

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB629**

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

---

### Basic Change :

**Sponsor: Senator J. Dismang**

SB629 increases the maximum credits allowed under the water resource conservation and development incentives act and increases the carry forward period from 2 years to 15 years.

**Water Impoundment** income tax credit is granted to approved applicant that constructs and installs or restores water impoundments or water control structures twenty acre-feet or more, storing water to be used for agricultural, commercial or industrial. The maximum tax credit allowed is \$135,000 and a taxpayer may claim the lesser of the tax liability up to \$9,000 per project.

**Surface Water Outside Critical Areas** income tax credit is granted to approved applicant for reductions of groundwater use by substitution of surface water for water used for industrial, commercial, agricultural or recreational. The proposed bill would increase the allowable tax credit to the lesser of 25% (up from 10%) of the project cost or \$75,000 (up from \$27,000). The maximum tax credit allowed for a taxable year remains the lesser of the tax liability or \$9,000. The carry forward is amended from a two year carry forward to 15 consecutive taxable years.

**Surface Water Within Critical Areas** 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 proposed bill would increase the allowable tax credit to be the lesser of 50% of the project cost or \$135,000 (up from \$27,000). The maximum credit allowed for a taxable year remains the lesser of the tax liability or \$9,000. The carry forward is 15 consecutive taxable years following the taxable year in which the credit originated.

**Land Leveling** income tax credit is granted to approved applicant for agricultural land leveling to conserve irrigation water. The proposed bill would increase the allowable credit to be the lesser of 25% (up from 10%) of the project cost or \$50,000 (up from \$27,000). The maximum credit allowed for the taxable year remains the lesser of the tax liability or \$9,000. The carry forward is 15 consecutive taxable years following the taxable year in which the credit originated.

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 :

**FY2022 - FY2035** \$1.6 Million Reduction in State General Revenue  
(Estimate is based on 10-year average of actual credits issued.)

### Taxpayer Impact :

Taxpayers investing in qualified water conservation projects will have larger credits available per project, larger percentages of cost 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.

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB629**

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

---

### **Resources Required :**

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

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

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

### **Legal Analysis :**

Current law provides an income tax credit for the construction, installation, or restoration of a water impoundment or water control structure of 20 acre-feet or more that stores water for use in agricultural, commercial, or industrial purposes. The credit amount is currently limited to the lesser of \$90,000 or 50% of the project cost. This bill increases the maximum credit amount to the lesser of \$135,000 or 50% of the project cost.

For projects located outside critical groundwater areas, current law provides a surface water conversion income tax credit for the reduction of groundwater use through the substitution of surface water for industrial, commercial, agricultural, or recreational purposes. The current credit is limited to the lesser of 10% of the project cost or \$27,000. This bill increases the credit amount allowed by law to the lesser of 25% of the project cost or \$75,000. Additionally, the period for which any unused surface water conversion income tax credits can be carried forward is increased from 2 years to 15 years by this bill.

For projects located inside a critical groundwater area, current law provides a surface water conversion income tax credit. This bill significantly extends the application of the credit to include projects in counties contiguous to a critical groundwater area. If the project is for agricultural or recreational purposes, current law limits the credit amount to the lesser of 50% of the project cost or \$27,000. This

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB629**

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

---

bill increases the credit amount limit to the lesser of 50% of the project cost or \$135,000. Additionally, the period for which any unused surface water conversion income tax credit in a critical groundwater area can be carried forward is increased from 2 years to 15 years.

Current law provides an income tax credit for agricultural land leveling to conserve irrigation water. The credit amount is currently limited to the lesser of 10% of the project cost or \$27,000. This bill increases the maximum credit amount to the lesser of 25% of the project cost or \$50,000. Additionally, the period for which any unused credit may be carried forward is increased from 2 years to 15 years.

The bill adds a new provision to state law allowing the various water conservation income tax credits to be transferred from the original applicant to another taxpayer. The transferee of the credits must obtain the transferor's name, address, tax ID number, the date the credits were issued, the remaining amount of credit available, and other information relevant to the transfer of the credits. This information is to be attached to the transferee's income tax return when claiming the credit. The transferee is subject to the carryforward time period of the original applicant. If a water conservation project is not completed or maintained for the number of years required by § 26-51-2011 (completion w/n 3 years and maintained for 10 years) the transferor that originally received the tax credits must refund the income tax credits received to DFA.

This act is effective for tax years beginning on and after January 1, 2019.