
The original instrument was prepared by Cathy R. Wells. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

Morrell (SB 40)

Present law authorizes a transferable credit against state income tax for investment by an individual or "entity" in either voluntary remedial investigation or voluntary remediation action, or both, in state-certified brownfields sites. The credit was able to be carried forward (used by the remediator or by the transferee) for 10 years.

Present law defines "brownfields site" or "state-certified site" as an identified area of immovable property in the state for which a voluntary remediation action or a voluntary remedial investigation concerning the presence or potential presence of a hazardous substance or pollutant is authorized by the secretary of DEQ pursuant to law.

Present law terminates the granting of tax credits after December 31, 2009, but authorized the credits to be transferred after that date.

Proposed law provides that no tax credits be granted from January 1, 2010 through June 30, 2011 and after December 31, 2013. Further provides that the transferability provisions in present law continue to be effective for tax credits properly authorized during the time periods provided for in present law.

Proposed law clarifies that the credit may be granted to any public or private "entity" whether taxable or non-taxable.

Present law requires transferors and transferees to submit, in writing, notification of any transfers or sales of tax credits within 30 days after transfer or sale to the Dept. of Revenue. Requires the notification to include necessary information including the transferor's tax credit balance prior to transfer, a copy of any tax credit certification letter(s) issued by the Dept. of Environmental Quality, the name of the state-certified site, the transferor's remaining tax credit balance after transfer, all tax identification numbers for both transferor and transferee, the date of transfer, the amount transferred, a copy of the credit certificate, price paid by the transferee to the transferor, for the tax credits, and any other information required by the Dept. of Revenue.

Proposed law retains present law and requires written notification of all transfers or sales of tax credits to also be submitted to the Dept. of Environmental Quality within 30 days after the transfer or sale. It further requires a copy of the tax credit certification letter issued by the Dept. of Environmental Quality, as well as all names for both transferor and transferee. It removes the requirement to include the price paid by the transferee to the transferor for the tax credits required by the Dept. of Revenue, and it requires the Dept. of Environmental Quality to notify the transferor and Dept. of Revenue of any ineligible transferee.

Present law provides that the credit is "earned" at the time of certification of either an investigation or remediation, or both by the secretary of DEQ. Individuals or entities are eligible to receive a credit of 15% of the total investment made for voluntary remedial investigation and a credit of 50% of the total investment made in voluntary remediation at a state-certified site.

Present law prohibits the "responsible" party or landowner (i.e. the party or landowner responsible under the law for the discharge or disposal, or allowing the discharge or disposal of the hazardous waste on the property) from applying for such credits, including any company owned, affiliated, or controlled, in whole or in part, by any company or person that is a "responsible person".

Proposed law also prohibits a "responsible person" from receiving the transfer of any credit.

Proposed law retains the definition of "brownfields site" and "state-certified site" and clarifies that such definition may include public parks, playgrounds, and other recreational areas.

Proposed law retains the present law procedure.

Effective July 1, 2011.

(Amends R.S. 47:6021(A), (B)(1), (D)(2)(a)(i) and (b)(i), (H), (I) (intro para), (I), (I)(2), (6), and (J); adds R.S. 47:6021(B)(6))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill.

1. Requires written notification of all transfers or sales of tax credits be to the Department of Environmental Quality as well as the Department of Revenue and requires the Environmental Quality to notify the transferor and Department of Revenue of any ineligible transferee.

Senate Floor Amendments to engrossed bill.

1. Makes technical changes.
2. Requires that the written notification of the sale or transfer of tax credits also include any information required by the Dept. of Environmental Quality.
3. Requires that no tax credits be granted after Dec. 30, 2013.
4. Requires that the transferability provisions continue to be effective for tax credits properly authorized during the time periods provided in present law.