

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 559

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 AN INCOME TAX CREDIT FOR INVESTMENTS IN A SURFACE
14 WATER IRRIGATION PROJECT; TO ALLOW AN INCOME TAX
15 CREDIT FOR WATER PURCHASES FROM A REGIONAL SURFACE
16 WATER IRRIGATION PROJECT; TO ALLOW FOR THE TRANSFER
17 OF INCOME TAX CREDITS UNDER THE WATER RESOURCE
18 CONSERVATION AND DEVELOPMENT INCENTIVES ACT; AND FOR
19 OTHER PURPOSES.
20

Subtitle

21
22
23 TO AMEND THE WATER RESOURCE CONSERVATION
24 AND DEVELOPMENT INCENTIVES ACT.
25

26
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code § 26-51-1005 is amended to read as follows:
30 26-51-1005. Credit granted – Water impoundments.

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



1 (b)(1) The tax credit allowed to each approved applicant shall not
2 exceed the lesser of fifty percent (50%) of the project cost incurred or
3 ~~ninety thousand dollars (\$90,000)~~ one hundred fifty thousand dollars
4 (\$150,000).

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

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

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

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

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

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

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

23
24 SECTION 2. Arkansas Code § 26-51-1007 is amended to read as follows:

25 26-51-1007. Credit granted – Surface water conversion outside critical
26 areas.

27 (a) For projects located outside critical groundwater areas, there
28 ~~shall be~~ is allowed a credit against the tax imposed by the Income Tax Act of
29 1929, § 26-51-101 et seq., to an approved applicant for the reduction of
30 groundwater use by substitution of surface water for water used for
31 industrial, commercial, agricultural, or recreational purposes.

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

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

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

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

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

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

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

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

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

18

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

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

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

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

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

1 otherwise due; or

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

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

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

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

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

15

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

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

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

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

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

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

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

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

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

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

12
 13 SECTION 5. Arkansas Code § 26-51-1009 is amended to read as follows:

14 26-51-1009. Credit granted – Land leveling for water conservation.

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

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

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

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

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

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

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

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

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

4
5 SECTION 6. Arkansas Code Title 26, Chapter 51, Subchapter 10, is
6 amended to add an additional section to read as follows:

7 26-51-1015. Transfer of credit.

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

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

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

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

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

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

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

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

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

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

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

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

5
6 SECTION 7. EFFECTIVE DATE. Sections 1-6 of this act are effective for
7 tax years beginning on or after January 1, 2019.