

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Robert D. Orrock, Sr.

2. **Bill Number** HB 81

3. **Committee** Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Real Property Tax; Prior Use of Property Not
Considered in Land Use Valuation

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

This bill would prohibit local assessing officials from considering prior, discontinued uses of property in determining whether the property qualifies for special assessment as land devoted to agricultural, horticultural, forestal, or open space use.

Under current law, any locality that has adopted a comprehensive land use plan may enact a local ordinance providing for special assessments of agricultural, horticultural, forestal, and open space real estate.

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 local assessing officials, who currently consider prior uses of property in determining whether such property qualifies for special assessment would be prohibited from doing so, this bill would have an impact on local revenues, the magnitude of which is unknown.

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

All localities

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

11. **Other comments:**

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.

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.

Current law defines "real estate devoted to agricultural use" to mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services, or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

"Real estate devoted to horticultural use" means real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; and nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services, or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

"Real estate devoted to forest use" means land, including the standing timber and trees devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester.

"Real estate devoted to open space use" means real estate used as, or preserved for, (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands, (v) riparian buffers, (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation.

Under current law, land that is designated under one of the four categories above will not lose its designation simply because part of the property is being used for a different purpose if the property meets all of the other requirements for such designation. Zoning designations and special use permits for the property cannot be the sole considerations in determining whether real property is devoted to one of the particular four uses above.

Proposal

This bill would prohibit local assessing officials from considering prior, discontinued uses of property in determining whether the property qualifies for special assessment as land devoted to agricultural, horticultural, forestal, or open space use. The bill also contains technical amendments.

The effective date of this bill is not specified.

Similar Bills

House Bill 80 would require the local assessing official to separately assess the fair market value of wetlands on real property, if requested by the property owner.

House Bill 483 would provide that the current authority to increase the assessment of real property taxes for three preceding tax years by increasing the amount of the valuation of the property applies only to errors related to 1) new construction or improvements to the property; 2) a change in the use of the property; or 3) fraud on the part of the taxpayer.

House Bill 1073 and **Senate Bill 73** (identical) would require that in appeals of real property assessments for residential rental apartments in excess of four units, the board of equalization must consider: 1) the actual gross income generated from the real property and any resultant loss in income attributable to vacancies, collection losses, and rent concessions; 2) the actual operating expenses and the impact of any additional expenses; and 3) other evidence relevant to determining fair market value; unless the property has been sold since the previous assessment, improvements are being made to the property, or the value arrived at by the income approach is not in accordance with generally accepted appraisal practices.

cc : Secretary of Finance

Date: 2/19/2012 KP
DLAS File Name: HB81FE161