Local Government Mandate Statement
Kentucky Legislative Research Commission
2019 Regular Session

Part I: Measure Information

Bill Request #: 76

Bill #: HB 28

Document ID #: 92

Bill Subject/Title: AN ACT relating to nonprofit exemptions in taxation and declaring an emergency.

Sponsor: Representative David Osborne

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

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

Section 1: Amends KRS 139.495 to remove the imposition of sales tax on the sale of admissions by nonprofit educational, charitable, or religious institutions.

Section 2: Amends KRS 139.200 to add admissions charged by nonprofit educational, charitable, or religious institutions to the list of exceptions for sales of admissions subject to sales tax.

Section 3: 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 4: 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 5: Adds an emergency clause to have the Act take effect upon its passage and approval by the Governor or upon it otherwise becoming law.

Tax Revenues

Sections 1 and 2 of this bill amend the sales and use tax statutes. No impact is expected on local tax revenues from these amendments.

In relation to property tax, 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. This bill creates a new tax exemption by adding purely public charities to the list of properties exempt from tax on its leasehold interests.

The exemption created by Section 4 of this bill 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 are not tracked and it is unknown how many purely public charities lease or transfer possession of their property to taxable entities, **the impact of this bill on local tax revenues is unknown**.

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

This bill is expected to have a minimal impact on 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 are claims pending in relation to *Grand Lodge of Kentucky Free and Accepted Masons, et al. v. City Taylor Mill et al*.

Emergency Clause

This bill 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 Part II section above pertains to the bill as drafted and there are not any prior versions of the bill to complete the Part III section.

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

Preparer: Cynthia R. Brown **Reviewer:** KHC **Date:** 12/27/18