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Fiscal Note

Drafting Number: LLS 22-0529 Date: March 22, 2022
Prime Sponsors: Rep. Soper; Roberts Bill Status: House Trans. & Local Govt.
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Bill Topic: CONTROLLED ENVIRONMENTAL AG FACILITY AS AG PROPERTY

Summary of Fiscal Impact: [] State Revenue [] TABOR Refund
[X] State Expenditure [X] Local Government
[] State Transfer [] Statutory Public Entity

This bill defines controlled environmental agricultural facilities, and changes the way they are valued for property tax purposes. The bill likely reduces property tax revenue for local governments on an ongoing basis, and increases workload for both the Division of Property Taxation and county assessors.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

Beginning with property tax year 2023, this bill defines a controlled environmental agricultural (CEA) facility as a facility of at least 1,000 square feet combining engineering, horticultural science, and computerized management techniques to optimize hydroponic plant production for human or livestock consumption. The bill further specifies that:

- a CEA facility will be valued for assessment purposes based on the net operating income derived from the production and sale of the crops grown in the facility;
• the value derived from the net operating income must be reduced by 25 percent to determine the actual value of the facility for property tax purposes;
• the land underlying or integral to the operation of a CEA facility will be classified as agricultural land;
• facilities currently classified as "all other agricultural property" must have been in operation for at least 2 years before being eligible to be a CEA facility and reclassified as agricultural land;
• agricultural equipment used in a CEA facility is exempt from property tax;
• personal property used in the operation of a CEA facility is exempt from property tax; and
• CEA facilities may not be used to grow hemp or marijuana.

If the primary use of the CEA facility is not growing crops for human or livestock consumption, the property shall be valued as “all other agricultural property”.

Assumptions

Beginning in property tax year 2023, this bill will likely reduce the amount of property tax revenue to local governments from CEA facilities. The actual value of CEA facilities will be determined from the net operating income of the facility, and then reduced by 25 percent. Additionally, personal property and agricultural equipment associated with such facilities will be exempt from property tax. Because no specific classification codes currently exist for CEA facilities, it is unknown how many such facilities currently exist or what their net operating income is. The current classifications of such facilities may vary by county, and would likely be either “commercial” or “all other agricultural property”. This fiscal note will be updated if new information becomes available.

State Expenditures

Division of Property Taxation (DPT). In FY 2022-23, the DPT will update training materials, conduct additional training and respond to inquiries. This will be accomplished within existing resources.

School finance. To the extent that the bill results in the reduction in property taxes paid by CEA facilities, the bill will reduce property tax revenue to school districts with these facilities. If the budget stabilization factor is unchanged, state aid will offset the property tax revenue decrease. The magnitude of this impact is currently unknown. This fiscal note will be updated if new information becomes available.

Local Government

County assessors. County assessors will be required to monitor annually the existence, use, and size of CEA facilities, and will need to collect information on net operating income in order to value each individual CEA facility. Some county assessors may require additional staff to accomplish these tasks, particularly in counties where CEA facilities already exist or are forthcoming.

Property tax revenue. As stated in the Assumptions section, this fiscal note expects a reduction in local government property taxes. The reduction will depend on the number and size of qualified CEAs, the amount of net operating income generated by each CEA, and the amount of agricultural equipment and personal property associated with each CEA.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Agriculture
County Assessors
Municipalities

Counties
Property Tax Division - Local Affairs
Special Districts