DEPARTMENT OF TAXATION
2022 Fiscal Impact Statement

1. Patron David A. Reid

2. Bill Number HB 849
House of Origin:
X **Introduced**
___ **Substitute**
___ **Engrossed**

Second House:
___ **In Committee**
___ **Substitute**
___ **Enrolled**

3. Committee House Finance

4. Title Income tax; Establishes Geothermal Tax Credit

5. Summary/Purpose:

This bill would establish an income tax credit for qualified expenditures related to a geothermal system placed in service at a residence in a tobacco region locality. The credit created by the bill would be equal to the lesser of $7,500 or 25 percent of qualified expenditure. The credit would be subject to an annual credit cap of $1 million.

The bill would also reduce from 50 percent to 25 percent the portion of Master Settlement Agreement funds that annually accrue to the Tobacco Indemnification and Community Revitalization Fund. Such annual funds would be reallocated to cover the revenue loss attributable to the credit that would be provided by this bill. To the extent the set-aside Master Settlement Agreement funds are insufficient, funds from the General Fund may be used to cover the cost of the credit.

This bill would be effective for taxable years beginning on or after January 1, 2023, but before January 1, 2028.

6. Budget amendment necessary: Yes.
Item(s): Page 1, Revenue Estimates

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

8. Fiscal implications:

Administrative Costs

The Department of Taxation considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

This bill would have a negative impact of up to $1 million per fiscal year. It is unknown whether taxpayers will qualify for and claim credits up to the full $1 million cap. This bill would require that a portion of money received from the Master Settlement Agreement that would otherwise be deposited into the Tobacco Indemnification and Community Revitalization Fund be used to fund the credit that this bill would provide. Because there is sufficient annual money available from the Master Settlement Agreement, this bill would have no General Fund revenue impact. However, it would have an unknown negative impact on the Tobacco Indemnification and Community Revitalization Fund, because funds remaining to fund unallocated credits revert back to the Tobacco Indemnification and Community Revitalization Fund.

According to the Department of Treasury, a portion of Master Settlement Agreement revenues are being used to pay debt service as part of the securitized bond sale by the Tobacco Settlement Financing Corporation. Any attempt to reduce Master Settlement Agreement allocations to the Tobacco Settlement Financing Corporation may create issues with such bonds.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Energy

10. Technical amendment necessary: Yes.

Page 2, Line 97, after loss
Strike: in
Insert: if

11. Other comments:

Proposed Legislation

This bill would establish an income tax credit for qualified expenditures related to a geothermal system placed in service at a residence in a tobacco region locality. The credit created by the bill would be equal to the lesser of $7,500 or 25 percent of qualified expenditure. The bill further directs DOE to evaluate whether a person's geothermal system complies with statutory and regulatory standards and to issue a certification for a compliant system to be attached to a person's income tax return in order to claim the tax credit. The bill would provide that no credit will be allowed to the extent the geothermal system cost was paid with public funds or was reduced by a federal tax credit.

The bill would define “geothermal system” as any equipment that (i) uses the ground or groundwater as a thermal energy source to heat the residence or as a thermal energy sink to cool the residence, (ii) is installed at a residence in a tobacco region locality, (iii) is installed by a business headquartered in a tobacco region locality, (iv) complies with any applicable geothermal regulations promulgated by the Department of Mines, Minerals, and Energy, and (v) meets any other energy standards prescribed by the Department of Energy.

The bill would define “tobacco region locality” as including the Counties of Amelia, Appomattox, Bedford, Bland, Brunswick, Buchannan, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Dickenson, Dinwiddie, Floyd, Franklin, Grayson, Greensville, Halifax, Henry, Lee, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, Russell, Scott, Smyth, Sussex, Tazewell, Washington, Wise, and Wythe, as well as the Cities of Bristol, Danville, Emporia, Galax, Martinsville, and Norton.

The bill would define “qualifying expenditures” as expenditures for materials, labor costs, properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of a geothermal system. "Qualified expenditures" would not include interest or other financing charges.

The credit would be subject to an annual credit cap of $1 million. If applications for credits exceed $1 million in a taxable year, the Department of Energy would be required to issue certifications on a first-come, first-served basis.

Taxpayers would not be permitted to claim credits in excess of their tax liability for the taxable year. Any unusable portion of the credit would be permitted to be carried forward by the taxpayer for up to five years or until the total credit amount is taken, whichever is sooner.

The bill would also reduce from 50 percent to 25 percent the portion of Master Settlement Agreement funds that annually accrue to the Tobacco Indemnification and Community Revitalization Fund. Such annual funds would be reallocated to cover the revenue loss attributable to the credit that would be provided by this bill. To the extent the set-aside Master Settlement Agreement funds are insufficient, funds from the General Fund may be used to cover the cost of the credit.

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cc : Secretary of Finance

Date: 2/6/2022 VB
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