



Senate

General Assembly

File No. 658

February Session, 2008

Substitute Senate Bill No. 708

Senate, April 17, 2008

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT PROVIDING ASSISTANCE FOR WORKING DAIRY FARMS
AND EXTENDING THE SALES TAX EXEMPTION FOR FARMERS FOR
CERTAIN SERVICES AND LABOR.***

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

1 Section 1. (NEW) (*Effective July 1, 2008, and applicable to taxable years*
2 *commencing on or after January 1, 2008*) (a) For purposes of this section:

3 (1) "Federal pay price" means the monthly uniform price for milk
4 pursuant to the United States Department of Agriculture Northeast
5 Federal Milk Marketing Order;

6 (2) "Milk producer" means a person, firm or corporation registered
7 pursuant to section 22-172 of the general statutes;

8 (3) "Minimum sustainable monthly cost of production" means
9 eighty-two per cent of the baseline determined by the United States
10 Department of Agriculture's Economic Research Service monthly
11 average cost of production for a New England state.

12 (b) (1) Any milk producer subject to tax under chapter 208 or 229 of
13 the general statutes, shall be entitled to a credit under said chapter 208
14 or 229. Such credit shall be in an amount equal to the total of the
15 monthly difference between the federal pay price and the production
16 price for milk, as determined by the Commissioner of Agriculture
17 pursuant to subsection (d) of this section. In each month that the
18 federal pay price is below the production price, the milk producer shall
19 be entitled to a credit equal to the dollar amount such federal pay price
20 was below the production price, multiplied by the amount of milk
21 produced by such milk producer during such month.

22 (2) For purposes of calculating the credit due pursuant to
23 subdivision (1) of this subsection, each milk producer shall file, in such
24 form and at such times as the Commissioner of Agriculture shall
25 direct, information as to the amount of milk produced by such
26 producer.

27 (3) If the amount of the credit allowed under this section exceeds a
28 milk producer's tax liability, the Commissioner of Revenue Services
29 shall treat such excess as an overpayment and shall pay such milk
30 producer the amount of such excess, without interest.

31 (c) On or before February 15, 2009, and annually thereafter, the
32 Commissioner of Agriculture shall certify to the Commissioner of
33 Revenue Services the tax credit due to each milk producer, based on
34 the total amount of milk such producer produced, multiplied by the
35 total monthly shortfall of the federal pay price.

36 (d) The Commissioner of Agriculture shall adopt regulations, in
37 accordance with the provisions of chapter 54 of the general statutes, to
38 implement the provisions of this section, including, but not limited to,
39 establishment of the monthly production price, which shall not be
40 below the minimum sustainable monthly cost of production.

41 Sec. 2. Subdivision (63) of section 12-412 of the 2008 supplement to
42 the general statutes is repealed and the following is substituted in lieu
43 thereof (*Effective July 1, 2008, and applicable to sales on and after said date*):

44 (A) Sales of and the storage, use, rental, lease or other consumption,
45 including repair services rendered to agricultural equipment, of
46 tangible personal property exclusively for use in agricultural
47 production, as defined in this subsection, by a farmer engaged in
48 agricultural production as a trade or business and to whom the
49 Department of Revenue Services has issued a farmer tax exemption
50 permit, provided such farmer's gross income from such agricultural
51 production, as reported for federal income tax purposes, shall have
52 been (i) not less than two thousand five hundred dollars for the
53 immediately preceding taxable year, or (ii) on average, not less than
54 two thousand five hundred dollars for the two immediately preceding
55 taxable years.

56 (B) The Commissioner of Revenue Services shall adopt regulations
57 in accordance with chapter 54 requiring periodic registration for
58 purposes of the issuance of farmer tax exemption permits, including (i)
59 a procedure related to the application for such permit, such application
60 to include a declaration, prescribed as to form by the Commissioner of
61 Revenue Services and bearing notice to the effect that false statements
62 made in such declaration are punishable, to be signed by the applicant,
63 and (ii) a form of notice concerning the penalty for misuse of such
64 permit.

