

Department of Finance and Administration

Legislative Impact Statement

Bill: SB876

Bill Subtitle: TO REPEAL THE SALES AND USE TAX EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND SEMITRAILERS AND TO REPEAL THE PROVISIONS ENACTED TO OFFSET THE GENERAL REVENUES LOST AS A RESULT OF THE EXEMPTION.

Basic Change :

Senator B. Sample

The bill would repeal the provisions of Act 1058 of 2011 which provided for a sales tax exemption for certain trucks used in interstate commerce and also provided for the transfer of funds from the State Highway and Transportation Department Fund to offset the tax loss. The bill repeals the annual transfer of the \$4,000,000 from the State Highway and Transportation Department Fund for distribution to the funds that receive the state sales tax. The \$4M annual transfer replaced revenues lost from the sales and use tax exemption on Class 6 and 7 trucks and semitrailers.

The bill also repeals the full sales and use tax exemption on sales of Class 6 and Class 7 truck tractors that are registered as engaged in interstate commerce through the International Registration Plan (IRP) and the full sales and use tax exemption on semitrailers. The bill would reinstate the levy of sales tax on only the first \$9,150 of the purchase price of a truck tractor and the first \$1,000 of the purchase price for a semitrailer. These thresholds for the amount subject to sales tax were in effect prior to Act 1058. The bill would be effective on the first day of the calendar quarter following the effective date of the act.

Revenue Impact :

None. The loss of revenues from ceasing the \$4M transfer to general revenue will be offset by the additional sales and use tax collections on trucks and trailers.

Taxpayer Impact :

Motor carriers who register class six (6) and class seven (7) trucks under the IRP, and trailers pulled by such trucks will be subject to sales tax on the first \$9,150 of the purchase price of the truck tractor and the first \$1,000 of the semitrailer. The total state sales tax at 6.5% will be \$594.75 for a truck tractor and \$65.00 for a semitrailer.

Resources Required :

None

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Reinstatement within DFA computer systems of the levy of sales tax on IRP registered truck tractors.

Other Comments :

The bill provides for an effective date to end the funds transfer and to reinstate the limited sales tax levy on truck tractors and semi-trailers to be the 1st day of the calendar quarter following the effective date of the act. This will in all likelihood be October 1, 2013. The FY2014 annual transfer of highway revenues may have been completed by that time. It is recommended that an emergency clause be

Department of Finance and Administration

Legislative Impact Statement

Bill: SB876

Bill Subtitle: TO REPEAL THE SALES AND USE TAX EXEMPTION FOR CLASS SIX AND CLASS SEVEN TRUCKS AND SEMITRAILERS AND TO REPEAL THE PROVISIONS ENACTED TO OFFSET THE GENERAL REVENUES LOST AS A RESULT OF THE EXEMPTION.

added to provide for an effective date of July 1, 2013.

Legal Analysis :

SB876 repeals changes to the sales and use tax law made by Act 1058 of 2011, which went into effect on July 1, 2012. Act 1058 of 2011 created a full sales and use tax exemption for sales of new or used Class Six or Class Seven trucks registered with the International Registration Plan to be engaged in interstate commerce. Act 1058 also changed the sales and use tax exemption for the sale of certain semitrailers. Prior to Act 1058, the exemption applied for the gross receipts in excess of the first \$1,000 of the purchase price of all semitrailers drawn by a truck tractor registered as a Class Five through Class Eight truck. With the changes of Act 1058, there is a full exemption on the sale of all new or used semitrailers. To offset the loss to general revenues resulting from the new exemptions, Act 1058 diverts the first \$4 million received each fiscal year from the tax on distillate special fuels that were dedicated as special revenues for the benefit of the State Highway and Transportation Department Fund. The revenues diverted are distributed as follows: 75% to general revenues; 14.6% to the Educational Adequacy Fund; 8.3% to the Property Tax Relief Trust Fund; and 2.1% to the Conservation Tax Fund.

SB438 repeals all of the exemptions for trucks and trailers established by Act 1058 as well as the \$4 million per fiscal year diversion offset described above. This completely reverses the changes effected by Act 1058 of 2011.

The title of this bill states the following additional purpose: "TO INCREASE THE EXCISE TAX ON DISTILLATE SPECIAL FUEL." However, the bill does not actually increase the tax. Prior to Act 1058, Ark. Code Ann. § 26-56-201(a) referenced an excise tax of 9½ cents per gallon on distillate special fuel. Act 1058 changed the reference to one tax of 8½ cents per gallon and an additional tax of 1 cent per gallon to account for the actual distribution of the tax. Ark. Code Ann. § 26-56-221 directs that one cent of the 9½ cent per gallon tax is remitted separate and apart from the other 8½ cents and distributed as provided by the Arkansas Highway Revenue Distribution Law, without making any deduction for the Constitutional and Fiscal Agencies Fund (now the Constitutional Officer's Fund and the State Central Services Fund). The other 8.5 cents of the tax is deposited as special revenues (15% to the County Aid Fund; 15% to the Municipal Aid Fund; and 70% to the State Highway and Transportation Department Fund, after deducting the amount to be credited to the Constitutional Officers Fund and the State Central Services Fund). Therefore, the 8.5 cent and 1 cent levies of distillate special fuel tax referenced in Act 1058 were not new taxes, but rather a separation of the two components of the existing 9½ cent tax. SB876, in completely reversing the changes in the statutory language made by Act 1058, restored the "9½ cent per gallon" language, but this is not actually a tax increase. The distribution of the tax will remain the same (minus the offset). The bill's title should be changed to delete the reference to a tax increase.

The changes made by SB438 are effective on the first day of the calendar quarter following the effective date of the act. There is no effective date listed for the bill itself.