

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Les R. Adams

2. **Bill Number** HB 1319

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed House and Senate

4. **Title** Individual Income Tax; Reforestation and
Afforestation Tax Credit

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would provide a nonrefundable individual income tax credit for expenses incurred by a taxpayer for the implementation of beneficial hardwood management practices. The credit would be equal to the taxpayer's eligible expenditures up to \$1,000. The credit would be subject to an annual credit cap of \$1 million.

This bill would be effective for taxable years beginning on and after January 1, 2022, but before January 1, 2025.

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

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

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

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2023. It is unknown to what extent taxpayers would apply for the credit and undergo the approval process required by this bill. However, because this credit would be subject to an annual credit cap, the negative revenue impact would be limited to a maximum of \$1 million per fiscal year. In addition, Virginia's existing Riparian Waterway Buffer Tax Credit has averaged about \$420,000 a year in credits claimed over the past three fiscal years. Because the tax credit proposed by this bill would be narrower in scope, it is estimated that the negative General Fund revenue impact of this tax credit would be less than \$420,000 a year.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Forestry

10. Technical amendment necessary: No.

11. Other comments:

Riparian Waterway Buffer Tax Credit

Virginia allows an individual and corporate income tax credit for taxpayers that own land abutting a waterway on which timber is harvested and that forbears harvesting timber on certain portions of land near the waterway. The amount of the credit is equal to 25 percent of the value of the timber in that portion of the land retained as a buffer, up to \$17,500. Any unused credit may be carried forward for 5 years.

The buffer must be at least 35 feet wide, but no more than 300 feet wide. At least 50% of the crown needs to remain after harvesting and the buffer needs to remain in place for at least 15 years. Once a taxpayer has claimed the credit, they are not permitted to claim it again for the same piece of land for another 15 years.

The table below shows the number of returns claiming the Riparian Waterway Buffer Tax Credit and the total amount claimed for the last six fiscal years:

Fiscal Year	Number of Returns	Amount
2016	111	\$321,533
2017	110	\$251,001
2018	92	\$263,314
2019	134	\$399,665
2020	128	\$463,360
2021	131	\$397,529

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the Appropriation Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2025. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2024 Session must have a sunset date not later than June 30, 2025. This requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session, or to the Motion Picture Production Tax Credit.

Proposed Legislation

This bill would provide a nonrefundable individual income tax credit for expenses incurred by a taxpayer for the implementation of beneficial hardwood management practices. The credit would be equal to the eligible expenditures up to \$1,000.

This bill would defined "eligible expenditures" as direct expenses incurred by a taxpayer related to implementing beneficial hardwood management practices pursuant to best practices developed by the Department of Forestry.

In order to claim the credit, the taxpayer would be required to submit a forest management plan to the Department of Forestry for review. After approval of the plan, and completion of the implementation of the plan, the Department of Forestry would certify the forest management plan contains beneficial management practices as eligible for the credit. The taxpayer would be required to forward the certification to the Department on forms provided by Department. The bill would require that approval and implementation of a forest management plan be completed the same year in which the credit is claimed.

The credit would be subject to an annual credit cap of \$1 million. The Department of Forestry would be required to allocate credits on a first-come, first-served basis.

If the amount of the credit exceeds a taxpayer's tax liability for the taxable year in which the eligible expenditures occurred, the taxpayer would be allowed to carry over the excess amount for credit against the taxpayer's income taxes for the next five taxable years or until the total amount of the tax credit has been taken, whichever occurs first.

If a taxpayer participates in the Hardwood Habitat Incentive Program, the taxpayer would be allowed to claim the credit for any remaining liability after such cost-share.

This bill would require the Department, in consultation with the Department of Forestry, to develop guidelines, exempt from the Administrative Process Act, implementing the credit.

This bill would be effective for taxable years beginning on and after January 1, 2022, but before January 1, 2025.

cc : Secretary of Finance

Date: 7/20/2022 JJS
HB1319FER161