65 (C) As used in this subsection, (i) "agricultural production" means
66 engaging, as a trade or business, in (I) the raising and harvesting of
67 any agricultural or horticultural commodity, (II) dairy farming, (III)
68 forestry, (IV) the raising, feeding, caring for, shearing, training or
69 management of livestock, including horses, bees, poultry, fur-bearing
70 animals or wildlife or (V) the raising and harvesting of fish, oysters,
71 clams, mussels or other molluscan shellfish; and (ii) "farmer" means
72 any person engaged in agricultural production as a trade or business.

73 (D) The Department of Revenue Services may issue a farmer tax
74 exemption permit to a farmer, notwithstanding the fact that, in the
75 farmer's immediately preceding taxable year, such farmer's gross
76 income from agricultural production engaged in as a trade or business

77 may have been less than two thousand five hundred dollars, provided
78 (i) such farmer purchased, during such farmer's current or
79 immediately preceding taxable year, an agricultural trade or business
80 from a seller who was issued a farmer tax exemption permit by such
81 department at the time of such purchase and (ii) such agricultural
82 production shall be carried on as a trade or business by such purchaser
83 during the period commencing upon the purchase and ending two
84 years after the date of purchase. Such purchaser shall be liable for the
85 tax otherwise imposed, during the period commencing upon such
86 purchase and ending two years after the date of purchase, if such
87 agricultural production is not carried on as a trade or business by such
88 purchaser during the period commencing upon such purchase and
89 ending two years after the date of purchase.

90 (E) (i) The Department of Revenue Services, under such regulations
91 as the Commissioner of Revenue Services may adopt in accordance
92 with the provisions of chapter 54, may issue a farmer tax exemption
93 permit to an applicant, provided such applicant has satisfied the
94 commissioner that the applicant intends to carry on agricultural
95 production as a trade or business for at least two years,
96 notwithstanding the fact that the applicant was not engaged in
97 agricultural production as a trade or business in the immediately
98 preceding taxable year or, if the applicant was engaged in agricultural
99 production as a trade or business in the immediately preceding taxable
100 year, notwithstanding the fact that the applicant's gross income from
101 such agricultural production, as reported for federal income tax
102 purposes, was less than two thousand five hundred dollars for the
103 immediately preceding taxable year or, on average, less than two
104 thousand five hundred dollars for the two immediately preceding
105 taxable years.

106 (ii) Such applicant shall be liable for the tax imposed under this
107 chapter during the period commencing upon the issuance of the
108 permit and ending two years after the date of issuance of the permit if
109 agricultural production is not carried on as a trade or business by such
110 applicant during such entire period.

111 (iii) Such applicant shall also be liable for the tax otherwise
 112 imposed, during the period commencing upon the issuance of the
 113 permit and ending two years after the date of issuance of the permit, if
 114 (I) such applicant's gross income from such agricultural production, as
 115 reported for federal income tax purposes, is less than two thousand
 116 five hundred dollars for the immediately preceding taxable year or, on
 117 average, less than two thousand five hundred dollars for the two
 118 immediately preceding taxable years, and (II) such applicant's
 119 expenses from such agricultural production, as reported for federal
 120 income tax purposes, are less than two thousand five hundred dollars
 121 for the immediately preceding taxable year or, on average, less than
 122 two thousand five hundred dollars for the two immediately preceding
 123 taxable years.

124 (iv) Any applicant liable for tax under clause (ii) or (iii) of this
 125 subparagraph shall not be eligible to be issued another permit under
 126 clause (i) of this subparagraph.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008, and applicable to taxable years commencing on or after January 1, 2008</i>	New section
Sec. 2	<i>July 1, 2008, and applicable to sales on and after said date</i>	12-412(63)

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Revenue Services	GF - Revenue Loss	\$10.5 to \$12.5 million	\$10.5 to \$12.5 million
Department of Agriculture	GF - Cost	\$10,000 to \$30,000	\$10,000 to \$30,000
Department of Revenue Services	GF - Cost	135,000	135,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	32,968	76,219

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill creates a Milk Production Tax Credit which is anticipated to result in an annual General Fund revenue loss to the Personal Income Tax of between \$10.0 and \$12.0 million beginning in FY 09. The estimate is based on the US Department of Agriculture (USDA) published cost of production for the State of Vermont. In New England, the USDA only publishes costs of production for Vermont and Maine, and the estimate assumes that the CT Department of Agriculture would use the Vermont price data to calculate the credit.

