

CONFIDENTIAL
TAX LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.35

Name of Bill: An act relating to clean water.

Agency/ Dept: Tax

Author of Bill Review: Kirby Keeton

Date of Bill Review: 05/19/2015 Related Bills and Key Players:

Status of Bill: (check one): ☐ Upon Introduction ☐ As passed by 1st 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.*

- The bill attempts to manage and regulate the quality of surface water in the state.
- Secs. 23-24 require the Director of PVR to remove agricultural lands enrolled in Current Use if AAFM notifies PVR that the parcel is in violation of water quality requirements. Sec. 25 includes violating the RAPs as development for purposes of calculating the LUCT.
- Sec. 38 of the bill provides for funding sources for the newly established Clean Water Fund, including a 0.2% surcharge on the Property Transfer Tax (PTT).
- Sec. 40 calls for the State Treasurer to report on a long term financing plan (replacing the PTT surcharge) for water quality improvement. Sources to be considered include per parcel, impervious surface, bonding, etc. This report names the Commissioner of Taxes as a participant and asks for the report to be issued on January 15, 2017.

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

- Yes. There are 195 waters or segments of water in the state that are impaired and need/have a federal TMDL. The EPA has demanded state action on the matter.
- The bill was generally supported by state regulators, environmental groups, and agricultural groups.

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

- The bill generates revenue for a Clean Water Fund and for 21 new agency positions.
- The CWF is anticipated to receive approximately \$5-6 million per year from a 0.2% surcharge added to the Property Transfer Tax (PTT). This source of funding is set to sunset on July 1, 2018.
 - The PTT surcharge is effective on passage, which will require an immediate change to the PTT return. The Department's processing of returns will have to immediately change. In the short term, the surcharge will have to be manually separated from the total PTT amounts collected by municipalities.
 - Because the surcharge is effective on passage, the Department must coordinate with the Governor's Office so that the tax can be collected immediately after the bill is signed into law. A date for implementation should be decided so that the Department can communicate it to municipalities that collect the PTT.

- o The Department will conduct outreach to taxpayers and municipalities regarding the PTT surcharge.
- o For transfers that include the principal residence of the transferee, the PTT surcharge does not apply to the first \$200,000 in property value transferred if the purchaser uses a mortgage funded in part through VHCTF, VHFA, or USDA Rural Development. The Department will factor this into the PTT return and its communications with municipalities. This change from the underlying PTT structure adds complexity and means that the returns who meet this definition will need to submit their PTT return via paper until we transition PTT into VTax (2017).

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?

- AAFM and DEC expect to use the CWF to provide additional training and grants related to improving water quality.
- AAFM and ANR will have additional duties, including certifications for farms and some businesses and establishment or revision of acceptable management practices for various activities.
- AAFM will receive \$1.07M from the Agricultural Water Quality Special Fund in FY2016. The AWQSF is funded with new farm certification fees. \$450,000 will be appropriated from the CWF to AAFM in FY2016.
- DEC will receive \$1.54 million from the Environmental Permit Fund in FY 2016. Increased DEC fees created by the bill will pay for the appropriation.

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)

- Municipalities collect the PTT and remit it to the State. In the short term, municipalities need to be made aware that 0.2% surcharge should be collected in addition to the rest of the PTT. New PTT returns should be made available to municipalities right away.
- Attorneys frequently assist in real estate closings and fill out the PTT return.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

- Municipalities prefer the PTT as a funding mechanism over the per-parcel fee, which was the other revenue source considered by the legislature.

6.2 Who else is likely to oppose the proposal and why?

- Many folks were interested in an “all in” approach to funding the CWF, but others see “all in” as a property tax increase (or a “rain tax”).
- Real estate lawyers are likely to have concerns about the added complexity this change has – and the short turnaround time to educate them will make it challenging.
- The Realtors Association has expressed concern around the effective date.

7. Rationale for recommendation: *Justify recommendation stated above.*

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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.*

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9. Gubernatorial appointments to board or commission?

- There are no appointed positions. The CWF has a Clean Water Fund Board that makes recommendations to the Agency of Administration regarding allocation of CWF funds in the annual state budget. The Board consists of the Secretaries of Administration, ANR, AAFM, ACCD, and Transportation, or their designees.

Secretary/Commissioner has reviewed this document: Mary Peterson Date: 05/22/2015