

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Clarence E. Phillips

3. **Committee** House Finance

4. **Title** Southwest Regional Recreation Authority
Income Tax Credit

2. **Bill Number** HB 1186

House of Origin:

 Introduced

 X **Substitute**

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

TAX understands that the Patron will be introducing an amendment in the nature of a substitute for this bill. This fiscal impact statement is applicable to that substitute version.

This bill would provide an annual income tax credit for individuals, corporations, and estates and trusts for an easement granted to the Southwest Regional Recreation Authority. The credit would be equal to 1 percent of the value of the land for which the easement was granted. The value of the land that is conveyed by the easement would be calculated as follows: the real property tax assessment would be multiplied by a fraction, the numerator of which is the total acreage of the easement and the denominator of which is the total acreage of the full parcel of property.

There would be a cap of \$25,000 on the amount of credits that may be earned per easement granted. In addition, there would be a cap of \$50,000 on the amount of credits that may be earned per taxpayer for all easements granted by the taxpayer.

This bill would be effective for easements granted on or after January 1, 2010. For credits earned on or after January 1, 2010, but before January 1, 2013, the credit would first be available to be claimed on the Taxable Year 2012 income tax return filed in 2013. Beginning on January 1, 2013, the credit would first be available to be claimed by the taxpayer for the taxable year in which the credit was earned.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: Yes.
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8. Fiscal implications:

Administrative Impact

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as “routine,” and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not “routine.” Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would produce an unknown General Fund loss beginning in Fiscal Year 2013. Because the credit would be allowed to be claimed beginning for Taxable Year 2012 returns filed in 2013, this bill would have no impact in Fiscal Year 2011 or Fiscal Year 2012. Over time, as the number of easements in effect increases, the revenue loss associated with this bill may increase.

The Southwest Regional Recreation Authority expects to develop about 500 miles of trails within 5 years. The 500 miles of trails are expected to be granted through easements by 20 or 30 taxpayers in total. Assuming 30 taxpayers grant easements and each taxpayer qualified for the maximum credit amount of \$50,000, the total cost of this bill over the lifetime of the credit would be \$1.5 million.

Based on information provided by the Southwest Regional Recreation Authority, the following example is a representation of an easement that will be granted and the accompanying credit.

Example. A taxpayer grants an easement to the Southwest Regional Recreation Authority on his reclaimed coal land. The easement is 50 ft. wide and 100 miles long, which equates to 606 acres. The full parcel of property for which the easement is a part is 10,000 acres and the real property tax assessment for the full parcel is \$5 million. Therefore, the property tax assessment of \$5 million is multiplied by 606/10,000. Accordingly, the value of the easement for purpose of calculating the credit is \$303,000. The credit would equal 1 percent of the value of the easement, or \$3,030. Therefore, this taxpayer would be allowed to claim a credit of \$3,030 for each taxable year for which the easement is in effect up to 9 years; in the ninth year the taxpayer will reach the \$25,000 cap.

9. Specific agency or political subdivisions affected:

Department of Taxation
Southwest Regional Recreation Authority

10. Technical amendment necessary: No.

11. Other comments:

Current Law

The 2008 Acts of Assembly, Chapters 645 and 648, established the Southwest Regional Recreation Authority with the purpose of establishing and maintaining a Southwest Regional Recreation Area. "Southwest Regional Recreation Area" is defined as a system of recreational trails and appurtenant facilities, including trail-head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities that are a part of the system.

The Authority was granted powers in order facilitate the development of the recreational area. These powers include, but are not limited to, acquiring, owning, holding and disposing of property, real and personal, tangible and intangible and entering into contracts with landowners and other persons holding an interest in the land being used for its recreational facilities.

Proposal

This bill would provide an annual income tax credit for individuals, corporations, and estates and trusts for an easement granted to the Authority.

"Authority" would be defined as the Southwest Regional Recreation Authority established pursuant to § 15.2-6016, or any other substantially similar authority created by the General Assembly on or after January 1, 2010, whose purpose is to establish and maintain a regional recreation area.

"Easement" would be defined as an easement on real property for trails, granted to an Authority on or after January 1, 2010, permitting, among other things, public access and use of the real property governed by the easement for a minimum of 24 months. The easement would be required to be granted, with no consideration paid by the Authority.

The credit would be equal to 1 percent of the value of the land for which the easement was granted. This credit is intended to approximate the real property taxes owed on the portion of land governed by the easement. Accordingly, the credit is equal to 1 percent because the average property tax rate for Virginia counties, cities and towns is \$0.69 for every \$100 of value.

The value of the land that is conveyed by the easement would be calculated as follows:

- The total value of land for which the easement is a part would be equal to the real property tax assessment;

- This amount would be multiplied by a fraction, the numerator of which is the total acres of the easement and the denominator of which is the total acres of the full parcel of property.

There would be a cap of \$25,000 on the amount of credits that may be earned per easement granted over the lifetime of the easement. In addition, there would be a cap of \$50,000 on the amount of credits that may be earned per taxpayer for all easements granted by the taxpayer. The taxpayer would not be able to claim any other credit related to the easement. The taxpayer also would not be able to claim the federal deduction for a charitable donation related to the easement.

Any unused credits would carry forward for up to 3 years. However, TAX would be able to recapture any credits claimed if the requirements of the credit are not met.

This bill would require TAX to establish guidelines implementing the provisions of the credit. The guidelines would be exempt from the Administrative Process Act.

This bill would be effective for easements granted on or after January 1, 2010. For credits earned on or after January 1, 2010, but before January 1, 2013, the credit would first be available to be claimed on the Taxable Year 2012 income tax return filed in 2013. Beginning on January 1, 2013, the credit would first be available to be claimed by the taxpayer for the taxable year in which the credit was earned.

Similar Bills

House Bill 845 is identical to this bill as introduced and it is TAX's understanding that the Patron will be introducing an amendment in the nature of a substitute that is identical to the amendment in the nature of a substitute being introduced for this bill.

cc : Secretary of Finance

Date: 2/1/2010 JKM
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