

Department of Finance and Administration

Legislative Impact Statement

Bill: SB629

Amendment Number: S1

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

Basic Change :

Sponsors: Sen. Dismang and Rep. Jett

Senate Amendment 1 --- Amends the bill to remove the proposed changes regarding the amounts of tax credits that may be earned on the various types of water conservation and impoundment projects and also removes the provisions extending the carry forward period for unused tax credits. The amendment maintains the provisions regarding the authority established allowing the tax credits to be sold or transferred. Tax credits may be sold or transferred for use in tax years beginning on or after January 1, 2020.

Original Bill --- 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 --- This 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 --- This 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 --- 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 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 --- This 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.

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Revenue Impact :

FY2020 \$294,000 Reduction in State General Revenue

FY2021 \$587,000 Reduction in State General Revenue

[Estimate is based on 10-year average of actual credits issued.]

Taxpayer Impact :

Taxpayers who earn water conservation credits may sell or transfer credits. 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 :

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. 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 :

SB629, as originally introduced, would have increased the amount of income tax credits available for various water conservation measures and would have increased the carry-forward period during which unused tax credits could be used. The water conservation measures addressed in the bill as originally introduced were: (1) the construction, installation, or restoration of a water impoundment or water control structure of 20 acre-feet or more and used for agricultural, commercial, or industrial purposes; (2) surface water conversion outside a critical groundwater area; (3) surface water conversion inside a critical groundwater area; and (4) agricultural land leveling.

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Amendment S-1: The amendment deletes those portions of the bill increasing the amount of income tax credits available for water conservation measures and deletes those provisions increasing the carry-forward period. The only substantive provision that remains from the bill as originally introduced is the provision allowing transfer of the income tax credits by the original applicant. The amendment adds a provision requiring the transferee of the tax credits to provide written notification to DFA of the transfer. That notice is to be provided within 30 days of the date of the transfer and shall include information required by DFA to properly track the ownership of the unused tax credits.

The amendment also changes the effective date of the bill. The amendment provides that the bill will be effective for tax years beginning on and after January 1, 2020. The bill as originally introduced would have been effective January 1, 2019.