



House of Representatives

General Assembly

File No. 518

February Session, 2006

Substitute House Bill No. 5704

House of Representatives, April 13, 2006

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL FUNDS FOR OPEN SPACE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-25b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) Any municipality [which] that provides in regulations, adopted
4 pursuant to section 8-25, for the payment of a fee or the fair market
5 value of land transferred in lieu of any requirement to provide open
6 space, shall deposit any such payments in a fund [which] that shall be
7 used for the purpose of preserving open space or acquiring additional
8 land for open space or for recreational or agricultural purposes.

9 (b) Notwithstanding the provisions of subsection (a) of this section,
10 any municipality, by vote of its legislative body, may use such fund for
11 expenses incurred for the purchase of land and construction of
12 affordable housing.

13 Sec. 2. (NEW) (*Effective October 1, 2006, and applicable to assessment*
14 *years commencing on or after October 1, 2006*) (a) As used in this section:

15 (1) "Municipality" means any city, town, borough, district or
16 association with municipal powers; and

17 (2) "Open space land" means any area of land, including forest land,
18 the preservation or restriction of the use of which would (A) maintain
19 and enhance the conservation of natural or scenic resources, (B) protect
20 natural streams or water supply, (C) promote conservation of soils,
21 wetlands, beaches or tidal marshes, (D) enhance the value to the public
22 of abutting or neighboring parks, forests, wildlife preserves, nature
23 reservations or sanctuaries or other open spaces, (E) enhance public
24 recreation opportunities, (F) preserve historic sites, or (G) promote
25 orderly urban or suburban development.

26 (b) Any municipality may, by ordinance adopted by its legislative
27 body, establish a program under which property taxes may be abated
28 in exchange for the transfer to the municipality of development rights,
29 conservation easements, rights-of-way or any combination thereof, to
30 open space land. Such ordinance shall include, but not be limited to,
31 provisions for requirements for application for the abatement, which
32 shall include a certified appraisal of the property proposed for
33 abatement both with and without development rights.

34 (c) The abatement shall be equal to the market value of the open
35 space land, prorated for a period of not more than ten years. If the
36 property is sold to the municipality, the abatement may be applied to
37 any other taxable property in the municipality owned by the applicant.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	8-25b
Sec. 2	<i>October 1, 2006, and applicable to assessment years commencing on or after October 1, 2006</i>	New section

FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	See Below	See Below	See Below

Explanation

The bill allows municipalities to establish a program to abate property taxes on open space in exchange for the transfer to the municipality of development rights, conservation easements, and rights-of-way or combination of, open space land. Therefore a municipality could increase its mill rate or modify spending to offset any decrease in property taxes as a result of the abatement.

Provisions of the bill allowing municipalities to finance affordable housing through a fund they can establish for open space could divert funds from one municipal use to another.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5704

AN ACT CONCERNING MUNICIPAL FUNDS FOR OPEN SPACE.

SUMMARY:

This bill allows municipalities, including boroughs and special taxing districts, to abate property taxes on open space land that meets the bill's criteria. The abatement is for 10 years and must equal 10% of the land's fair market value per year. A municipality must adopt an implementing ordinance if it wants to offer the abatement.

The bill also allows municipalities to finance affordable housing projects by tapping a fund they can currently use only to (1) preserve open space or (2) acquire additional land for recreational or agricultural purposes. A municipality can use the fund to acquire land and construct affordable housing if its legislative body approves.

EFFECTIVE DATE: October 1, 2006

OPEN SPACE LAND TAX ABATEMENT

Criteria

Under the bill, a municipality can abate the taxes for open space land, including forests, if preserving or restricting its use would:

1. maintain and enhance the conservation of natural or scenic resources;
2. protect natural streams or water supplies;
3. promote soil, wetlands, beach, and tidal marsh conservation;
4. enhance the public value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or other sanctuaries, or other open spaces;

5. enhance public recreation opportunities;
6. preserve historic sites; or
7. promote orderly urban or suburban development.

Ordinance

Municipalities that choose to offer the abatement must do so by adopting an ordinance to implement it. The ordinance must authorize the abatement if the property's owner agrees to transfer the land's development rights to the municipality or give conservation easements or right-of-way to the land. The ordinance must specify how owners may apply for the abatement and require that the land's value be appraised with and without the development rights.

Abatement

The total abatement equals 100% of the open space land's fair market value (instead of assessed value), prorated over a period of up to 10 years. If the owner sells the property to the municipality during that period, he can apply the remaining portion of the abatement to any of his other taxable properties within that municipality.

AFFORDABLE HOUSING

The bill allows municipalities to develop affordable housing by tapping a fund they can establish under their authority to regulate subdivisions. By law, they can require a developer who wants to subdivide and develop land to pay a fee into the fund instead of providing land for open space, parks, and playgrounds. (Alternatively, developers can pay a fee into the fund and transfer land to the town.)

Under the bill, a town's legislative body can vote to use the fund to acquire land and construct affordable housing. The standard for determining if housing is affordable is based on the town's median income. The law assumes that a family earning no more than that amount can afford the housing if it costs the family no more than 30% of its income (CGS § 8-39a).

BACKGROUND**490 Program**

By law, tax assessors must classify farms, forests, and open space land under the 490 Program and assess them based on their current use value without regard to their potential resale or fair market value (i.e., the highest and best use one can make of undeveloped land). Assessing land based on its current use yields a lower assessment and, consequently, a lower tax bill than if it were taxed based on its fair market value.

Related Bill

sSB 546 (File 236) also allows towns to abate property taxes on open space land in the same manner and under the same terms as the bill. The Senate referred the bill to the Finance, Revenue and Bonding Committee on April 7.

Legislative History

The House referred the bill (File 127) to Finance, Revenue and Bonding Committee, which reported out a substitute that adds the provision authorizing municipalities to abate property taxes on open space land that meets the bill's criteria.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 15 Nay 1 (03/13/2006)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 50 Nay 0 (04/04/2006)