

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** Robert D. Orrock, Sr.

3. **Committee** House Finance

4. **Title** Real Property Tax; Refund from Roll-Back  
Taxes for Sand and Gravel Excavation

2. **Bill Number** HB 82

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would provide a refund from any roll-back taxes imposed on real property that loses its designation as property devoted to agricultural or horticultural use due to the excavation of sand or gravel on the land. Owners of qualifying real property would be eligible for a refund, provided the sole nonqualifying use or change in zoning involves the extraction of sand or gravel from the real estate and the extraction ceases and the real estate remains or becomes devoted to agricultural or horticultural use within two years of the date that it became nonqualified. If the property lost its designation as agricultural or horticultural due to a change in zoning, the bill would also require the owner to apply to have the real estate revert to its previous zoning designation within two years of the date that the real estate became nonqualified in order to receive a refund of any roll-back taxes remitted.

Under current law, whenever the qualified use of real property 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.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

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

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

This bill would have no impact on state revenues. To the extent that property owners qualify and fulfill the requirements for the roll-back tax refund, this bill would result in a decrease in local revenue, the magnitude 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 provide a refund from any roll-back taxes imposed on real property that loses its designation as property devoted to agricultural or horticultural use due to the excavation of sand or gravel on the land. Owners of qualifying real property would be eligible for a refund, provided the sole nonqualifying use or change in zoning involves the extraction of sand or gravel from the real estate and the extraction ceases and the real estate remains or becomes devoted to agricultural or horticultural use within two years of the date that it became nonqualified. If the property lost its designation as agricultural or horticultural due to a change in zoning, the bill would also require the owner to apply to have the real estate revert to its previous zoning designation within two years of the date that the real estate became nonqualified in order to receive a refund of any roll-back taxes remitted.

The effective date of this bill is not specified.

### Similar Legislation

**House Bill 81** would prohibit local assessing officials from considering prior, discontinued uses of property in determining its current use for land use valuation purposes.

**House Bill 31** would require real property assessors to base their fair market value determinations for real property solely on permissible uses of such property, when the property's use is subject to federal, state or local restrictions.

**House Bill 80** would require the local assessing official to separately assess the fair market value of wetlands on real property, if requested by the property owner.

**Senate Bill 48, Senate Bill 73, and House Bill 1073** (identical) would establish criteria by which an assessor must determine fair market value for real estate used in whole or in part as residential rental property as defined by ordinance or the locality.

**House Bill 483** would provide that the current authority to increase the assessment of real property taxes for three preceding tax years by increasing the amount of the valuation of the property applies only to errors related to 1) new construction or improvements to the property; 2) a change in the use of the property; or 3) fraud on the part of the taxpayer.

cc : Secretary of Finance

Date: 1/21/2012 KP  
DLAS File Name: HB82F161