

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** Emmett W. Hanger, Jr.
3. **Committee** Senate Finance
4. **Title** Real Property Tax; Roll-Back Taxes

2. **Bill Number** SB 1043

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would allow localities to assess and collect roll-back taxes under a use value assessment program for a period not to exceed the fifteen most recent complete tax years, provided that the locality: 1) has not adopted a sliding scale ordinance; 2) promptly deposits all roll-back taxes, as well as penalties and interests collected into a special fund established for funding its local purchase of development rights program and 3) uses all such roll-back taxes, interest, and penalty, and all other moneys deposited into the special fund solely for funding the local purchase of development rights program. The fifteen year roll-back period is not applicable to properties subject to a recorded commitment entered into by the landowner not to change the use to a nonqualifying use recorded prior to July 1, 2009.

Under current law, in localities that have not adopted a sliding scale ordinance, localities may assess and collect roll-back taxes for each of the five most recent complete tax years. In localities that have adopted a sliding scale ordinance, the roll-back tax may be imposed for each of the tax years since the property became subject to land use taxation.

The effective date of this bill is not specified.

6. No Fiscal Impact

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would have no impact on state revenues. To the extent that localities qualify to assess roll back taxes for a fifteen-year period, this bill would result in local revenue gains for such localities, the amount of which is unknown.

9. Specific agency or political subdivisions affected:

All localities that have enacted a land use program ordinance

10. Technical amendment necessary: No.

11. Other comments:

Land Use Taxation

Land use valuation and taxation is intended to encourage conservation by providing tax relief to the owner of real estate devoted solely to agricultural, horticultural, forest or open-space use. Under land use taxation programs, the land dedicated to the special use is taxed at a lower rate than the rate applicable to other real property. In valuing land at its use value, the assessing officer considers only the value of the real estate based on its current use. The assessing officer does not consider the fair market value of the land at its most profitable use.

Owners of real property situated in a locality that has adopted a land-use plan and ordinance providing for use value assessment may apply to their local assessing officer for taxation of their real property on the basis of use value. Such owners must devote a minimum number of acres of real property to agricultural, horticultural, forest, or open-space use.

When the qualified use of real estate changes to a nonqualified use or is zoned for a more intensive use at the request of the owner, roll-back tax liability attaches to the land. Roll-back taxes are the difference between what real property taxes would have been had real property been assessed at fair market value compared to real property taxes based upon use value. Roll-back tax liability is computed by adding the amount of deferred taxes for the past five years and simple interest at the rate applicable to delinquent taxes. In localities that have adopted a sliding scale ordinance, the roll-back tax may be imposed for each of the tax years since the property became subject to land use taxation. Liability for roll-back taxes attaches and is paid to the treasurer only if the amount of tax due exceeds ten dollars.

Proposal

This bill would allow localities under a use value assessment program to assess and collect roll-back taxes for a period as far back as the fifteen most recent complete tax years. In order to qualify to roll-back taxes for a fifteen year period, the locality: 1) must not have adopted a sliding scale ordinance; 2) must promptly deposit all roll-back taxes, as well as penalties and interests collected into a special fund established for funding its local purchase of development rights program and; 3) must use all such roll-back taxes, interest, and penalty, and all other moneys deposited into the special fund solely for funding the local purchase of development rights program. However, even if the requirements set forth above are satisfied, the fifteen year roll-back period does not apply to property subject to a recorded commitment recorded prior to July 1, 2009 and entered into by landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment.

The effective date of this bill is not specified.

Other Legislation

House Bill 2055 would amend the provisions that must be provided in the ordinance adopted by a locality in order to provide for the transfer of development rights in its jurisdiction by requiring that the ordinance provide for the development rights severed from the sending areas to be equal to the development rights permitted to be attached in the receiving areas.

cc : Secretary of Finance

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