of proving that the property in question is valued at its fair market value or that the assessment is uniform in its application, or that the assessment is otherwise valid or legal. The bill provides that the lack of a physical examination of the property by the assessor shall not be considered in determining whether the county or city meets its burden of proof unless a physical examination of the property was required by the taxpayer.

The bill would also provide that any determination of an assessment by any board of equalization shall be presumptively correct for the succeeding two years unless the assessor can demonstrate by clear and convincing evidence that a substantial change in value of the property has occurred. Currently, this provision only applies to the City of Virginia Beach.

Under current law, a property owner may appeal to a board of equalization or a circuit court seeking relief from an erroneous real property assessment. In all such cases, the taxpayer has the burden of proving that the property in question is valued at more than its fair market value.

HB 1588 would be effective for tax years beginning on or after January 1, 2011.

II. Fiscal Impact Analysis

The Commission on Local Government (CLG) received fiscal impact statements from 21 localities – the Counties of Arlington, Augusta, Campbell, Fauquier, Henrico, New Kent, Northumberland, Prince William, Rappahannock, Roanoke, Rockingham, Spotsylvania and York; the Cities of Chesapeake, Lynchburg, Roanoke, Virginia Beach and Winchester; and the Towns of Ashland, Blacksburg and Vienna.

In general, localities reasoned that, by shifting the burden of proof from the taxpayer to the local real estate assessor, HB 1588 will make it easier for a taxpayer to appeal an assessment, which will result in an increase in the number of appeals initiated. In addition, some localities expressed concern that more taxpayers will bypass the board of equalization and appeal their assessments to the circuit court.

The Towns of Ashland, Blacksburg and Vienna indicated that they would not experience an expenditure increase as a result of HB 1588 because the counties within which they are located perform the real estate assessment function. The towns noted that the bill could indirectly reduce revenues that they receive if the shift in the burden of proof results in an increase in the number of successful appeals or if it causes assessments to decrease over time.

The remaining 18 localities – the Counties of Arlington, Augusta, Campbell, Fauquier, Henrico, New Kent, Northumberland, Prince William, Rappahannock, Roanoke, Rockingham, Spotsylvania and York and the Cities of Chesapeake, Lynchburg, Roanoke, Virginia Beach and Winchester – each estimated that they would experience additional expenditures of more than \$5,000 to implement the bill's provisions. Four of these localities – Spotsylvania County and the Cities of Chesapeake, Lynchburg and Virginia Beach – indicated that the cost associated with implementing HB 1588 is indeterminate because it would be driven by the need to hire additional local government employees and/or contractors to accommodate the increase in workload if the shift in the burden of proof results in an increase in the number of appeals, and it is impossible to predict the magnitude of that increase at this time.

The estimates for total first year cost provided by the other fifteen localities ranged from \$10,000 to \$3,670,000 as follows:

Rappahannock County	\$ 10,000 - \$15,000
Northumberland County	\$ 25,000
Campbell County	\$ 28,750 (annualized)
Augusta County	\$ 70,000 (+ \$1,000 x the number of cases taken to court)
Winchester City	\$ 85,000
York County	\$ 160,000
Roanoke County	\$ 195,000
Roanoke City	\$ 250,000
New Kent County	\$ 506,500
Rockingham County	\$ 900,000
Henrico County	\$1,109,702
Arlington County	\$2,000,000 - \$2,500,000
Fauquier County	\$2,500,000 (in quadrennial reassessment years)
	\$ 100,000 (in intervening years)
Prince William County	\$3,670,000

The estimates provided by localities for the resulting expenditure increase generally took into account the costs associated with hiring (or contracting with)

additional assessors, attorneys and support staff as well as additional fees paid to expert witnesses in the defense of appeals and were based on either a specified increase in the number of appeals or on a specified percentage of the number of parcels located in the jurisdiction.

Other concerns expressed by localities included that the shift in the burden of proof to the assessor will (1) encourage frivolous appeals and result in a proliferation of litigation; (2) encourage the widespread use of property tax consultants who are hired by taxpayers to achieve assessment reductions, particularly in the commercial real estate context; (3) necessitate replacing the mass appraisal process currently employed by many localities with an individual assessment process, further increasing the need for additional resources; and (4) cause localities to concede appeals when the assessment is accurate due to a lack of resources available to defend the appeals, thereby reducing the revenue collected by the locality. Finally, several localities pointed out that the fiscal impact of HB 1588 will vary among localities from year to year depending on how often they conduct real estate assessments (i.e., annually, biennially, quadrennially, etc.).

In addition, a number of localities reasoned that an increase in the number of appeals will result in an increase in the number of successful appeals, which will precipitate a reduction in revenue for the locality.

Five localities – the Cities of Chesapeake, Virginia Beach and Winchester and the Counties of Spotsylvania and York – indicated that HB 1588 will result in a reduction of revenue of \$5,000 or more. The Cities of Chesapeake and Virginia Beach indicated that the amount of the revenue reduction is indeterminate because it will depend on the number of successful appeals. The estimates provided by the remaining localities ranged from \$60,000 to \$300,000 in total first year reduction in revenues and were generally calculated based on a specified increase in successful appeals.

III. Conclusion

To the extent that shifting the burden of proof from the taxpayer to the assessor results in an increase in the number of real estate assessments that are appealed, localities may experience a significant increase in expenditures in order to defend these additional appeals. The fiscal impact of HB 1588 will vary considerably from locality to locality depending on several factors, which are likely to include the number and complexity of additional appeals that are initiated; the number of taxable parcels located within the locality; the current capacity of the locality to handle assessments and appeals; and the average salary and benefits or hourly rate typically paid to assessors, attorneys and support staff in the locality. Finally, if an increase in the total number of appeals leads to an increase in the number of successful appeals, localities are also likely to experience a decrease in real estate assessments and an accompanying loss in local revenues.