

Fiscal Estimate Narratives

DOR 4/17/2007

LRB Number	07-2089/3	Introduction Number	SB-122	Estimate Type	Original
Description The property tax exemption for waste treatment facilities					

Assumptions Used in Arriving at Fiscal Estimate

Current law provides a property tax exemption for waste treatment plants and pollution abatement equipment. The exemption applies to all property purchased or constructed as a waste treatment facility used for the treatment of industrial wastes or air contaminants if certain requirements are met.

The Department historically implemented the exemption to include property used exclusively and directly in the treatment of waste that had no value.

In 2004, the Tax Appeals Court (TAC) expanded the definition of property that qualifies for the exemption in its ruling on *The Newark Group, Inc. vs. The Wisconsin Department of Revenue*. The circuit court subsequently concurred with the TAC ruling. Under the Newark decision, exempt waste treatment property may include an entire manufacturing facility if waste treatment is performed at the site. Consequently, the exemption may include all real estate, buildings, improvements, and equipment of a production process.

The bill would limit the waste treatment exemption to property used exclusively and directly for treatment of waste that has no monetary or market value. Exclusive use would be defined as 95% use for waste treatment, and would include property to produce energy for a manufacturing process if the waste would otherwise be considered superfluous, discarded or fugitive material. The bill is effective for property tax assessments as of January 1, 2007.

Under the bill, the types of property that had been exempt prior to the Newark decision are expected to remain exempt. Assuming a technical change is made to the bill as indicated below, the types of property that had been excluded from the exemption prior to the decision, and thus subject to property tax unless otherwise exempt, are expected to be excluded from the waste treatment exemption.

The impact of the bill's reference to energy production within the exclusive use definition is unclear. To provide clarity and more closely mirror the pre-Newark exemption, it could be amended so the exemption would apply to property used to produce heat or steam from fuel that is 95% or more industrial waste.

Under the Newark decision and other property assessment cases successfully challenged to date, approximately \$34 million of property is exempt from annual property taxes. The Board of Assessors denied claims for an additional \$135 million of property that may still be appealed to the circuit courts. How much of that property would be exempted is unclear at this time. The Department anticipates that additional appeals will be filed as more claims for exemption under the Newark decision are successful.

Assuming the suggested technical amendment is made to the bill, the bill would return \$34 million of property to the tax rolls beginning with 2007 assessments. It would also avert or deny additional claims for property tax exemptions under the decision.

In addition, the bill is expected to avert reductions in state sales tax revenue that may occur as a result of the Newark decision. Under current law, a sales tax exemption exists for purchases of materials used for the construction or operation of waste treatment facilities. By reversing the Newark decision, the bill narrows the number of properties qualifying as waste treatment facilities, and thereby limits the products and materials to which the sales tax exemption may be applied.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2007 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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Description The property tax exemption for waste treatment facilities			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues		\$	\$
NET ANNUALIZED FISCAL IMPACT			
		State	Local
NET CHANGE IN COSTS		\$	\$
NET CHANGE IN REVENUE		\$	\$see_text
Agency/Prepared By		Authorized Signature	Date
DOR/ Pamela Walgren (608) 266-7817		Paul Ziegler (608) 266-5773	4/17/2007