

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1039**

**Bill Subtitle: TO CREATE AN EXEMPTION FROM THE SALES AND USE TAX FOR UTILITIES USED BY QUALIFYING AGRICULTURAL STRUCTURES AND QUALIFYING AQUACULTURE AND HORTICULTURE EQUIPMENT.**

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### Basic Change :

Representative Wardlaw

This bill would enact a sales and use tax exemption for the sale of utilities used in "qualifying agricultural structures" and "qualifying horticulture and aquaculture equipment". The proposal defines the types of "utilities" that are subject to exemption to include liquefied-petroleum gas (LPG), natural gas and electricity. The utilities must be used in structures and equipment operated for a commercial purpose and be separately metered from utilities used for any other purpose.

A "Qualifying agricultural structure" eligible for the exemption on utilities include:

- poultry or livestock facilities used for commercial production,
- broiler or turkey grow-out houses,
- laying houses,
- hatching units,
- nursery units,
- breeding houses,
- farrowing units,
- feed-out houses,
- cattle and dairy facilities used for commercial production,
- milking parlors,
- milk collection units,
- refrigeration units.

The sales and use tax exemption would apply to utilities used in "Qualifying horticulture or aquaculture equipment" with the specific eligible equipment to be:

#### For commercial horticulture operations

- cooling units;
- collection units; and
- irrigation equipment.

#### For commercial aquaculture operations

- equipment used to pump and aerate a pond; and
- holding and sorting tanks.

The bill would be effective the first day of the calendar quarter after the effective date of the act.

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### Revenue Impact :

#### FY14 Tax Decrease

**Total Impact to State Revenues - \$ 6.37 million**

[ 8 Months of Reduced Tax Collections --? 10/1/2013 Effective Date ]

- \$ 4.27 million ---State General Revenue (4.5%)
- \$ 0.83 million ---Educational Adequacy (.875% tax)
- \$ 0.47 million ---Property Tax Relief Trust Fund (.5%)
- \$ 0.12 million ---Conservation Tax (.125%)
- \$ 0.47 million ---Highway Fund (.5%)
- \$ 0.00 million ---Educational Excellence Trust Fund
- \$ 0.00 million ---Educational Adequacy (GR transfer)
- \$ 0.15 million ---State Central Services
- \$ 0.06 million ---Constitutional Officers

Total Impact to City and County Sales Tax - \$2.01 million

#### FY15 Tax Decrease

**Total Impact to State Revenues - \$10.04 million**

- \$ 6.06 million ---State General Revenue (4.5%)
- \$ 1.31 million ---Educational Adequacy (.875% tax)
- \$ 0.75 million ---Property Tax Relief Trust Fund (.5%)
- \$ 0.19 million ---Conservation Tax (.125%)
- \$ 0.75 million ---Highway Fund (.5%)
- \$ 0.60 million ---Educational Excellence Trust Fund
- \$ 0.05 million ---Educational Adequacy (GR transfer)
- \$ 0.23 million ---State Central Services
- \$ 0.10 million ---Constitutional Officers

Total Impact to City and County Sales Tax - \$3.25 million

### Taxpayer Impact :

Sellers of natural gas, electricity and LP gas would maintain tax exemption records to substantiate their exempted sales. Horticulture and aquaculture businesses and farmers having structures or items of equipment eligible for the tax exemption would provide their utility providers with information substantiating their eligibility for the exemption for each item of equipment and for each structure.

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### **Resources Required :**

No additional resource needs are anticipated to implement the proposal

### **Time Required :**

Adequate time is provided for development of rules and to begin the registration of eligible commercial agricultural, horticulture and aquaculture businesses.

### **Procedural Changes :**

DFA would register all eligible commercial agricultural, horticulture and aquaculture businesses consuming the utilities and eligible for the exemption. They would provide information identifying their utility meters. DFA would issue certificates to each eligible business for submission to their utility providers in order to claim the exemption. DFA would develop rules for implementation and instructions for sellers.

### **Other Comments :**

The bill should be amended to define the terms "horticulture" and "aquaculture" for purposes of determining which specific types of businesses would be eligible for the exemption.

The sales and use tax exemption does not apply to utilities consumed for agriculture equipment including on-farm agricultural irrigation and on-farm grain drying.

### **Legal Analysis :**

This bill creates a new sales and use tax exemption for gas and electric utilities used in certain commercial agricultural structures and for certain equipment used in commercial aquaculture and horticulture operations. The exemption is limited to gas (both natural and LP) and electricity. The bill requires separate metering for the exempt utilities, but vests DFA with the discretion to establish other forms of metering for the utilities. DFA is required to promulgate a rule to implement this new exemption.

The bill contains no emergency clause and, if enacted, will become effective on the first day of the calendar quarter following the effective date of the act.