

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1043

Bill Subtitle: TO AUTHORIZE THE WAIVER OF CERTAIN AD VALOREM TAXES ON UTILITIES AND CARRIERS; AND TO CREATE A STATUTE OF LIMITATIONS ON THE COLLECTION OF CERTAIN AD VALOREM TAXES ON UTILITIES AND CARRIERS.

Basic Change :

Sponsor: Rep. Jett

HB1043 creates a ten-year statute of limitation for collection of ad valorem taxes collected by the Department of Finance and Administration (DFA). In addition, HB1043 authorizes DFA to:

- Waive uncollectible or discharged ad valorem taxes; and
- Settle and compromise ad valorem taxes and penalties in certain circumstances.

Revenue Impact :

There is no revenue impact by ad valorem tax waiver authority to DFA. Debts older than ten years are considered uncollectible currently by DFA.

Taxpayer Impact :

A taxpayer owing an ad valorem tax to DFA would be subject to a ten-year statute of limitations for collection. DFA would be authorized to waive uncollectible or discharged ad valorem taxes, as well as settle or compromise ad valorem taxes.

Resources Required :

None.

Time Required :

Adequate time is allowed for implementation.

Procedural Changes :

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

Other Comments :

None.

Legal Analysis :

Under § 26-26-1601 *et seq.*, the Public Service Commission (PSC) is responsible for determining the value of certain property owned and used by utilities and carriers. PSC then issues an assessment to the taxpayer. § 26-26-1610. After issuing the assessment, PSC certifies the tax to DFA for purposes of the levy of tax and applicable penalties and the collection of such tax and penalties. § 26-26-1614.

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1043

Bill Subtitle: TO AUTHORIZE THE WAIVER OF CERTAIN AD VALOREM TAXES ON UTILITIES AND CARRIERS; AND TO CREATE A STATUTE OF LIMITATIONS ON THE COLLECTION OF CERTAIN AD VALOREM TAXES ON UTILITIES AND CARRIERS.

The Arkansas Tax Procedure Act (TPA) provides a statute of limitation for the collection of taxes administered by DFA. § 26-18-306(h). In addition, the TPA authorizes DFA to waive assessed taxes and penalties. § 26-18-705. The TPA, however, does not apply to ad valorem taxes collected under § 26-26-1614. § 26-18-102(8). The provisions of § 26-26-1601 *et seq.* do not establish a statute of limitation for the collection of the levied tax, nor do they authorize a waiver of tax in the event of controversy over the amount of tax due or insolvency or bankruptcy. If ad valorem tax is levied against a taxpayer who subsequently files a bankruptcy, that tax is subject to discharge. HB1043 will help ensure that actions by the PSC and DFA do not violate federal bankruptcy law when a taxpayer receives a discharge of ad valorem tax in the taxpayer's bankruptcy proceeding. If a taxpayer is insolvent or disputes the tax owed, DFA is currently limited to identifying the debt as uncollectible. HB1043 is designed to provide waiver authority in these instances. Without a statute of limitation for collection of ad valorem taxes and penalties, or a mechanism to waive discharged taxes and penalties, the delinquencies would potentially forever remain an account receivable on DFA's books. HB1043 seeks to avoid this circumstance.