

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1539

Bill Subtitle: TO PROVIDE A SALES AND USE TAX EXEMPTION FOR WATER USED BY A POULTRY FARM; AND TO REQUIRE THE ADOPTION OF RELATED RULES.

Basic Change :

Sponsors: Reps. Christiansen and Beck

HB1539 provides for a sales and use tax exemption for sales of water used exclusively in the operation of a poultry farm. A "poultry farm" is defined as a facility used for the commercial production of poultry, including without limitation a broiler or turkey grow-out house, a laying house, a hatching unit, a nursery unit, and a breeding house.

To be eligible for the exemption, water consumed must be separately metered from water used for any other purpose by the taxpayer. DFA through promulgation of rules may establish additional or alternate requirements for the metering of the water. DFA may also require a water utility to obtain a certificate from the taxpayer certifying that the taxpayer is eligible for the exemption.

The act would be effective on the first day of the calendar quarter after the effective date of the Act (October 1, 2019).

Revenue Impact :

FY2020

-\$1,773,333 Total Loss to State Revenues

(8 months reduced tax collections)

-\$1,189,634 --- State General Revenue (4.5%)
-\$ 231,318 --- Educational Adequacy (.875% tax)
-\$ 132,182 --- Property Tax Relief Trust Fund (.5%)
-\$ 33,045 --- Conservation Tax (.125%)
-\$ 132,182 --- Highway Fund (.5%)
-\$ 0 --- Educational Excellence Trust Fund
-\$ 0 --- Educational Adequacy (GR transfer)
-\$ 37,240 --- State Central Services
-\$ 17,733 --- Constitutional Officers

Loss to City and County Sales Tax: -\$590,000

FY2021

-\$2,660,000 Total Loss to State Revenues

-\$1,601,366 --- State General Revenue (4.5%)
-\$ 346,977 --- Educational Adequacy (.875% tax)
-\$ 198,272 --- Property Tax Relief Trust Fund (.5%)
-\$ 49,568 --- Conservation Tax (.125%)
-\$ 198,272 --- Highway Fund (.5%)
-\$ 168,214 --- Educational Excellence Trust Fund
-\$ 14,870 --- Educational Adequacy (GR transfer)
-\$ 55,860 --- State Central Services
-\$ 26,600 --- Constitutional Officers

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Loss to City and County Sales Tax: -\$885,000

[Estimate based on actual purchases of water by Arkansas industrial poultry processors and hatcheries; water consumption by broiler chicks, laying hens, and turkeys; and water used in cooling poultry houses and facilities.]

Taxpayer Impact :

Taxpayers operating facilities used in the commercial production of poultry would claim an exemption on the purchase of water used in their poultry operations.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

DFA would develop procedures for taxpayers to use when claiming the sales tax exemption at the time of their water purchase. An update to the sales tax rules will need to be promulgated.

Other Comments :

None.

Legal Analysis :

HB1539 creates an exemption from gross receipts and compensating use tax ("sales and use tax") for the sale of water used in poultry farming. An existing exemption in § 26-52-450 exempts the sale of certain other utilities (electricity, liquefied petroleum gas, and natural gas) to qualifying agricultural structures (including poultry facilities used for commercial production) from sales and use tax. The exemption as written would only exempt specific charges for water usage and would not apply to related charges and fees.

HB1539 creates an ambiguity in the application of agricultural and farming sales and use tax exemptions. Specifically, HB1539 only requires that the water be used exclusively, and does not require that the water be used directly in the agricultural process.

The bill requires the Director of the Department of Finance and Administration to adopt rules for the sales and use tax exemption and to file the proposed rules with the Legislative Council sufficiently in advance of October 1, 2019. This will create an administrative difficulty for the Department as the timeline required to write, review, publish, collate, and present rules to the ALC would require that the rules be written before this bill is final.

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The exemption would be effective on the first day of the calendar quarter following the effective date of the act, which would be 91 days after sine die adjournment.