

**CONFIDENTIAL**  
**TAX LEGISLATIVE BILL REVIEW FORM: 2015**

Bill Number: S.138

Name of Bill: An act relating to promoting economic development.

Agency/ Dept: Tax

Author of Bill Review: Candace Morgan

Date of Bill Review: 05/16/2015      Related Bills and Key Players S.97, H.312, AT&T

Status of Bill: (check one): ☐ Upon Introduction      ☐ As passed by 1<sup>st</sup> body      ☒ As passed by both

Recommended Position:

☒ Support      ☐ Oppose      ☐ Remain Neutral      ☐ Support with modifications identified in #8 below

**Analysis of Bill**

**1. Summary of bill and issue it addresses.**      *Describe what the bill is intended to accomplish and why.*

- Sec. A.1 - Business Rapid Response to Declared State Disasters. Effective July 1, 2015.
  - Changes the rules around out-of-state businesses that come to Vermont and conduct business in the aftermath of a declared state disaster or emergency.
  - Out-of-state businesses that conduct operations within the State will not be considered to have established nexus for the purpose of remitting State or local taxes, for the first 60 days after the declared disaster.
  - These businesses would still be required to pay sales and use tax, meals and rooms tax, etc.
  - Additionally, the business would be required to register to collect and remit sales tax (at a recommendation from the Tax Department).
- Secs. A.4-A.15 - Fortified Wines
  - Makes changes to the vinous beverage statutes to also include fortified wines. Effective July 1, 2015. These changes impact the Liquor Control Board as they will continue to collect the tax. The overall taxation and tax collection structure remains the same, but terminology has changed to reflect that fortified wine is no longer treated like a spirit.
- Sec. A.16 - Vermont Liquor Control System Modernization Study Committee. Effective July 1, 2015.
  - Committee is created to evaluate Vermont's liquor control system and DLC. Includes the Commissioner of Taxes or designee. Committee is tasked with determining whether and how the system can be made more efficient, effective, and profitable.
  - Report is due on or before December 15, 2015.
- C.6-C.8 - Vermont ABLE Savings Program. Effective on passage.
  - Gives the Treasurer's Office authority to establish a Vermont ABLE Savings Program
  - We are not specifically named in the Task Force established and reporting on Jan. 15, 2016, but the Treasurer's Office contacted us to say they plan on getting input from us on some of the key tax-related issues (specifically the part of the report that asks for an update on the Internal Revenue Code).
- G.1-G.4 - VEGI Changes. Retroactive to January 1, 2015.
  - Makes a variety of changes to the VEGI program. These were changes proposed by the Administration.
- G.5 - Employee Relocation Tax Credit Study. Effective July 1, 2015.

- o We are not named as a participant in this committee, but they are asking about tax credits to encourage employee relocation. May need to provide data and research assistance.
- G.8 - Prewritten Software Accessed Remotely. Effective July 1, 2015.
  - o Provides much needed clarity that we will no longer subject remotely accessed prewritten software to the sales tax. JFO estimates that this will cost \$1.5M, but we maintain that the revenue loss will be negligible because the tax is not being collected and remitted under current law.
- G.9 - Wood Products Manufacturer Incentive
  - o Extends the Wood Products Manufacturer Incentive retroactively to January 1, 2014 and to tax years 2014 and 2015.

**2. Is there a need for this bill?** *Please explain why or why not.*

- We were very interested in getting the cloud tax language through this year as it provides much needed clarity to the law and how we should interpret it. The rest of the bill was not pushed for by the Tax Department, but ACCD was very supportive of the changes to VEGI. The language around disaster-related out-of-state business activities we did not view as necessary - we had a very reasonable approach in the aftermath of Irene.

**3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

- The VEGI changes are able to be handled by the one FTE who administers the program at Tax, but it will involve different levels of increasing time and complexity to the administration of the program.
  - o Expansion of qualifying jobs definition.
    - We will be asking employers certify on a yearly basis that they are providing such benefits for new full-time jobs. If we were required to go beyond a certification and ask for documentation, that would greatly increase the administrative time on the program.
    - Will require new and variable calculation to check qualifying jobs. Under current law, it was a simple 60% above the State minimum wage.
  - o Extended period to meet targets for award year one and award year two.
    - This adds an increase in administrative time and complexity. Not only is the length of time increased in which the situation has to be monitored, but payroll, jobs and job maintenance, and capital investments have to be monitored over a longer timeframe.
  - o Enhanced training incentive.
    - This change involves new and complex steps over a period of time that will have to be adequately document and communicated to each company to avoid confusion.
- The one study committee we are named as participants in will be another in the long list of studies we are a part of this year. The disaster-related out-of-state business activities would have a fiscal impact on the state in the aftermath of a disaster since it allows for up to 60 days activity before nexus is established and withholding needs to be collected.

**4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

- The main involvement from other state departments would be ACCD - they were supportive of the bill.
- Treasurer's Office has a role in implementing the ABLE program, but they worked closely with House Commerce to ensure the language was something they could administer.

- 5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*
- The business community pushed for the disaster-related out-of-state business language. The business community will also be happy with the cloud tax language as it has been cited as a reason for Vermont's perceived "business unfriendly" culture for the past few years.
- 6. Other Stakeholders:**
- 6.1 Who else is likely to support the proposal and why?**
- Tech industry
  - Chambers of Commerce
- 6.2 Who else is likely to oppose the proposal and why?**
- There was some general concern around the lowering of the wage threshold for VEGI.
- 7. Rationale for recommendation:** *Justify recommendation stated above.*
- This bill has a lot of important changes from an economic development perspective.
- 8. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*
- Tax had suggested reducing the number of qualifying days from 60 to 21, but that change did not happen. 60 days is a very generous amount of time and a long way from our current law of day one. In practice, we had been using a 7 day threshold.
  - Since the cloud tax language was supposed to be a clarification of current law, we would have preferred for it to be effective on passage.
- 9. Gubernatorial appointments to board or commission?**
- Gubernatorial appointment to the Vermont Liquor Control System Modernization Study Committee. First meeting shall be called to order on or before July 30, 2015.
  - Gubernatorial appointment to the Employee Relocation Tax Credit Study Committee. This member should represent the interests of the regional development corporations.

**Secretary/Commissioner has reviewed this document:** Mary Peterson      **Date:** 05/28/2015