

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1173**

**Bill Subtitle: TO AMEND THE COUNTY AND REGIONAL INDUSTRIAL DEVELOPMENT COMPANY ACT; AND TO EXTEND THE TAX CREDIT ALLOWED UNDER THE COUNTY AND REGIONAL INDUSTRIAL DEVELOPMENT COMPANY ACT.**

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**Basic Change :** Sponsor: Representative Womack

This bill amends the County and Regional Industrial Development Company Act by reinstating the income tax or premium tax credit allowed the original purchaser of common stock of a corporation or a unit of interest of a limited liability company. The current law stipulates that no additional credits may be issued following the 2003 calendar year. This bill amends current law to allow the tax credit for any tax year commencing on or after January 1, 2015, for common stock purchased from a corporation or units of interest of a limited liability company and retained during any of the calendar years 2015-2019.

The credit is an amount equal to 33 1/3% of the actual purchase price paid for the stock or units of interest and may be used in an amount not to exceed 50% of the net Arkansas state income tax or premium tax liability of the taxpayer after all other credits and reductions in tax have been calculated. Any unused credits may be carried forward for 3 years following the year in which the credit arose. The bill also changes the last tax year for which use of the credit may be allowed from December 31, 2006 to December 31, 2022.

**Revenue Impact :**

\$5,000,000 Potential Annual Loss to State General Revenues if the amounts of tax credits established and used are equal to the tax credits used in 2006.

[ \$5,000,000 in tax credits were used in FY2006, the last year the tax credits were available for use resulting from the 2003 legislation authorizing the program. ]

**Taxpayer Impact :**

Additional credits under the law change would be available to taxpayers.

**Resources Required :**

The Revenue Tax processing system would be modified to allow the credit.

**Time Required :**

Adequate time is provided in the proposal.

**Procedural Changes :**

Education of staff of the change in the law.

**Other Comments :**

The bill lacks safeguards that were included in subsequent legislation providing similar tax incentives for equity investment. Among those safeguards is a requirement that the investment be made in cash. Under this bill, the investment could be in the form of corporate stock or other assets which may have questionable value. Subsequent legislation also established a cap on the amount of cost to the state in any one year. This bill does not contain similar safeguards.

**Legal Analysis :**

HB1173 revives an expired tax credit allowed under the County and Regional Industrial Development Company Act. The original credit was not allowed for any tax year ending after December 31, 2006. The credit will be available for tax years 2015-2019 and will not be allowed for any tax year

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ending after December 31, 2022.

The provisions of §15-4-1223 provide for liberal construction of the subchapter, including the tax credit. Additionally, the County and Regional Industrial Development Company Act does not provide that the tax credit is governed by or administered under the provisions of the Arkansas Tax Procedure Act, nor does it provide DFA with authority to promulgate rules. This means that the burden of proof in establishing the tax credit would arguably be less than "clear and convincing evidence" and would conflict with the provisions of § 26-18-313.