MINNESOTA · REVENUE

PROPERTY TAX
INCOME TAX
CORPORATION FRANCHISE TAX
Class Rate Reduction for
Land Bordering Public Water;
Credit for Land Donated for
Conservation Purposes

February 11, 2002

	Yes	No
Separate Official Fiscal Note Requested		X
Fiscal Impact		
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of S.F. 2876 (Langseth)

	Revenue Gain or (Loss)			
	F.Y. 2002	F.Y. 2003	F.Y. 2004	FY2005
	(000's)			
General Fund				
Income tax credit	($0)	($2,800)	($3,500)	($3,500)
Property tax class rate*	($0)	($0)	(Unknown)	(Unknown)
General Fund Total	($0)	($2,800)	(Unknown)	(Unknown)

*Information is not available on the market value or classification of unimproved land near public waters, but the total value could be substantial.

Property tax provision: effective for taxes payable 2003 and thereafter.

Income tax provision: effective the day following final enactment in taxable years beginning after December 31, 2001.

EXPLANATION OF THE BILL

Property tax provision:

Current Law: Unimproved land must be classified according to its current use. If not in use, the land must be classified according to its highest and best use under local zoning ordinance or its potential highest and best use if no zoning ordinance exists. Unimproved land near public waters may be classified as non-commercial seasonal recreational residential land (class 4c), with a class rate of 1% on the first $500,000 of market value and 1.25% on the balance over $500,000. Non-commercial seasonal recreational residential property also is subject to a state general levy equal to 57.933% of net tax capacity, where the net tax capacity on the first $76,000 of market value is reduced to 40% of the net tax capacity up to $76,000 of market value.

Proposed Law: The proposal establishes a new property class 2c for unimproved land, excluding agricultural land, that has at least 200 contiguous feet that borders or is adjacent to public waters, that is located within 400 feet of the ordinary high water elevation of public waters. The proposal also requires that the property either is a homestead of the owner, the owner's spouse or spouse's son or daughter, or has been in possession of the owner or spouse or spouse's children for a period of at least seven years prior to application. The proposal sets a class rate of 0.6 percent of market value for the proposed class. The proposed class would not be subject to the state general levy.

Income tax provision:

Current Law: No state income tax credit is available for land donated for conservation purposes. However, donation of real property or of a qualified conservation easement may be treated as a charitable contribution for federal income tax purposes, and thus reduce federal taxable income used for state income tax purposes.

Proposed Law: As proposed to be amended, a taxpayer who donates an interest in real property for conservation purposes including a "conservation easement," may take a credit against state individual income tax or corporate franchise tax equal to 50 percent of the "fair market value" of the interest in the real property.

Fair market value is determined by a “qualified appraisal” done by a “qualified appraiser.” IRS regulation 1.170A-13 (c) (3) and (5) define the terms qualified appraisal and qualified appraiser. IRS regulations require a qualified appraisal to include a description of the property, the identity of the appraiser and an explanation of the method used to determine the appraised value. A qualified appraiser is one who offers appraisal services to the general public, and gives a description his background, experience and education to the IRS. The donor or donee can not be a qualified appraiser.

Conservation purposes are limited to preservation for outdoor recreation or the education of the general public, protection of relatively natural ecosystems, or the preservation of open space for the scenic enjoyment of the general public or a governmental conservation policy. A "conservation easement" is defined as a nonpossessory interest of a "holder" in real property that imposes limitations or obligations on the owner to retain or protect natural, scenic, or open-space values of real property. The "holder" of the easement may be a governmental body or a charitable corporation.

REVENUE ANALYSIS DETAIL

Property tax provision:

- Information is not available on the market value or classification of unimproved land bordering public waters that meets the requirements of the proposed class, but the value could be substantial.

- The proposal will produce a tax shift from the eligible land to all other property. The property tax shift will increase tax burden on farm and residential homeowners, producing some increase in state-paid property tax refunds, beginning with F.Y. 2003.

Income tax provision:

- The value of conservation easements is difficult to determine. DNR has received some donated conservation easements and their value ranges from $50,000 to $1,000,000. This analysis uses data from the Board of Water and Soil Resources to estimate the average value per acre of donated conservation easements. The average value per acre of easements purchased by the Board is $700 per acre. It is assumed that the average value per of acre of donated land or easements covered by this bill equals the average price paid by the Board.
- The Minnesota Land Trust, the Trust for Public Land, and other nonprofit organizations also use conservation easements. The Minnesota Land Trust will only accept perpetual easements. Their web site reports a total of 175 easements in 44 counties. The average acreage is about 95 acres per easement. The proposed credit is likely to increase the number of easements or sales to nonprofit land conservation groups**.**
- The federal Conservation Reserve Program (CRP) does not currently use easements. It appears that when a CRP contract expires the land covered by the program could be easily donated as a conservation easement.
- Assuming that about 200 outright sales or permanent conservation easements occur annually, that the average acreage is 50 acres, and that the average "fair market value" (or discount of the sale price) is about $700 per acre, the total discount value would be about $7 million statewide. The proposed credit thus would average $3.5 million annually, although it could vary greatly from year to year.
- It was assumed that 80% of the credit would be used to offset tax in the current year and 20% would be carried over to the next year.

Number of Taxpayers Affected:

Property tax provision:
Unknown

Income tax provision:
About 200 taxpayers

ADMINISTRATIVE/OPERATIONAL IMPACT

The Department of Revenue will incur costs associated with this proposed bill. An additional schedule and instructions along with an additional line being added to the M1 and M4 forms will increase printing and postage costs.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/polic.html#analyses

sf2876-1.doc / JB/DD