

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB559**

**Bill Subtitle: TO AMEND THE WATER RESOURCE CONSERVATION AND DEVELOPMENT INCENTIVES ACT.**

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### Basic Change :

**Sponsors: Sen J. Dismang and Rep. Jett**

SB559 increases the maximum credits allowed under the water resource conservation and development incentives act and increases the carry forward period to 15 years for all water conservation credits that are not already 15 years.

**Water Impoundment** --- This income tax credit is granted to an approved applicant that constructs and installs or restores water impoundments or water control structures twenty (20) acre-feet or more, storing water to be used for agricultural, commercial or industrial purposes. The maximum tax credit allowed is \$90,000 and a taxpayer may claim the lesser of tax liability up to \$9,000 per project. The tax credit has a carry forward of 15 years. The proposal will increase the maximum approved tax credit to \$150,000 and the taxpayer may claim the lesser of tax liability up to \$15,000.

**Surface Water Outside Critical Areas** --- This income tax credit is granted to an approved applicant for reduction of groundwater use by substitution of surface water for water used for industrial, commercial, agricultural, or recreational purposes. The allowable tax credit is 10% of the project cost up to \$27,000 and a taxpayer may claim the lesser of tax liability up to \$9,000 per project. The tax credit has a carry forward of 2 years. The proposal increases the maximum approved tax credit to \$75,000 and the taxpayer may claim the lesser of tax liability up to \$15,000. The proposed bill will extend the carry forward of the tax credit to 15 years.

**Surface Water Within Critical Area** --- This income tax credit is granted for agricultural or recreational projects for the reduction of groundwater used by substitution of surface water for projects located within critical groundwater areas. The allowable tax credit is 50% of the project cost up to \$27,000 and a taxpayer may claim the lesser of tax liability up to \$9,000 per project. The tax credit has a carry forward of 2 years. The proposal increases the maximum approved tax credit to \$150,000 and the taxpayer may claim the lesser of tax liability up to \$15,000. The proposed bill will extend the carry forward of the tax credit to 15 years.

**Land Leveling** --- This income tax credit is granted to an approved applicant for agricultural land leveling to conserve irrigation water. The allowable tax credit is 10% of the project cost up to \$27,000 and a taxpayer may claim the lesser of tax liability up to \$9,000 per project. The tax credit has a carry forward of 2 years. The proposal increases the maximum approved tax credit to \$50,000 and the taxpayer may claim the lesser of tax liability up to \$15,000. The proposed bill will extend the carry forward of the tax credit to 15 years.

**Regional Surface Water Irrigation District Projects** --- The proposed bill adds an income tax credit for regional surface water irrigation district projects. The tax credit is distributed to approved applicants who participate in the irrigation district. The allowable tax credit for the project is 50% of the annual fees, assessments, and water sales collected by the irrigation district up to \$3,500,000. The income tax credit that is distributed to each individual or entity cannot exceed \$200,000 and a taxpayer may claim the lesser of tax liability up to \$50,000. The income tax credit may be carried forward 15 years.

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The bill allows all water conservation tax credits to be sold or transferred. The bill is effective for tax years beginning on or after January 1, 2019.

### **Revenue Impact :**

**FY2020** \$1.6 Million Reduction in State General Revenue

Changes to Water Impoundments, Surface Water Outside Critical Areas, Surface Water Within Critical Area, and Land Leveling (Estimate is based on 10-year average of actual credits issued.)

**FY2020** \$3.5 Million Reduction in State General Revenue

Changes to Regional Surface Water Irrigation District Projects. (The number of irrigation districts is unknown. The revenue impact is estimated to be at least \$3.5M.)

### **Taxpayer Impact :**

Taxpayers investing in qualified water conservation projects will have larger credits available per project, larger percentages of costs available for credits, longer carryforward periods for credits, and credits can be transferable. Taxpayers will need to complete documentation required for any credits earned or transferred and records will need to be maintained for audit.

### **Resources Required :**

Computer programs, tax forms and instructions will need to be updated.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

Department employees will need to be educated as well as the tax community.

### **Other Comments :**

The bill adds a section to the Arkansas Code which allows the transfer of the income tax credits allowed under the water resource conservation and development incentives act. The bill states that if a project is not completed or maintained for the required number of years, then the entity that originally received the credit is responsible for refunding the income tax credit to DFA, not the transferee. There is no requirement that a transferor or transferee of a credit notify DFA or any other State agency of the transfer. If the taxpayer who earns the tax credit transfers the credit to an individual or entity who claims the credit and later it is determined that the transferor failed to meet the terms of the agreement, the credit claimed by the transferee will be disallowed and the transferor will be liable to refund the credit to DFA.

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### Legal Analysis :

None.