

**DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement**

1. **Patron** Brenda L. Pogge

2. **Bill Number** HB 1672

3. **Committee** Senate Finance

House of Origin:

Introduced

Substitute

Engrossed

4. **Title** Real Property Tax; Land Use Valuation

Second House:

In Committee

Substitute

Enrolled

5. Summary/Purpose:

This bill would add James City County to the list of localities permitted to enact an ordinance to exclude land lying in planned development, industrial or commercial zoning districts established prior to January 1, 1981 from special land use assessments. James City County would also be permitted to provide that property subject to special land use assessments would no longer be eligible for special land use assessments and subject to roll-back taxes at the time the zoning is changed, at the owner's request, to a more intensive nonagricultural use. However, agriculturally zoned property that is subsequently rezoned to a more intensive use which is complementary to agricultural use, provided that the agricultural activity continues to be operated on the property and the property continues to be owned by the same owner, would not lose its eligibility.

Under current law, Albemarle County, Arlington County, Augusta County, Loudoun County, and Rockingham County are permitted to enact such provisions regarding zoning classifications and special land use assessments for purposes of the real property tax.

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 have no impact on state revenues. To the extent that James City County elects to enact the provisions excluding certain property from special land use assessments, the bill would have an unknown positive revenue impact on the locality.

9. Specific agency or political subdivisions affected:

James City County

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

11. Other comments:

Land Use Taxation

Land use valuation and taxation is intended to encourage conservation by providing tax relief to the owner of real estate devoted solely to agricultural, horticultural, forest or open-space use. Under land use taxation programs, the land dedicated to the special use is taxed at a lower rate than the rate applicable to other real property. In valuing land at its use value, the assessing officer considers only the value of the real estate based on its current use. The assessing officer does not consider the fair market value of the land at its most profitable use.

Owners of real property situated in a locality that has adopted a land-use plan and ordinance providing for use value assessment may apply to their local assessing officer for taxation of their real property on the basis of use value. Such owners must devote a minimum number of acres of real property to agricultural, horticultural, forest, or open-space use.

When the qualified use of real estate changes to a nonqualified use or is zoned for a more intensive use at the request of the owner, roll-back tax liability attaches to the land. Roll-back taxes are the difference between what real property taxes would have been had real property been assessed at fair market value compared to real property taxes based upon use value. Roll-back tax liability is computed by adding the amount of deferred taxes for the past five years and simple interest at the rate applicable to delinquent taxes. In localities that have adopted a sliding scale ordinance, the roll-back tax may be imposed for each of the tax years since the property became subject to land use taxation. Liability for roll-back taxes attaches and is paid to the treasurer only if the amount of tax due exceeds ten dollars.

Currently, Albemarle County, Arlington County, Augusta County, Loudoun County, and Rockingham County are permitted to exclude by ordinance land lying in a planned development, industrial or commercial zoning districts established prior to January 1, 1981 from special land use assessments. The localities may also provide by ordinance that property subject to special land use assessments are not eligible for special land use assessments and subject to roll-back taxes if the zoning is changed, at the owner's request, to a more intensive nonagricultural use. However, agriculturally zoned property that is subsequently rezoned to a more intensive use which is complementary to agricultural use, provided that the agricultural activity continues to be operated on the property and the property continues to be owned by the same owner, continues to be eligible for special land use assessment.

Proposal

This bill would add James City County to the list of localities permitted to enact an ordinance to exclude land lying in planned development, industrial or commercial zoning districts established prior to January 1, 1981 from special land use assessments. James City County would also be permitted to provide that property subject to special land use assessments would no longer be eligible for special land use assessments and subject to roll-back taxes at the time the zoning is changed, at the owner's request, to a more

intensive nonagricultural use. However, agriculturally zoned property that is subsequently rezoned to a more intensive use which is complementary to agricultural use, provided that the agricultural activity continues to be operated on the property and the property continues to be owned by the same owner, would not lose its eligibility.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1470 would authorize circuit courts for any locality to appoint up to two alternate board members to serve on local boards of equalization if a member of the board is absent or abstains.

House Bill 1526 would allow statements of income and expense to be used in a complaint before a Board of Equalization and in an action for relief in court from the determination of the Board of Equalization even if the statements were not timely presented to the assessor. The bill provides that the statements must be submitted to the Board of Equalization at least 30 days prior to the hearing before the Board.

House Bill 1532 would lower the threshold percentage of taxes and liens on property from 50 percent to 20 percent of the assessed value of the parcel and, if only taxes, from 25 percent to 10 percent of the assessed value of the parcel to allow a special commissioner to convey the real estate to the locality in lieu of a public sale at auction.

House Bill 1588 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 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.

Senate Bill 784 would clarify that a real estate assessor may require an owner of real property with four or fewer residential units that is operated in whole or in part as affordable rental housing to furnish to the assessor a statement of the income and expenses attributable to the property when owner applies to the locality to have the real property assessed as affordable housing.

Senate Bill 785 would clarify that the partial exemption from the assessed value of real property subject to real property tax for improvements to rehabilitated, renovated, or replacement residential structures may not be reduced during the period of exemption and would clarify that the exemption runs with the land.

cc : Secretary of Finance

Date: 2/7/2011 AM
DLAS File Name: HB1672FE161.doc