

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: H3/7/13 H3/14/13  
**A Bill**

HOUSE BILL 1266

By: Representatives Dale, Catlett, Eubanks

By: Senator G. Stubblefield

### **For An Act To Be Entitled**

AN ACT TO CREATE A SALES AND USE TAX EXEMPTION FOR  
CONSTRUCTION MATERIALS PURCHASED TO CONSTRUCT,  
REPAIR, OR REMODEL A FACILITY TO BE USED BY AN EXEMPT  
ENTITY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO CREATE A SALES AND USE TAX EXEMPTION  
FOR CONSTRUCTION MATERIALS PURCHASED TO  
CONSTRUCT, REPAIR, OR REMODEL A FACILITY  
TO BE USED BY AN EXEMPT ENTITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4, is amended to add an additional section to read as follows:*

*26-52-446. Construction materials.*

*(a) As used in this section:*

*(1) "Construction materials" means materials, supplies, and other tangible personal property purchased and consumed by:*

*(A) An exempt entity to construct, repair, or remodel a facility to be used by the exempt entity in the conduct of the exempt entity's regular functions and activities; or*

*(B) A contractor to directly fulfill a contract with an exempt entity to construct, repair, or remodel a facility to be used by the exempt entity in the conduct of the exempt entity's regular functions and activities; and*



(2) "Exempt entity" means a regional water distribution district created under the Regional Water Distribution District Act, § 14-116-101 et seq.

(b) The gross receipts or gross proceeds derived from the sale of construction materials are exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(c) An exempt entity shall:

(1) Register each project that is eligible for an exemption under this section with the Department of Finance and Administration;

(2) Obtain an exemption certificate from the department for the project; and

(3) Provide a copy of the exemption certificate obtained from the department to:

(A) Each contractor, which shall provide a copy of the exemption certificate to each supplier of construction materials purchased for the project; and

(B) A supplier if the exempt entity purchases construction materials for a project directly from a supplier.

(d)(1) A supplier shall provide to a contractor purchasing construction materials under this section an invoice bearing the name of the exempt entity and the project identification number.

(2) The contractor shall maintain invoices provided under this subsection for at least five (5) years.

(e)(1) Any excess resalable materials, supplies, or other tangible personal property that are purchased for a project by a contractor under an exemption certificate but are not incorporated into or consumed in the construction of the project shall be returned to the supplier for credit.

(2) If the contractor is not able to return the excess resalable materials, supplies, or other tangible personal property to the supplier for credit, the appropriate sales and use tax on the excess resalable materials, supplies, and other tangible personal property shall be reported on a return and paid by the contractor no later than the due date of the contractor's state sales and use tax return following the month in which it was determined that the excess resalable materials, supplies, or tangible personal property

were not used in the project.

(f) The exempt entity may monitor all construction materials purchased, used, and consumed in fulfilling the construction project.

(g) This section does not exempt from sales and use tax the purchase of machinery, equipment, or tools used in fulfilling construction contracts.

(h)(1) If an entity obtains an exemption certificate for the purchase of materials, supplies, or other tangible personal property that are incorporated into or consumed in the entity's construction project and the entity is found not to be an exempt entity eligible for an exemption certificate under this section, the entity is liable for the sales and use tax owed on the materials, supplies, and other tangible personal property.

(2) If an exempt entity obtains an exemption certificate for the purchase of materials, supplies, and other tangible personal property that are incorporated into or consumed in the construction of a project or part of a project that is found not to be related to the exempt entity's functions and activities, the exempt entity is liable for the sales and use tax owed on the materials, supplies, and other tangible personal property.

(i) The Director of the Department of Finance and Administration may promulgate rules to implement this section.

SECTION 2. EFFECTIVE DATE. Section 1 of this act is effective on the first day of the second calendar month following the effective date of this act.

/s/Dale