

Returning a Little Power to Localities

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Virginia is a Dillon Rule state, so-called because local governments have only those powers expressly given to them by the state. Judge Dillon expressed this principle more than a decade ago.

The practical implication is that local governments each legislative session come to the General Assembly with numerous charter amendments and changes to general laws that would allow them to carry out the functions their local citizens demand. These changes range from the mundane to the more serious. Some localities want to be able to control pets, others want to change their organization, and some want to control growth and development.

For some interest groups the Dillon Rule works great. They find more sympathy and protection from the state legislature than they might from the local board of supervisors or city council. For others the Dillon Rule is a barrier to making their county or city more responsive to local interests and needs.

For the General Assembly the Dillon Rule means even more bills for short legislative sessions where there is a struggle to get all the legislation considered. For example, in the 2002, 60-day legislative session the Virginia General Assembly considered 2907 bills and resolutions and passed 1587 of them.

On the November 5 ballot there is a constitutional amendment that will make an ever so slight change in the Dillon Rule to give localities a general grant of power to exempt property from taxation.

Subsection (a) (6) of Article X, Section 6, of the State Constitution provides that the General Assembly may exempt property "used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. The General Assembly exempts this category of property in either of two ways – classification or designation. First, it may pass a law to exempt property belonging to a class or type of organization. For example, it has exempted the real and personal property that belongs to non-profit volunteer fire departments and rescue squads and is used for the benefit of the general public.

Second, it may pass a law to exempt the property of a designated non-profit organization. Hundreds of these laws exempt the property of specific, named organizations. Since the property tax is a local tax, the General Assembly requires a resolution by the local governing body in support of the exemption. It routinely approves exemptions for which a local governing body has made the request.

This amendment would authorize locally elected city councils and boards of supervisors to exempt their own imposed tax on properties they desire without asking the General Assembly for permission. Please vote yes for the amendment. It will allow local governments to help non-profit organizations. It is a little step in returning power to the local level; it is a big step in reducing the agenda of the General Assembly to allow it to focus on broader issues.