Local Government Mandate Statement
Kentucky Legislative Research Commission
2018 Regular Session

Part I: Measure Information

Bill Request #: 892

Bill #: HB 162 GA

Document ID #: 1686

Bill Subject/Title: AN ACT relating to tax-exempt property of purely public charities and declaring an emergency.

Sponsor: Representative Jim DeCesare

Unit of Government: **X** City **X** County **X** Urban-County Unified Local Government **X** Charter County **X** Consolidated Local

Office(s) Impacted: Property Valuation Administrator

Requirement: **X** Mandatory ____ Optional

Effect on Powers & Duties: ____ Modifies Existing **X** Adds New ____ Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

PROVISIONS

Section 1: Amends KRS 132.195(2) to add property of purely public charities to the list of leasehold interests exempt from state and local property tax, when the property and the income derived from it is used to further the charity's mission.

Section 2: Adds a retroactive clause to allow the exemption to apply to all outstanding refund claims with taxable years ending prior to the effective date of the Act and to all claims for those taxable years pending in any judicial or administrative forum.

Section 3: Adds an emergency clause to have the Act take effect upon its passage and approval by the Governor or upon it otherwise becoming law.

ESTIMATED FISCAL IMPACT

Tax Revenues

Section 170 of the Kentucky Constitution exempts property owned by institutions of a purely public charity from taxation. However, in accordance with KRS 132.195(1), the leasehold interest of that tax-exempt property can be taxed when the interest is transferred to a taxable entity. While KRS 132.195(2) provides a list of properties exempt from tax on the leasehold interest, purely public charities are not included in that list. HB 162 creates a new tax exemption by adding purely public charities to the list of properties exempt from tax on leasehold interests.

The exemption created by HB 162 applies to both tangible and real property. The local tax rates for tangible and real properties vary from one taxing jurisdiction to another. Since the tax dollars collected by the taxation of leasehold interests owned by purely public charities is not tracked, the exact tax implication of HB 162 is unknown.

In general, unless offset with economic growth or a stream of revenue from another source, a newly created tax exemption results in a negative impact. Since it is unknown how many purely public charities lease or transfer possession of their property to taxable entities, it unclear how much of an impact HB 162 will have on local taxing jurisdictions.

Compensating Tax Rate

Property tax assessments are figured into the annual computation of property tax rates (performed as a result of “House Bill 44”). Local taxing jurisdictions are allowed to impose a compensating tax rate on real property, which is the rate that will generate approximately the same amount of revenue as was collected in the prior year. The effect of this rate calculation is that if the total assessment of taxable property within a jurisdiction is reduced, a local taxing jurisdiction may impose a higher compensating tax rate, which would be applied to all taxable property. Therefore, a locality could possibly mitigate a reduction in revenues by levying the compensating tax rate, effectively shifting the tax burden to other properties. The unintentional consequence of shifting the tax burden may result in an increase in tax collection issues, especially in counties that already have a struggling economy. An increase in unpaid tax bills will result in decreased revenues for local taxing jurisdictions.

Local School Funding and the SEEK Formula

Local school districts are funded with a mix of state and local tax dollars, in amounts determined by the SEEK funding formula and based in large part upon the total assessed value of taxable property in each district. If a district’s local assessment base is reduced, which may result when taxable property becomes exempt, it is considered less wealthy and the amount of required local tax effort is reduced. The amount of state SEEK funding provided to that district would also likely change. The change in state funding would differ among districts, due to the many other factors in the formula.

Tax Expenditures
HB 162 is expected to have a minimal impact local expenditures, as a verification method will need to be developed and administered to confirm that the charity's income and property is used to further the charity's mission.

Retroactive Clause
This bill has a retroactive clause that allows all claims for those taxable years pending in any judicial or administrative forum to qualify for the exemption. Currently, there is pending litigation pertaining to this matter. *The Grand Lodge of Kentucky Free and Accepted Masons, et al. v. City Taylor Mill et al.*, No. 2015-CA-001617-MR (Ky. App. Feb. 10, 2017).

Emergency Clause
HB 162 has an emergency clause. If enacted, the fiscal impact of the bill will take effect upon its passage and approval by the Governor or upon it otherwise becoming law.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The GA version to this bill does not have any changes from the bill as introduced. There were no committee substitutes or floor amendments adopted.

Data Source(s): LRC A&R; LRC Economists; Kentucky Department of Revenue;

Preparer: Cynthia R. Brown **Reviewer:** KHC **Date:** 2/1/18