

BILL # HB 2432

TITLE: environmental releases; impact analysis
NOW: delinquent property tax reduction;
contamination

SPONSOR: Landrum

STATUS: As Amended by Senate NRAE

REQUESTED BY: Senate

PREPARED BY: Tom Mikesell

FISCAL YEAR

2001

2002

2003

EXPENDITURES/ REVENUE

General Fund

Cannot be determined. See Estimated Impact for detail.

FISCAL ANALYSIS

Description

This bill allows county Boards of Supervisors to reduce tax liens on properties with values lower than the amounts of the liens by the amount of actual expenses for investigation and remediation of contamination on the properties.

Estimated Impact

The main fiscal impact of this bill would be the amount that counties would be required to pay private lien holders in the event that a lien is offset for contamination expenses. This impact cannot be determined since we do not have any estimate of the number of contaminated properties with tax liens. There would also be a state General Fund impact in cases where contaminated properties have liens with a state property tax component, however, this is likely a small number of properties. To the extent that the bill allows for collection of back taxes on properties for which taxes never would have been received under current law, there could be a revenue gain for both local taxing jurisdictions and the state General Fund. This could serve to mitigate a portion of the bill's potential impact. We would note that this situation would only occur in the event that an investor purchases a tax lien for a property with known contamination under speculation that the cleanup costs will be less than the amount of the tax lien.

It is not mandatory that county Boards of Supervisors utilize the authorization to provide these offsets. We would also note that this bill does not preclude participation in other state programs dealing with cleaning up contaminated sites. In some cases the availability of the lien reduction proposed in the bill could interact with the Underground Storage Tank Program, leading to increased participation through the combination of incentives. If this occurred, an increased fiscal impact could result, however it is not possible to predict the extent of the potential interaction.

Assumptions

This bill would reduce property tax liens on contaminated properties where (1) contamination is present and (2) expenses are incurred to engage in remediation of the contamination. It is unknown how many properties in the state are subject to both liens and contamination; therefore an approximation of the average lien for these properties is unavailable. Further, it is unknown what the average expense to clean up contamination would be, given the potential for great variability in contamination levels.

Currently, liens against properties for delinquent local taxes and related interest are auctioned off to private investors. The successful bidder purchases the lien by paying the amount of taxes and interest owed, which are then distributed among the local taxing jurisdictions. When the property owner pays off the lien plus any accrued interest, the lien holder is entitled to

(Continued)

Assumptions (Continued)

the amount they paid to acquire the lien (which is equivalent to the local taxes and interest owed) plus accrued interest. If the property owner does not pay off the lien in a certain number of years, the lien holder can foreclose on the property and acquire ownership. For contaminated properties, lien holders may be reluctant to pursue foreclosure due to the liability that could transfer with the property.

For these contaminated properties the bill's provisions could be applied at the discretion of a county Board of Supervisors. In cases where all or a portion of a lien is offset for remediation expenses on a property, the county will need to pay off any private investors holding the lien. The portion of the lien composed of owed taxes would be paid by the local taxing jurisdictions responsible for the original tax levy. For liens imposed when there was a statewide property tax this could involve the state. This could also apply to the relatively small number of properties for which state property taxes are currently levied. The state impact would likely be smaller than that for the local jurisdiction since the number of properties with liens having a state property tax component is probably small. The payment of the interest portion owed to the lienholder would come from the county General Fund. However, since determining the likelihood and frequency of these occurrences depends on several unpredictable factors, including the discretion of county Boards of Supervisors, it is not possible to estimate the potential impact even if the other uncertainties involving number of eligible properties and cleanup costs were available.

We would also note that a revenue gain could increase in cases where this bill causes the collection of delinquent taxes on properties for which the original lien was never sold due to contamination. This situation would only occur in the event that an investor purchases a tax lien for a property with known contamination under speculation that the cleanup costs will be less than the amount of the tax lien. Any added revenue in these cases could serve to decrease the overall fiscal impact of the bill, however, in light of the unknown factors mentioned above the amount of additional revenue cannot be estimated.

Though it is not possible to estimate an impact, it does not appear as though this incentive would preclude participation in other state programs dealing with cleaning up contaminated sites. In the event that a property owner could receive a reduction in a county tax lien for expenses to clean up a property and also receive reimbursement from the state for the cleanup expenses, for example from the Underground Storage Tank Assurance Fund, increased participation in either or both programs could result due to the combined effect of the incentives. Increase participation in other state programs could also result if lien holders of contaminated sites are more willing to have the site classified as contaminated in order to be eligible for this bill's provisions.

Local Government Impact

This bill would lead to increased county government expenditures to reimburse private lien holders for tax liens on contaminated properties receiving reduced tax liens to the extent that the program is used. Due to several uncertainties stated above, it is not possible to estimate the bill's impact on local governments. Further, the application of the bill's provisions is at the discretion of the County Boards of Supervisors.

Amendments

A Senate CANR amendment made only technical changes to the bill's provisions addressing expenses eligible for deduction from the lien amount, and therefore does not have an affect on the bill's impact.