

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1049

Amendment Number: H1

Bill Subtitle: TO ALLOW THE WITHHOLDING OF STATE INCOME TAX FROM UNEMPLOYMENT COMPENSATION BENEFITS AND UNEMPLOYMENT INSURANCE BENEFITS.

Basic Change :

Sponsor: Rep. Jett

House Amendment No. 1 --- HB1049-H1 (engrossed 2/20/2021) authorizes the Division of Workforce Services (DWS) to withhold Arkansas income taxes from payments made to recipients of unemployment compensation benefits or unemployment insurance benefits if the recipient of the benefits elects to have income tax withheld.

Original Bill --- HB1049 amends §§ 26-51-904 and -905 to allow recipients of unemployment compensation benefits and unemployment insurance benefits to elect to have state income taxes withheld from those benefits. Benefit recipients would be allowed to request Arkansas State income tax withholding from their benefits in a similar manner as is currently allowed for federal income taxes. HB1049 would also require the Secretary of the Department of Commerce (DOC) to consult with the Department of Finance and Administration (DFA) to create forms for withholding requests.

Revenue Impact :

None.

Taxpayer Impact :

A taxpayer receiving unemployment benefits will be authorized to elect to have Arkansas individual income tax withheld from his or her benefits.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the Income Tax Withholding rules will need to be promulgated and updated instructions published. DFA and DWS will need to promulgate forms for those receiving benefits to make requests to withhold income tax. Processes and procedures for submitting payments and statements of the amounts withheld from benefits will also need to be developed.

Other Comments :

Allowing income tax withholding for unemployment insurance benefits would bring consistency with federal law and remove unanticipated state tax obligations at the time the recipient of the benefits file their annual state income tax return.

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1049

Amendment Number: H1

Bill Subtitle: TO ALLOW THE WITHHOLDING OF STATE INCOME TAX FROM UNEMPLOYMENT COMPENSATION BENEFITS AND UNEMPLOYMENT INSURANCE BENEFITS.

Under the bill, the agency required to deduct and withhold income tax is not liable under § 26-51-916 for the amounts required to be withheld. In order to maintain separate and accurate accounting records, DFA may need to establish a new withholding account type specifically to collect the amounts deducted and withheld by the agency so the income tax withholding payments are not combined with the amounts withheld and remitted for the employees of DWS.

Legal Analysis :

House Amendment No. 1 --- HB1049-H1 amends § 26-51-905 to create an optional program for taxable unemployment compensation benefit or taxable unemployment insurance benefit recipients to request to have Arkansas individual income tax withheld from their benefits at a rate of 4.5%. At the time a person applies for unemployment compensation benefits or unemployment insurance benefits, HB1049-H1 requires the agency receiving the application to inform the applicant of the taxability of the benefits and the option to request withholding. The recipient of benefits may freely change his or her withholding status under HB1049-H1. HB1049-H1 specifies that the DWS is not required to deduct, withhold, or remit any taxes for or to states other than Arkansas.

Money contained in Arkansas' account in the federal Unemployment Trust Fund can only be used for limited purposes. HB1049-H1 provides that after January 1, 2022, DWS may withhold Arkansas individual income tax from unemployment compensation and pay the withheld amounts to DFA if the recipient of the unemployment compensation elects withholding under § 26-51-905.

HB1049-H1 contains temporary language that requires the occurrence of certain events before withholding may begin. First, DWS must prepare its computer technology and information management systems to carry out withholding under HB1049-H1. Second, the United States Secretary of Labor must approve the withholding program created by HB1049-H1. Upon the occurrence of those two events, DFA must make a proclamation that withholding will begin on the first day of the calendar month following the proclamation.

The earliest withholding could occur under HB1049-H1 would be January 1, 2022, because that is the day that HB1049-H1 relieves the restrictions under current law on the withdrawal of funds from Arkansas' account in the federal Unemployment Trust Fund. Withholding could be delayed until after January 1, 2022, if either DWS' computer technology and information management systems are not prepared to administer the withholding or the United States Secretary of Labor has not approved the withholding program.

In Section 2, subsection (c)(5), the phrase "Arkansas Department of Workforce Services" should likely read "Division of Workforce Services."

Original Bill --- HB1049 allows recipients of unemployment compensation benefits and unemployment insurance benefits to elect to have state income taxes withheld from those benefits.

Current law does not allow recipients of unemployment compensation benefits and unemployment insurance benefits to elect withholding of state income taxes from those benefits. This can result in the recipients having unexpected tax liabilities. HB1049 allows withholding from those benefits by treating those benefits as wages paid by an employer to an employee for the limited purposes of the Arkansas Income Tax Withholding Act of 1965. State income taxes will be withheld from those payments at a

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1049

Amendment Number: H1

Bill Subtitle: TO ALLOW THE WITHHOLDING OF STATE INCOME TAX FROM UNEMPLOYMENT COMPENSATION BENEFITS AND UNEMPLOYMENT INSURANCE BENEFITS.

rate of 4.5% upon request by the recipient that such withholding occur. The agency receiving a request for those benefits will be required to inform the applicant of the option to request withholding under the Arkansas Income Tax Withholding Act of 1965.

The Secretary of the Department of Commerce will be required to promulgate forms on which applicants may request withholding of state income taxes. Recipients of the benefits who do not make a request on the form will see no change in the amount of benefits they receive as a result of this bill.

The effective date of HB1049 will be for tax years beginning on or after January 1, 2022.