



Virginia Local Government Law

Tax Assessment Appeals Affected — How Much? (Virginia General Assembly 2011)

By: **Andrew McRoberts**. *This was posted Wednesday, March 2nd, 2011*

The Virginia General Assembly adjourned on Sunday, and during its 2011 session, considered, amended, killed and/or adopted thousands of pieces of legislation, plus the Virginia budget.

During the session, the state legislature adopted some important changes in the law affecting local governments. Over the coming weeks, I will be touching on some of the most significant bills. In this post, I'll discuss [HB 1588](#) (and its companion, [SB 1350](#)), which will change the manner in which tax appeals are handled effective for tax year 2012.

Tax assessment cases have always been difficult for taxpayers to win. Some form of manifest error must be shown, the taxpayer bears the burden of proof, and a mere difference of opinion is insufficient to prevail. The law in this regard has mostly been well-settled. For a discussion of much of the law in this area, see the previous blog post on [TB Venture LLC v. Arlington County](#) and the three-part series of posts on *West Creek Associates v. Goochland County*: [Part 1](#), [Part 2](#) and [Part 3](#).

In the 2011 General Assembly session, an attempt was made to change the tax appeal procedure and burdens on taxpayers. Early versions of HB 1588 and SB1350 would have even completely shifted the burden of proof from the taxpayer to the locality. (If successful, these early versions would have resulted in the only lawsuits in America in which the plaintiff would have had absolutely no burden!)

After a compromise and several amendments, the final versions of the bills will result in some significant changes to tax appeal procedures, effective for the 2012 tax year.

In brief:

– Written notice will be required of certain of taxpayer's rights in the event of appeals to boards of equalization and circuit court. Virginia Code section 58.1-3331.E, as amended.

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– For board of equalization appeals, if provision of assessment records is not given as required by law, the assessor is required to present certain types of evidence first in the BOE hearing. There is a change in the evidentiary standard. Virginia Code section 58.1-3379, as amended.

– For circuit court appeals, the law is unchanged for most tax assessment appeals, but for appeals seeking “relief from real property taxes” there are change in the procedure. There is a difference in evidentiary standard. In addition, if the assessor’s records are not produced as required by law, the assessor must produce certain types of evidence first at trial. Virginia Code section 58.1-3984.B, as amended.

The wording of some of these amendments is complex, and is still being interpreted by attorneys who practice in this area. Litigation is likely for many years before the meaning of these amendments are truly decided.

A Sands Anderson Webinar will be held in the Spring to assist local government attorneys and assessors in interpreting these new amendments. Check back to this site and the Sands Anderson PC website, www.SandsAnderson.com, for further details.

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