

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** Emmett W. Hanger, Jr.

2. **Bill Number** SB 404

3. **Committee** Senate Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Income Tax: Riparian Waterway Buffer Tax  
Credit

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would amend the individual income tax credit allowed for riparian forest buffer protection to make the credit refundable.

Under current law, the Riparian Waterway Forest Buffer Tax Credit is allowed to individuals and corporations who leave buffers along waterways when harvesting forests. Currently, the tax credit is allowed to be carried forward for up to five years.

Under this bill, an individual that earns the Riparian Waterway Buffer Tax Credit would be able to receive a refund for 100 percent of the credit amount that exceeds the individual's tax liability.

The effective date of this bill is not specified.

**This is a Department of Forestry bill.**

6. **Budget amendment necessary:** Yes.  
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7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Costs

The Department of Taxation (the "Department") considers implementation of this bill as "routine," and does not require additional funding.

#### Revenue Impact

This bill would have an unknown negative impact on General Fund revenue. According to the Department of Forestry, since 2002 they have issued credits totaling \$1.15 million. For the last five year period (the maximum for which unused credits can be carried

forward), credits issued exceeded credits claimed by \$350,000. Therefore, this total reflects the order of magnitude of the revenue loss in the first taxable year when all credits not used in the preceding five taxable years would be claimed. To the extent credits are due corporations not individuals, the loss would be less since corporations do not have the refund option. There is no breakdown between individuals and corporations of credits granted by the Department of Forestry.

In future taxable years, the refundability of the credit is expected to result in a greater impact from the credit annually than under current law. Assuming the bill would be effective for taxable years beginning on and after January 1, 2012, most of the revenue loss attributable to five years of carryover credits would occur in Fiscal Year 2013, but some would occur in the following fiscal year for returns filed under extension.

**9. Specific agency or political subdivisions affected:**

Department of Taxation  
Department of Forestry

**10. Technical amendment necessary:** No.

**11. Other comments:**

Current Law

Under Virginia law, individuals and corporations who own land abutting a waterway on which timber is harvested, may be allowed a tax credit for not harvesting timber on certain portions of the land near the waterway. The credit is equal to 25 percent of the value of timber on the area designated as a forested buffer for a waterway, not to exceed \$17,500 or the total amount of tax liability, whichever is less. Any unused credits may be carried forward for up to five years.

To qualify for this credit, the taxpayer must satisfy the following requirements: i) the distance from the waterway to the most distant end of the riparian buffer must be at least 35 feet and no more than 300 feet; ii) the buffer must remain in place for at least 15 years; and iii) the land that is the subject of the credit cannot be the subject of this credit again for 15 years after it was first taken.

In addition, the property owner must comply with an individualized Forest Stewardship Plan to be certified by the State Forester. The credit amount is subject to recapture if the Stewardship Plan is violated.

Proposal

Under this bill, an individual that earns the Riparian Waterway Buffer Tax Credit would be able to receive a refund for 100 percent of the credit amount that exceeds the individual's tax liability. This bill would not make the credit refundable for corporations. The Department would be required to issue the requested refund within 90 days of the filing date of the return claiming the refund.

The effective date of this bill is not specified.

### Similar Bills

**House Bill 456** is identical to this bill.

cc : Secretary of Finance

Date: 2/2/2012 tlg  
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