Department of Finance and Administration

Legislative Impact Statement

Bill: HB1196

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

HB1196 creates a new section in the Arkansas Code, § 26-52-453, to provide a sales and use tax exemption for sales of water used exclusively in the operation of a poultry farm. Under the bill, 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. Under the bill, the Department of Finance and Administration (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.

This bill provides for an effective date of the first day of the calendar quarter following the effective date of this act. For purposes of a revenue impact, an effective date of October 1, 2021 is assumed.

Revenue Impact :

FY2022

Total Approximate State Sales and Use Tax Loss (Estimated Effective Date 10/1/21 8 months reduced tax collection)	\$ - 1,800,000
General Revenue - 4.5% Property Tax Relief5% Conservation Fund125% Educational Adequacy Fund875% Highway Fund5% Educational Excellence Trust Fund - Educational Adequacy (GR Transfer) - State Central Services - Constitutional Officers -	\$ - 1,207,523 \$ - 134,169 \$ - 33,542 \$ - 234,796 \$ - 134,169 \$000 \$000 \$ - 37,800 \$ - 18,000
Total Approximate Local City and County Sales and Use Tax Loss	\$ - 600,000
FY2023	
Total Approximate State Sales and Use Tax Loss	\$ - 2,700,000
General Revenue - 4.5% Property Tax Relief5% Conservation Fund125%	\$ - 1,625,447 \$ - 201,254 \$ - 50,313

1/24/2021 1:46 PM 1

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1196

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.

Educational Adequacy Fund - .875% \$ - 352,194
Highway Fund - .5% \$ - 201,254
Educational Excellence Trust Fund - \$ - 170,744
Educational Adequacy (GR Transfer) - \$ - 15,094
State Central Services - \$ - 56,700

Total Approximate Local City and County Sales and Use Tax Loss

\$ - 900,000

\$ - 27,000

[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 :

Constitutional Officers -

A taxpayer operating facilities used in the commercial production of poultry would be eligible to claim an exemption on the purchase of water used exclusively in the operation of a poultry farm.

Resources Required:

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes:

Updates to the Sales and Use Tax Rules will be necessary.

Other Comments:

HB1196 creates an exemption from 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 appear to extend to related charges and fees.

Legal Analysis:

HB1196 creates a sales and use tax exemption for the sale of water used exclusively in the commercial production of poultry, provided that the water is separately metered from water used for another purpose. HB1196 would require DFA to promulgate rules to administer the exemption. Those rules may have additional or alternate requirements for the metering of water. DFA, before allowing the exemption, may require a taxpayer to provide a certificate to a water utility which certifies that the taxpayer is eligible for the exemption.

1/24/2021 1:46 PM 2

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1196

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.

HB1196 would require DFA to file final rules with the Secretary of State on or before October 1, 2021, or if approval by the Arkansas Legislative Council (ALC) has not occurred, then the rules are to be filed as soon as practicable after approval. HB1196 would also require the Secretary to file proposed rules with ALC far enough in advance of October 1, 2021 so that ALC can consider the rules for approval before October 1, 2021.

1/24/2021 1:46 PM 3