

## DEPARTMENT OF TAXATION 2020 Fiscal Impact Statement

1. **Patron** Alfonso H. Lopez

3. **Committee** House Finance

4. **Title** Certified Pollution Control Equipment and  
Facilities; Tax-Exemption, Timing of  
Certification

2. **Bill Number** HB 1173

**House of Origin:**

  X   **Introduced**

      **Substitute**

      **Engrossed**

**Second House:**

      **In Committee**

      **Substitute**

      **Enrolled**

**5. Summary/Purpose:**

This bill would allow localities to request certification of tax-exempt certified pollution control equipment used in conjunction with a locality's water, storm-water, wastewater, or solid waste management facilities or equipment prior to completion of the facility.

Under current law, certification as tax-exempt pollution control equipment may only be granted by a certifying authority to property or facilities that have already been constructed, reconstructed, erected, or acquired in conformity with the requirements for abatement or control of water or atmospheric pollution or contamination. Property or facilities not yet in existence may not be granted certification.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

**8. Fiscal implications:**

Administrative Costs

This bill could have an unknown impact on local administrative costs.

The Department of Environmental Quality ("DEQ") and the Virginia Department of Health ("VDH") have indicated that this bill would have an indeterminate impact on state administrative costs, as it could increase or accelerate requests for certification. The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

## Revenue Impact

This bill could have an unknown impact on local revenues.

As contractors would be able to use the pollution control exemption certificate to purchase qualifying items tax-free during construction rather than waiting until construction is completed and requesting refunds of sales tax paid on qualifying purchases, this bill would have an unknown, but likely minimal, impact on state revenues. The revenue impact would depend on the extent that 1) the exemption is exercised in earlier time periods than under current law and 2) the Department would need to pay less interest on refunds.

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

All localities  
Department of Environmental Quality  
Department of Taxation  
Department of Health

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

### **11. Other comments:**

#### Certified Pollution Control Exemption

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation by general law. Article X, § 6 (d) provides that the General Assembly may define as a separate subject of taxation any property used primarily for the purpose of abating or preventing air or water pollution or for the purpose of transferring or storing solar energy and by general law may allow the governing body of any locality to exempt such property from taxation, or by general law may directly exempt such property from taxation.

Certified pollution control equipment and facilities are deemed a separate class of property and are exempt from state and local taxation. Certified pollution control equipment and facilities means any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program requirements for abatement or control of water or atmospheric pollution or contamination.

Currently, certification for eligible property is available only for property in existence at the time that certification is requested. Property to be constructed, erected, or renovated prospectively is not currently eligible for certification.

#### Proposal

This bill would allow localities to request prospective certification as certified pollution control equipment for equipment, facilities, devices, or other property to be used in

conjunction with the locality's water, stormwater, wastewater, or solid waste management facilities or equipment. The bill mandates that certification shall be granted for property to be constructed, reconstructed, erected, or acquired for such purposes.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

#### Similar Legislation

**Senate Bill 685** is identical to this bill.

cc : Secretary of Finance

Date: 1/19/2020 VB  
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