

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4
5 By: Senator J. Dismang
6 By: Representative Jett
7

A Bill

SENATE BILL 629

For An Act To Be Entitled

9 AN ACT TO AMEND THE WATER RESOURCE CONSERVATION AND
10 DEVELOPMENT INCENTIVES ACT; TO AMEND THE TAX
11 INCENTIVES ALLOWED UNDER THE WATER RESOURCE
12 CONSERVATION AND DEVELOPMENT INCENTIVES ACT; TO ALLOW
13 FOR THE TRANSFER OF INCOME TAX CREDITS UNDER THE
14 WATER RESOURCE CONSERVATION AND DEVELOPMENT
15 INCENTIVES ACT; AND FOR OTHER PURPOSES.

Subtitle

18 TO AMEND THE WATER RESOURCE CONSERVATION
19 AND DEVELOPMENT INCENTIVES ACT.
20

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22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 26-51-1005(b)(1), concerning the income tax
26 credit related to water impoundments under the Water Resource Conservation
27 and Development Incentives Act, is amended to read as follows:

28 (b)(1) The tax credit allowed to each approved applicant shall not
29 exceed the lesser of fifty percent (50%) of the project cost incurred or
30 ~~ninety thousand dollars (\$90,000)~~ one hundred thirty-five thousand dollars
31 (\$135,000).
32

33 SECTION 2. Arkansas Code § 26-51-1007(b)(1), concerning the income tax
34 credit related to surface water conversion outside of critical areas under
35 the Water Resource Conservation and Development Incentives Act, is amended to
36 read as follows:



1 (b)(1) The tax credit allowed to each approved applicant shall not
2 exceed the lesser of ~~ten percent (10%)~~ twenty-five percent (25%) of the
3 project cost incurred or ~~twenty-seven thousand dollars (\$27,000)~~ seventy-five
4 thousand dollars (\$75,000).

5
6 SECTION 3. Arkansas Code § 26-51-1007(b)(3), concerning the income tax
7 credit related to surface water conversion outside of critical areas under
8 the Water Resource Conservation and Development Incentives Act, is amended to
9 read as follows:

10 (3) Any unused tax credit may be carried over for a maximum of
11 ~~two (2)~~ fifteen (15) consecutive taxable years following the taxable year in
12 which the credit originated.

13
14 SECTION 4. Arkansas Code § 26-51-1008(a) and (b), concerning the
15 income tax credit granted for surface water conversion projects within
16 critical areas under the Water Resource Conservation and Development
17 Incentives Act, are amended to read as follows:

18 (a) For projects located within a critical groundwater area or
19 counties contiguous to a critical groundwater area, there ~~shall be~~ is allowed
20 a credit against the tax imposed by the Income Tax Act of 1929, § 26-51-101
21 et seq., to an approved applicant for the reduction of groundwater use by
22 substitution of surface water for water used for industrial, commercial,
23 agricultural, or recreational purposes.

24 (b)(1) For agricultural or recreational projects, there ~~shall be~~ is
25 allowed a tax credit to each approved applicant not to exceed the lesser of
26 fifty percent (50%) of the project cost incurred or ~~twenty-seven thousand~~
27 ~~dollars (\$27,000)~~ one hundred thirty-five thousand dollars (\$135,000).

28 (2)(A) The amount of tax credit allowed to each approved
29 applicant per project that may be used for a taxable year may not exceed the
30 lesser of:

31 (i) The amount of individual or corporate income tax
32 otherwise due; or

33 (ii) Nine thousand dollars (\$9,000).

34 (B) If the approved applicant is a pass-through entity
35 such as a partnership, a limited liability company taxed as a partnership, a
36 Subchapter S corporation, or a fiduciary, the amount of tax credit that may

1 be used for a taxable year shall not exceed the lesser of:

2 (i) The aggregate amount of individual or corporate
3 income tax otherwise due by all members of the pass-through entity; or

4 (ii) Nine thousand dollars (\$9,000).

5 (3) Any unused tax credit may be carried over for a maximum of
6 ~~two (2)~~ fifteen (15) consecutive taxable years following the taxable year in
7 which the credit originated.

8

9 SECTION 5. Arkansas Code § 26-51-1009(b)(1), concerning the income tax
10 credit related to land leveling for water conservation under the Water
11 Resource Conservation and Development Incentives Act, is amended to read as
12 follows:

13 (b)(1) The tax credit allowed to each approved applicant shall not
14 exceed the lesser of ~~ten percent (10%)~~ twenty-five percent (25%) of the
15 project cost incurred or ~~twenty-seven thousand dollars (\$27,000)~~ fifty
16 thousand dollars (\$50,000).

17

18 SECTION 6. Arkansas Code § 26-51-1009(b)(3), concerning the income tax
19 credit related to land leveling for water conservation under the Water
20 Resource Conservation and Development Incentives Act, is amended to read as
21 follows:

22 (3) Any unused tax credit may be carried over for a maximum of
23 ~~two (2)~~ fifteen (15) consecutive taxable years following the taxable year in
24 which the credit originated.

25

26 SECTION 7. Arkansas Code Title 26, Chapter 51, Subchapter 10, is
27 amended to add an additional section to read as follows:

28 26-51-1015. Transfer of credit.

29 (a) The income tax credits allowed under this subchapter may be
30 transferred.

31 (b) A transferee from an original approved applicant under this
32 subchapter is entitled to an income tax credit under this subchapter only to
33 the extent the income tax credit is still available to and has not previously
34 been used by the transferor.

35 (c) A transferee of income tax credits under this subchapter that
36 seeks to qualify for the income tax credits provided in this subchapter shall

1 obtain and attach to the transferee's income tax return for the years the
2 income tax credit is claimed a certified statement from the transferor
3 stating the:

4 (1) Name and address of the original purchaser and all
5 transferees;

6 (2) Tax identification number of all persons entitled to any
7 portion of the original income tax credit;

8 (3) Original date the income tax credit was approved;

9 (4) Amount of the income tax credit associated with the transfer
10 of the income tax credit;

11 (5) Original amount of the income tax credit; and

12 (6) Remaining amount of the income tax credit that is available
13 for use by the transferee.

14 (d) A transferee under this section is subject to the carry-over
15 provisions provided in this subchapter based on the taxable year in which the
16 income tax credit originated.

17 (e)(1) If a project is not completed or maintained for the total
18 number of years required under § 26-51-1011, the transferor that originally
19 received the income tax credit under this subchapter is responsible for
20 refunding the income tax credit to the Department of Finance and
21 Administration as provided in § 26-51-1011.

22 (2) The transferee of an income tax credit under this subchapter
23 is not liable for the repayment of the income tax credit allowed under this
24 subchapter if the transferor that originally received the income tax credit
25 fails to complete or maintain the project under § 26-51-1011.

26
27 SECTION 8. EFFECTIVE DATE. Sections 1-7 of this act are effective for
28 tax years beginning on or after January 1, 2019.