



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **SB 40** SLS 11RS 106
Bill Text Version: **ENROLLED**
Opp. Chamb. Action:

Proposed Amd.:
Sub. Bill For.:

Date: June 22, 2011 11:16 AM	Author: MORRELL
Dept./Agy.: Environmental Quality	
Subject: Tax Credits for Brownfields Sites	Analyst: Matthew LaBruyere

TAX/TAXATIONEN DECREASE GF RV See NotePage 1 of 2

Authorizes DEQ to once again grant transferable credits for the investigation or remediation of hazardous waste "brownfields" sites on and after July 1, 2011, clarifies that the credit may be granted to any public or private "entity" whether Present law authorizes a nonrefundable but transferable tax credit against state income tax for expenditures by an individual or entity in either voluntary remedial investigation (15% tax credit) or voluntary remedial action (50% tax credit), or both, on state-certified brownfields sites. The tax credit was able to be carried forward for 10 years. No tax credits are allowed to be granted after December 31, 2009, although transferability provisions continue to be effective. Proposed legislation permanently extends the program by authorizing the granting of credits on or after July 1, 2011 through December 31, 2013. Credits may be granted to any public or private "entity" whether taxable or non-taxable. Proposed legislation retains present law definition of "brownfields sit" and "state-certified site" and clarifies that such definition may include public parks, playgrounds, and other recreational areas. Proposed legislation retains present law and requires written notification of all transfers or sales of tax credits to also be submitted to DEQ within 30 days after the transfer or sale. It further requires a copy of the tax credit certification letter issued by DEQ, and all names for both transferor and (Continued on Page 2)

EXPENDITURES	2011-12	2012-13	2013-14	2014-15	2015-16	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2011-12	2012-13	2013-14	2014-15	2015-16	5 -YEAR TOTAL
State Gen. Fd.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure. The Department of Environmental Quality currently has staff, funded by federal brownfields grants and Voluntary Remediation Program (VRP) application and oversight fees, to handle the processing of Brownfields investor credits. In addition, the fees collected from VRP applicants will cover new tax credit processing and oversight handled by the department. However, in the event brownfields tax credit participation does increase substantially, additional funding may be needed.

REVENUE EXPLANATION

The proposed legislation may result in a decrease in state general fund revenue as credits are claimed and an increase in federal funds revenue if an agreement is entered into with the federal government for the reimbursement of tax credits. The tax credits in this bill are 15% of total investment for voluntary remedial investigation and 50% of total investment for voluntary remedial action (cleanup). Since FY 09, there have been 21 credits earned with a total credit amount of approximately \$5.53 M. Of the 21 credits, 6 were remedial investigation credits which totaled \$131,288 and 15 were remedial action credits which totaled \$5.4 M. According to the Department of Revenue, since FY 09, a total of \$1,266,168 has been claimed against corporate (\$651,751) and individual (\$614,417) income taxes. Credit of approximately \$4.26 M has yet to be claimed.

It is uncertain how many persons, private entities, or public entities will apply for the reinstated tax credit. It is also uncertain how much each applicant would spend to cleanup the affected areas as each is different in acreage and contamination. However, using information gathered from the 21 credits, the land sizes range from less than 0.5 acres to 62 acres, with remedial investigation costs ranging from approximately \$70,000 to \$250,000, and remedial action cost ranging from approximately \$100,000 to \$3.1 M. The average cost for remedial investigation is approximately \$145,000, which would result in an average tax credit of \$21,750 (\$145,000 costs x 15% credit). The average cost for remedial action is approximately \$720,000, which would result in an average credit of \$360,000 (\$720,000 costs x 50%).

Based on average participation and costs of the existing program (discussed on page 2), the potential state general fund revenue loss exposure might be some \$1.8 million per year. Since the program will sunset on December 31, 2013, credits can only be granted for 2.5 years. As a result of the 10-year carry-forward allowed, the revenue loss exposure may continue until FY 24; however, the total amount of credits granted will be less than if the program did not have a sunset date.

While material exposure to FY12 revenue may be unlikely, the bill allows credits to be granted in the second half of 2011. Any such credits awarded, possibly to projects already in process, could be claimed against tax liabilities on returns filed in the spring of 2012, in FY12. (Continued on Page 2)

Senate	Dual Referral Rules	House	<div> Gregory V. Albrecht Chief Economist</div>
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}	
		<input type="checkbox"/> 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S}	
<input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	



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CONTINUED EXPLANATION from page one: Page 2 of 2

Continued Explanation of Purpose from Page one:

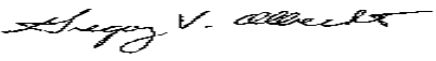
transferee. It removes the requirement to include the price paid by the transferee to the transferor for the tax credits required by the Department of Revenue, and it requires the Department of Environmental Quality to notify the transferor and Department of Revenue of any ineligible transferee. Proposed legislation provides that DEQ may enter into an agreement with the federal government to receive federal funding for reimbursement of state revenues used to pay tax credits. Proposed legislation provides that beginning January 1, 2014 tax credits may be granted if DEQ enters into an agreement with the federal government through which the state shall receive federal monies for purposes of tax credits granted on or after January 1, 2014.

Continued Explanation of Revenues from Page one:

While it is uncertain how many brownfields site there are in the state and how many persons or entities would apply efor these tax credits, the experience of the existing program can be informative. In the previous 3 years, a total of 21 credits have been certified; an average of 7 per year. Since 6 of the credits are remedial investigations and 15 are remedial action credits, this note will use, for illustrative purposes, that an average of 2 remedial investigation credits and 5 remedial action credits could be certified per year. For illustrative purposes, if 2 remedial investigation site costs are certified each year for a a credit of \$21,750, and 5 remedial action site costs are certified for \$360,000 each year, then the potential SGF revenue exposure is approximately \$1,843,500 per year. [(\$21,750 investigation credit x 2 applicants) + (\$360,000 action credit x 5 applicants)]. The state general fund exposure may decrease to the extent the state receives federal monies for the reimbursement of tax credits.

While the credits may not be applied to corporate or personal income taxes immediately, they can be applied as tax liability increases, or transfer or sale the credit to other persons or entities to apply to income taxes. The potential costs and tax credits are based on averages and may increase or decrease depending on the actual site acreage and contamination, as well as the number sites that participate.

The proposed legislation may result in an increase in Statutory Dedicated revenue as potential brownfields buyers would pay VRP fees and direct oversight costs. To the extent properties enter the Voluntary Remediation Program and are assessed fees for application and cost recovery of oversight, the fees and oversight costs will be deposited into the Hazardous Waste Site Cleanup Fund. Any costs by DEQ to audit the credits from this program will be reimbursed by applicants.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>	
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}	<input type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}	<input type="checkbox"/> 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S}	
<input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}	<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}		Gregory V. Albrecht Chief Economist