



BOUSQUET HOLSTEIN PLLC

Alert

Brownfields Practice Group

Brownfield Cleanup Program Changes Dropped from NYS Budget

Syracuse, New York

March 2014

The 2014-15 NYS Budget agreement reached late on Friday contains no changes to the New York State Brownfield Cleanup Program (BCP). Governor Cuomo's original budget proposal (introduced January 21) offered significant changes to the BCP, an extension of the December 2015 "sunset" date for the BCP tax credits, and significant changes to the tax credits. Although the Governor and leaders in the Senate and Assembly had been working on modifications to the BCP in budget discussions, the budget agreement does not address the sunset or make any changes to the BCP.

Brownfield stakeholders are seeking an extension of the 2015 sunset date in order to provide much needed certainty about the availability of the BCP and its strong incentives for private sector funding of cleanup and redevelopment of contaminated sites in NYS.

With the budget in place (final votes are expected today), it remains to be seen whether the future of the BCP will be decided in the current legislative session (which closes June 19) or will be left for next year. The attention given the BCP in the budget leaves open the possibility that discussions about the BCP could continue over the next several weeks. If the BCP sunset is left unaddressed in the 2014 session, stakeholder uncertainty about the BCP tax incentives will be increased by orders of magnitude, and the ability of those incentives to draw private sector capital to brownfield sites will diminish dramatically.

The BCP provides tax credits to taxpayers who incur costs for the remediation and redevelopment of a brownfield site in New York State. After completing the required remediation under the supervision of the New York State Department of Environmental Conservation, taxpayers may be eligible for tax credits based upon the amount of costs incurred in site cleanup, groundwater cleanup, and development on the brownfield site. There are enhanced credits available for sites located in census tracts with high unemployment and poverty rates and for sites developed in conformance with a Brownfield Opportunity Area plan or with enhanced "track 1" cleanups. The BCP was established in 2003 and amended significantly in 2008.

Bousquet Holstein's Brownfield Practice Group is closely monitoring the legislative action on the BCP. Please do not hesitate to contact us with questions you have regarding the BCP and your projects.

Philip S. Bousquet

Phil is a member of the law firm Bousquet Holstein PLLC and serves on its Board of Managers. In addition to handling a broad range of business matters, his practice concentrates in the areas of tax planning and advocacy and mergers and acquisitions. Phil helps clients understand the financial incentives under New York's Brownfield Cleanup Program (BCP) legislation. He has lectured on the tax aspects of this legislation throughout New York on behalf of many groups, including NPCR, the Environmental Business Association (EBA), the New York State Bar Association, the Practising Law Institute, and local municipalities and associations. His recent work includes advising developers regarding Brownfield Cleanup Program tax matters for pending and completed projects with an aggregate value of more than \$3 billion; representing taxpayers with respect to NYS Department of Taxation & Finance "desk audits" of Brownfield Cleanup Program and Empire Zone tax credits; negotiation and closing of acquisitions and sales of closely-held businesses and professional practices; and negotiation and preparation of LLC operating agreements and shareholders' (buy-sell) agreements for owners of closely-held businesses. He is an active member of the New York City Brownfield Partnership, NYS Brownfield Coalition, and New Partners for Community Revitalization.



Contact Information: Email: phil@bhlawpllc.com ▪ Direct Phone: 315.701.6309 ▪ Direct Fax: 315.423.286
Bousquet Holstein PLLC ▪ 110 West Fayette Street, Suite 900 ▪ Syracuse, NY 13202 ▪ www.BHlawPLLC.com