

DEPARTMENT OF TAXATION

2019 Fiscal Impact Statement

1. **Patron** Dave A. LaRock

3. **Committee** House Finance

4. **Title** Real Property Tax Exemption; Property in
Frederick County

2. **Bill Number** HB 2566

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would repeal the real and personal property tax exemptions for specific non-profit entities designated as exempt under current law by the General Assembly. It would permit any county, city, or town to enact ordinances on or after July 1, 2019, to become effective on or after July 1, 2024, to exempt the real or personal property, or both, of any entity whose property tax exemption is repealed under this bill, provided that the entity meets the criteria set forth in state law for property to be exempt by classification by local governments.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

6. **Budget amendment necessary:** No

7. **Fiscal Impact:** Not Available (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

This bill would have no impact on state administrative costs but could affect local administrative costs due to the repeal of current property tax exemptions.

Revenue Impact

This bill would have no impact on state revenues. It could impact local revenues due to the repeal of current property tax exemptions.

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

All counties, cities, and towns

10. **Technical amendment necessary:** No

11. Other comments:

Property Tax Exemptions by Classification or Designation

Prior to January 1, 2003, the Constitution of Virginia authorized the General Assembly to exempt from local taxation real and tangible personal property owned by certain nonprofit organizations and used for religious, charitable, patriotic, benevolent, cultural, or public park or playground purposes by classification or by designation by a three-fourths vote in each house. Property is exempt by classification if it fits within a class of property which the General Assembly has established as exempt. Property is exempt by designation when the law designates the property of a named organization as exempt.

On January 1, 2003, a constitutional amendment took effect that authorized local governing bodies to grant exemptions from local property taxation by ordinance, within the parameters established by the General Assembly. The property tax exemptions established by the General Assembly and existing prior to January 1, 2003 remain in effect, but can be revoked.

The General Assembly has set forth a process that localities must follow in enacting local property tax exemptions. Ordinances exempting property by designation require a public hearing with notice of such hearing. Before adopting an ordinance, the local governing body must consider the following questions:

- Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code;
- Whether a current annual alcoholic beverage license for serving alcoholic beverages has been issued for use on the property;
- Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services rendered;
- Whether any part of the net earnings of the organization inures to the benefit of any individual, and whether any significant portion of the service provided by the organization is generated by funds received from donations, contributions, or local state or federal grants;
- Whether the organization provides services for the common good of the public;
- Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;
- The revenue impact to the locality and its taxpayers of exempting the property; and
- Any other pertinent criteria, facts or circumstances.

The local ordinance exempting the property must state the specific use on which the exemption is based. The continuance of the exemption must be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption will be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

If a local governing body wishes to remove organizations whose property is designated as tax-exempt from its exempt property list, it must do so through legislative action. The locality may submit to the General Assembly a list of organizations it wishes to remove from its exempt property list no later than the first calendar day of any General Assembly Session, unless removal of the property exemption is requested by the Governor.

Proposal

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cc : Secretary of Finance

Date: 1/22/2019 SK
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