

DEPARTMENT OF TAXATION

2024 Fiscal Impact Statement

1. **Patron** Geary Higgins

3. **Committee** House Finance

4. **Title** Land Preservation Tax Credit

2. **Bill Number** HB 1223

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would increase the annual credit cap for the Land Preservation Tax Credit from \$75 million to \$100 million and would adjust such cap each year for inflation using the Consumer Price Index for All Urban Consumers ("CPI-U").

This bill would also require the Governor to submit a recommended appropriation each year in the Budget Bill or as amendments the general appropriations act, from the General Fund in an amount equal to the difference between the inflation adjusted annual credit cap and \$100 million, but not more than \$25 million. Such amount would be allocated as follows:

- 80 percent to the Virginia Land Conservation Fund with at least 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access.
- 10 percent to the Virginia Battlefield Preservation Fund.
- 10 percent to the Virginia Farmland Preservation Fund.

This bill would be effective for taxable years beginning on and after January 1, 2024.

6. **Budget amendment necessary:** Yes.

Item(s): Page 1, Revenue Estimates

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") and the Department of Conservation and Recreation ("DCR") consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

The portion of this bill increasing the aggregate cap on the Land Preservation Tax Credit would have an estimated negative General Fund revenue impact of \$25.0 million in FY 2025, \$28.0 million in FY 2026, \$30.1 million in FY 2027, \$32.4 million in FY 2028, \$34.6 million in FY 2029, and \$36.8 million in FY 2030. The credit is currently oversubscribed so it assumed that the credit cap will be reached each fiscal year.

The portion of this bill requiring the Governor to propose certain appropriations would have an unknown impact because it is unknown whether and the extent to which the General Assembly would enact such a proposal. If the General Assembly were to enact the proposal made by the Governor each year, this could result in an estimated appropriation of \$3.0 million in FY 2026, \$5.1 million in FY 2027, \$7.4 million in 2028, \$9.6 million in FY 2029, and \$11.8 million in Fiscal Year 2030. This would result in an estimated appropriation to the Virginia Land Conservation Fund impact of \$2.4 million in FY 2026, \$4.1 million in FY 2027, \$5.9 million in FY 2028, \$7.7 in FY 2029, and \$9.5 million in FY 2030. This bill would result in an estimated appropriation to both the Virginia Battlefield Conservation Fund and the Virginia Farmland Preservation Fund of \$300,000 in FY 2026, \$510,000 in FY 2027, \$740,000 in FY 2028, \$960,000 in FY 2029, and \$1.2 million in FY 2030. Under current law, these funds are subject to a recommended annual appropriation of \$20 million, which is more than the appropriation would be under this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Conservation and Recreation

10. Technical amendment necessary: No.

11. Other comments:

Land Preservation Tax Credit

The Land Preservation Tax Credit is equal to 40 percent of the fair market value of land or an interest in land located in Virginia which is conveyed for the purpose of agricultural and forestall use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the taxpayer to a public or private conservation agency. Taxpayers may claim the credit against the individual income tax and the corporate income tax. The amount of credits that may be claimed by each taxpayer per taxable year is limited to \$20,000 for Taxable Year 2017, and \$50,000 for Taxable Year 2018 and thereafter.

The credit is currently subject to an annual credit cap of \$75 million. Beginning in calendar year 2007, the Land Preservation Tax Credit was subject to an overall annual cap of \$100 million. For calendar years 2008 through 2013, the \$100 million cap was increased for inflation. In 2013, the General Assembly enacted legislation (Chapter 798, 2013 Acts of Assembly) that reinstated the \$100 million cap for calendar year 2014 and thereafter, without any adjustments for inflation. In 2015, the General Assembly reduced the cap amount from \$100 million to the current cap of \$75 million.

After a taxpayer completes an eligible donation, they are required apply to the Department to receive an allocation of credits. If the application requests a credit of \$1 million or more, the taxpayer is also required to submit a credit application to DCR. In addition, no credit of \$1 million or more may be issued unless the conservation value of the donation has been verified by the Director of DCR, based on criteria adopted by the Virginia Land Conservation Foundation.

For most taxpayers, any unused amount of the land preservation tax credit may be carried forward for up to 10 years. Furthermore, any unused portion of this credit is transferable to someone else to claim on their Virginia income tax return.

Appropriation to Conservation Funds

When the General Assembly reinstated the annual cap of \$100 million in 2013, it also included language requiring that the Governor recommend an annual appropriation from the General Fund in an amount equal to the difference between an indexed Land Preservation Tax Credit cap amount for the calendar year and \$100 million. Such appropriation is prohibited from exceeding \$20 million and is to be distributed as follows: 80 percent to the Virginia Land Conservation Fund, 10 percent to the Civil War Site Preservation Fund, and 10 percent to the Virginia Farmland Preservation Fund.

This appropriation calculation was amended in 2015 when the annual tax credit cap was reduced from \$100 million to \$75 million. Under this change, the appropriation is equal to the difference between the prior \$100 million cap indexed for inflation and the reduced \$75 million cap, not to exceed \$20 million.

Proposed Legislation

This bill would increase the annual credit cap for the Land Preservation Tax Credit from \$75 million to \$100 million and would adjust such cap each year for inflation using the Consumer Price Index for All Urban Consumers ("CPI-U").

This bill would also require the Governor to submit a recommended appropriation each year in the Budget Bill or as amendments the general appropriations act, from the General Fund in an amount equal to the difference between the inflation adjusted annual credit cap and \$100 million, but not more than \$25 million. Such amount would be allocated as follows:

- 80 percent to the Virginia Land Conservation Fund with at least 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access.
- 10 percent to the Virginia Battlefield Preservation Fund.
- 10 percent to the Virginia Farmland Preservation Fund.

This bill would be effective for taxable years beginning on and after January 1, 2024.

Similar Legislation

House Bill 1183 is identical to this bill.

House Bill 152 would increase the threshold credit amount that triggers verification of the conservation value of a land donation by DCR.

cc : Secretary of Finance

Date: 1/28/2024 JLOF
HB1223F161