There are about 150 farmers producing milk in Connecticut that would be eligible to claim the credit.

The bill would result in a cost to the Department of Agriculture

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State

(DOAg) of about \$10,000 to \$30,000 in FY 09 and FY 10 to hire a part-time staff person to complete reporting requirements and administer grants.

The bill extends the sales tax exemption on agriculture equipment to also cover charges for renting, leasing, and repairing the equipment. This sales tax exemption is anticipated to result in an annual General Fund revenue loss to the sales and use tax of between \$300,000 and \$500,000 beginning in FY 09.

There would be an annual cost to the Department of Revenue Services (DRS) of \$135,000 for operational costs and to hire two additional employees to administer the provisions of the bill.

There would also be a cost to the Comptroller's Office of \$32,968 in FY 09 and \$76,219 in FY 10 for fringe benefits associated with the new positions.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, the number of required reports, and the number of grants administered.

Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

OLR Bill Analysis**sSB 708*****AN ACT PROVIDING ASSISTANCE FOR WORKING DAIRY FARMS AND EXTENDING THE SALES TAX EXEMPTION FOR FARMERS FOR CERTAIN SERVICES AND LABOR.*****SUMMARY:**

The bill establishes refundable corporation or personal income tax credits for milk producers subject to those taxes. The credit applies for any month in which the monthly federal pay price for milk is below the monthly production price, as determined by the agriculture commissioner. Each milk producer's credit is the difference between the two prices multiplied by the amount of milk he produced during the month. To be eligible for the credit, a milk producer must be registered with the state Department of Agriculture and hold a dairy farm or milk producer permit.

In addition, the bill extends a current sales tax exemption for sale, use, storage, or other consumption of agricultural equipment to also cover charges for renting, leasing, and repairing the equipment. As under current law, the new exemption is available only to farmers for whom agricultural production is a trade or business and for their equipment used exclusively for agricultural production (see BACKGROUND). Such farmers must hold a farmer tax exemption permit issued by the Department of Revenue Services (DRS) and derive an average of at least \$2,500 a year in income from farming.

EFFECTIVE DATE: July 1, 2008. The tax credits apply to tax years starting on or after January 1, 2008; the sales tax exemption applies to sales occurring on or after July 1, 2008.

MILK PRODUCER TAX CREDITS

The bill requires the agriculture commissioner to determine the

monthly difference between the federal pay price and the production price for milk, according to implementing regulations the commissioner must adopt.

Under the bill, the “federal pay price” is the monthly uniform milk price under the U.S. Department of Agriculture (USDA) Northeast Federal Milk Marketing Order. The agriculture commissioner must establish the monthly production price in regulations. That price must be at least 82% of the baseline determined by the USDA’s Economic Research Service’s monthly average production cost for a New England state.

To allow the agriculture commissioner to calculate the credit, the bill requires each milk producer to file milk production information as the commissioner directs. The agriculture commissioner must certify the credit due each producer to DRS by February 15, 2009 and annually thereafter. The credit is based on the producer’s total amount of milk produced, multiplied by the total monthly federal pay price shortfall.

If the credit exceeds the producer’s tax liability for the year, DRS must refund the difference to the producer. The refund must be without interest.

BACKGROUND

Agricultural Production

For purposes of the sales tax, “agricultural production” is the trade or business of (1) raising and harvesting an agricultural or horticultural commodity; (2) dairy farming; (3) forestry; (4) raising, feeding, training, caring for, shearing, or managing livestock, including horses, bees, poultry, fur-bearing animals, or wildlife; or (5) raising and harvesting fish, oysters, clams, mussels, or other molluscan shellfish (CGS § 12-412 (63) (C)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 46 Nay 6 (04/02/2008)