

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** M. Keith Hodges

3. **Committee** Senate Finance

4. **Title** Property Tax Exemption; Living Shoreline
Projects

2. **Bill Number** HB 526

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide that any living shoreline project approved by the Virginia Marine Resources Commission or the applicable local wetlands board and not prohibited by local ordinance would qualify for full exemption from local taxation. A “living shoreline” would be defined as a shoreline management practice that provides erosion control and water quality benefits; protects, restores or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials.

Under current law, wetlands and riparian buffers that are subject to a perpetual easement permitting inundation by water are considered a separate class of property and the governing body of any locality is authorized to exempt or partially exempt such property from local taxation. Additionally, local governing bodies are authorized to provide a partial exemption from taxation of real estate that i) has been improved through the placement of rock or concrete breakwaters, bulkheads, gabions, revetments, or similar structural improvements installed to control erosion, and ii) is used primarily for the purpose of abating or preventing pollution of the waters of the Commonwealth.

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:**

To the extent that living shoreline projects are currently subject to local taxation and do not qualify for an exemption, providing a full exemption from local taxation for such projects would result in a decrease in local revenues, the magnitude of which is unknown. In 2015, the Virginia Marine Resources Commission reviewed 71 permit applications for projects classified as a living shoreline. These projects encompassed 16,357 linear feet of shoreline.

According to *Virginia Local Tax Rates, 2014*, published by the Weldon Cooper Center for Public Service, only the County of Middlesex and the Town of Gate City provide an exemption for wetlands and riparian buffers. No locality reported allowing an exemption for erosion control improvements.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Property Tax Exemption for Wetlands and Riparian Buffers

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation by general law. Article X, § 6 (a)(7) provides that land subject to a perpetual easement permitting inundation by water may be exempted from taxation in whole or in part by general law. Additionally, Article X, § 6 provides that exemptions of property from taxation shall be strictly construed.

Under current law, wetlands and riparian buffers that are subject to a perpetual easement permitting inundation by water are considered a separate class of property and the governing body of any locality is authorized to exempt or partially exempt such property from local taxation.

Property Tax Exemption for Erosion Control Improvements

Article X, § 6 (d) of the *Constitution of Virginia* provides that the General Assembly may define as a separate subject of taxation any property used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and may allow the governing body of any locality to exempt such property from taxation or may directly exempt such property from taxation.

Under current law, local governing bodies are authorized to provide, by ordinance, for the partial exemption from taxation of real estate that has been improved through the placement of rock or concrete breakwaters, bulkheads, gabions, revetments, or similar structural improvements installed to control erosion, and is used primarily for the purpose of abating or preventing pollution of the waters of the Commonwealth. The partial exemption is an amount equal to the increase in assessed value or a percentage of the increase resulting from the construction of the new structure or other improvement to the real estate or 50 percent of the cost of such construction or improvement.

The exemption commences either upon completion of the improvements or on January 1 of the year following such completion. The exemption must run with the real estate for a period determined by the local governing body, which is not to exceed 15 years. The governing body is authorized to reduce the amount of the exemption in annual steps over the entire period or a portion of the period, as provided by ordinance.

Living Shorelines

Under Va. Code § 28.2-104.1, a living shoreline is a shoreline management practice that: 1) provides erosion control and water quality benefits; 2) protects, restores or enhances natural shoreline habitat; and 3) maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials. There is no current requirement that living shorelines be subject to a perpetual easement permitting inundation by water. Legislation enacted in the 2011 General Assembly Session required the Virginia Marine Resources Commission to establish and implement a general permit regulation authorizing and encouraging the use of living shorelines.

Proposal

This bill would provide that any living shoreline project approved by the Virginia Marine Resources Commission or the applicable local wetlands board and not prohibited by local ordinance would qualify for full exemption from local taxation. A “living shoreline” would be defined as a shoreline management practice that provides erosion control and water quality benefits; protects, restores or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials.

The effective date of this bill is not specified.

Similar Legislation

House Bill 80 would provide that once real or personal property, machinery, equipment, facilities, devices, or real estate improvements have been certified by a state or local certifying authority for the purposes of certain local property tax exemptions, such property would be deemed exempt as of the date the property is placed in service.

cc : Secretary of Finance

Date: 2/16/2016 AM
DLAS File Name: HB526FE161