

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1281**

**Bill Subtitle: TO CREATE THE ARKANSAS PROPANE COUNCIL FOR THE PROMOTION OF THE PROPANE INDUSTRY IN ARKANSAS; AND TO CREATE A REFERENDUM.**

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**Basic Change :** Sponsor: Representative Richey

The proposal would create the Arkansas Propane Council to promote the growth and development of the propane industry in Arkansas. The membership of the council would consist of members from propane retail dealers, propane wholesale dealers, propane suppliers and a member from the propane industry in general.

Within 90 days after the effective date of the act, the Council shall call an election to be held on the question of levying as assessment of four-tenths (0.4) of one cent per gallon of odorized propane imported into or produced in Arkansas. Each holder of a Liquefied Petroleum Gas Board class one, class three, class five, or class eight permit would be eligible to vote. If approved, the fee would become effective within 90 days of certification of the vote.

If approved, taxpayers subject to the new fee would report on a monthly basis to DFA. Fees collected would be special revenues and deposited to the "Arkansas Propane Council Fund". The proposal provides that three percent (3%) of the fee assessment and related penalties would be for the Constitutional Officers and the State Central Services Funds. The proposal would be effective 90 days after final adjournment of the 90<sup>th</sup> General Assembly.

**Revenue Impact :**

Fee assessments on liquefied petroleum gas would be deposited to the Arkansas Propane Council Fund.

**Taxpayer Impact :**

The proposed fee assessment would be reported and paid by the owner or seller of propane at the time of odorization, whether within or without the state, or at the time of import or manufacture of the odorized propane. The assessment will be based upon the volume in gallons of odorized propane placed into commerce in Arkansas, whether or not the owner or seller is located in Arkansas or is a resident of Arkansas.

**Resources Required :**

Current budgetary resources should provide sufficient funding to modify computer systems, develop new forms and instructions and provide taxpayer assistance to affected taxpayers.

**Time Required :**

In order to modify DFA computer systems to receive and process the new type of assessment fee return forms, our cash processing procedures and to modify our electronic, on-line tax reporting processes, the levy of the new assessment should not be implemented until 6 months after the certification of a positive vote.

**Procedural Changes :**

This proposal would require a new tax type to be established and the tax to be reported and remitted on separate returns. Education of the staff and the adoption of rules would be necessary.

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### Other Comments :

The proposal does not establish a due date each month for filing the assessment report and for paying the amount of fee due. A due date for the report is necessary to determine if a taxpayer is filing and making remittance in a timely manner and is subject to penalties and interest as required by law.

Page 5 through 7 --- Proposed code provisions referenced as §§ 15-75-506, 15-75-507, 15-75-508, and 15-75-509 do not conform to State Tax Procedures, Ark. Code Ann. § 26-18-101 et seq. All taxes and fees reported to DFA are subject to the administrative provisions of State Tax Procedures. Record retention requirements, assessment of fees due, assessment of penalty and interest due, confidentiality protections of DFA tax return data, formal assessment procedures for fees due and providing the availability for administrative hearings of disputed amounts due are all provided. State Tax Procedures also provide authority for issuance of Certificates of Indebtedness (Tax Liens) by DFA against taxpayers who fail to pay the assessments due.

Page 5, Line 33 --- The provision provides that DFA shall adopt rules for implementation of the assessment. The provision should be amended to provide that rules may be adopted. The necessity for rules regarding the assessment filings to DFA may not be necessary. All taxpayers subject to this new assessment are current taxpayers reporting various types of taxes to DFA and are knowledgeable of general tax return filings and procedures.

Page 6, Lines 28 through 30 --- This provision provides that 3% of the assessment is deposited for the credit of the Constitutional Officers Fund and the State Central Services Fund. At present, the Constitutional Officers Fund is deducted at 1% and the State Central Services Fund is deducted by the State Treasurer at the rate of 2.2%. The rate for the State Central Services Fund is subject to adjustment by the Chief Fiscal Officer of the State. The provision should be amended to follow existing law regarding the percentage to be retained by the State Treasurer.

### Legal Analysis :

HB1281 would create the Arkansas Propane Council ("APC") to promote the growth and development of the propane industry. Within 90 days of the Act's effective date, the APC would hold an election for the levy of an assessment of four tenths (0.4) of one cent per gallon of odorized propane sold in the state after an APC specified date. The only persons that would be an eligible voter would be holders of LPGB class one, three, five, and eight permits. An assessment approved in this manner would continue until terminated by the APC or voted against by a majority of eligible voters. A petition signed by 25% of the LPGB permit holders would trigger such an assessment levy termination election within 90 days of the petition's filing. This subsequent election would be held like the original election.

The owner or seller of propane would make the assessment on all propane sold in or used or placed into commerce in this State, whether or not the owner or seller is located in or a resident of this State. The owner or seller must make monthly reports and remissions of such assessments in the manner and on forms prescribed by DFA.

The bills provisions regarding recordkeeping, penalties, and various procedural matters are contrary to the Arkansas Tax Procedure Act which governs all other taxes administered by DFA.