

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 559

By: Senator J. Dismang
By: Representative Jett

For An Act To Be Entitled

AN ACT TO AMEND THE WATER RESOURCE CONSERVATION AND DEVELOPMENT INCENTIVES ACT; TO AMEND THE TAX INCENTIVES ALLOWED UNDER THE WATER RESOURCE CONSERVATION AND DEVELOPMENT INCENTIVES ACT; TO ALLOW AN INCOME TAX CREDIT FOR INVESTMENTS IN A SURFACE WATER IRRIGATION PROJECT; TO ALLOW AN INCOME TAX CREDIT FOR WATER PURCHASES FROM A REGIONAL SURFACE WATER IRRIGATION PROJECT; TO ALLOW FOR THE TRANSFER OF INCOME TAX CREDITS UNDER THE WATER RESOURCE CONSERVATION AND DEVELOPMENT INCENTIVES ACT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE WATER RESOURCE CONSERVATION AND DEVELOPMENT INCENTIVES ACT.

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

SECTION 1. Arkansas Code § 26-51-1005 is amended to read as follows:
26-51-1005. Credit granted – Water impoundments.

(a) There ~~shall be~~ is allowed a credit against the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., to an approved applicant that constructs and installs or restores water impoundments or water control structures of twenty (20) acre-feet or more designed for the purpose of storing water to be used primarily for agricultural, commercial, or industrial purposes.



(b)(1) The tax credit allowed to each approved applicant shall not exceed the lesser of fifty percent (50%) of the project cost incurred or ~~ninety thousand dollars (\$90,000)~~ one hundred fifty thousand dollars (\$150,000).

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

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

(ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

(B) If the approved applicant is a pass-through entity such as a partnership, a limited liability company taxed as a partnership, a Subchapter S corporation, or a fiduciary, the amount of tax credit that may be used for a taxable year shall not exceed the lesser of:

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

(ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

(3) Any unused credit may be carried over for a maximum of fifteen (15) consecutive taxable years following the taxable year in which the credit originated.

SECTION 2. Arkansas Code § 26-51-1007 is amended to read as follows:

26-51-1007. Credit granted – Surface water conversion outside critical areas.

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

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

(2)(A) The amount of tax credit allowed to each approved

applicant per project that may be used for a taxable year may not exceed the lesser of:

- (i) The amount of individual or corporate income tax otherwise due; or
- (ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

(B) If the approved applicant is a pass-through entity such as a partnership, a limited liability company taxed as a partnership, a Subchapter S corporation, or a fiduciary, the amount of tax credit that may be used for a taxable year shall not exceed the lesser of:

- (i) The aggregate amount of individual or corporate income tax otherwise due by all members of the pass-through entity; or
- (ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

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

SECTION 3. Arkansas Code § 26-51-1008(a) and (b), concerning the income tax credit granted for surface water conversion projects within critical areas under the Water Resource Conservation and Development Incentives Act, are amended to read as follows:

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

(b)(1) For agricultural or recreational projects, there ~~shall be~~ is allowed a tax credit to each approved applicant not to exceed the lesser of fifty percent (50%) of the project cost incurred or ~~twenty seven thousand dollars (\$27,000)~~ one hundred fifty thousand dollars (\$150,000).

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

- (i) The amount of individual or corporate income tax

otherwise due; or

(ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

(B) If the approved applicant is a pass-through entity such as a partnership, a limited liability company taxed as a partnership, a Subchapter S corporation, or a fiduciary, the amount of tax credit that may be used for a taxable year shall not exceed the lesser of:

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

(ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

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

SECTION 4. Arkansas Code § 26-51-1008, concerning the income tax credit granted for surface water conversion projects within critical areas under the Water Resource Conservation and Development Incentives Act, is amended to add an additional subsection to read as follows:

(d)(1) For regional surface water irrigation district projects, there is allowed a tax credit to an approved applicant to be distributed to the individuals or entities participating in the irrigation district in an amount not to exceed the lesser of fifty percent (50%) of the annual fees, assessments, and water sales collected by the irrigation district or three million five hundred thousand dollars (\$3,500,000).

(2)(A) For each individual or entity participating in an irrigation district and receiving a distribution under this subsection, the total amount of tax credit allowed shall not exceed two hundred thousand dollars (\$200,000).

(B) For each individual or entity participating in an irrigation district and receiving a distribution under this subsection, the amount of tax credit that may be used in a taxable year shall not exceed the lesser of:

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

(ii) Fifty thousand dollars (\$50,000).

(C) If an entity participating in an irrigation district and receiving a distribution under this subsection is a pass-through entity such as a partnership, a limited liability company taxed as a partnership, a Subchapter S corporation, or a fiduciary, the amount of tax credit that may be used for a taxable year shall not exceed the lesser of:

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

(ii) Fifty thousand dollars (\$50,000).

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

SECTION 5. Arkansas Code § 26-51-1009 is amended to read as follows:

26-51-1009. Credit granted – Land leveling for water conservation.

(a) There ~~shall be~~ is allowed a credit against the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., to an approved applicant for agricultural land leveling to conserve irrigation water.

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

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

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

(ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

(B) If the approved applicant is a pass-through entity such as a partnership, a limited liability company taxed as a partnership, a Subchapter S corporation, or a fiduciary, the amount of tax credit that may be used for a taxable year shall not exceed the lesser of:

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

(ii) ~~Nine thousand dollars (\$9,000)~~ Fifteen thousand dollars (\$15,000).

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

SECTION 6. Arkansas Code Title 26, Chapter 51, Subchapter 10, is amended to add an additional section to read as follows:

26-51-1015. Transfer of credit.

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

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

(c) A transferee of income tax credits under this subchapter that seeks to qualify for the income tax credits provided in this subchapter shall obtain and attach to the transferee's income tax return for the years the income tax credit is claimed a certified statement from the transferor stating the:

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

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

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

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

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

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

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

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

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

SECTION 7. EFFECTIVE DATE. Sections 1-6 of this act are effective for tax years beginning on or after January 1, 2019.