

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

REGULATION

IN LIEU OF TAX PAYMENTS

Pursuant to the authority granted by Ark. Code Ann. §19-1-208, Ark. Code Ann. §25-15-203 and Act 1629 of 2001, the Director of the Arkansas Department of Finance and Administration and the Director of the Arkansas Department of Economic Development, in compliance with Ark. Code Ann. Sec. 25-15-204, do hereby promulgate the following regulation governing the application for and approval of payments in lieu of ad valorem tax under Ark. Code Ann. §14-164-703:

GENERAL PROVISIONS

From July 1, 2001, through June 30, 2003, the following provisions apply if a city or county enters into a lease or sale contract of city or county property to a for-profit entity for the purpose of securing and developing industry:

1. The lease or contract shall include an obligation that the lessee or purchaser make payments in lieu of property taxes in an amount as negotiated between the parties.
2. The aggregate amount of the payments during the initial term of the lease or sale contract shall be not less than thirty-five percent (35%) of the aggregate amount of ad valorem taxes that would be paid if the property were on the tax rolls unless the Director of the Department of Economic Development (ADED) and the Chief Fiscal Officer (CFO) of the State approve a lesser amount.
3. The city or county shall give at least ten (10) days written notice to each school district superintendent in which school district all or part of the property subject to the lease or sale contract is located and to the Chief Fiscal Officer of the State informing them that a meeting is to be held by city or county officials where action might be taken regarding approval of in-lieu-of tax payments. The notification must include the date, time, and place of the meeting.

PROCEDURES

1. Upon receipt of the required notice of a meeting to be held by a city or county, the Chief Fiscal Officer, or his designate, shall review information to determine if the notice includes a request to exceed the 35% minimum and a written response will be issued to the city or county confirming that the notice has been received.
 - a) If the notice does not contain information regarding the amount and percent of the in-lieu-of tax payment, the response letter will explain that such information is required, reminding the city or county that approval will be needed by both ADED and the CFO if the in-lieu-of tax payment is less than 35% of the taxes that would be paid if the property were on the tax rolls.

b) If the notice does contain information regarding the amount and percent of the inlieu-of-tax payment, and it does not exceed 35%, the response letter will include a reminder to the city or county that in the event the approved payment is less than 35%, then approval will be needed.

c) If the notice contains a request for approval for a payment of less than 35%, the response letter shall notify the city or county that the request will be considered by ADED and the CFO only after the city or county has obtained written approval from the city council, the quorum court, and each school district impacted by the tax abatement. The notice from the city or county requesting a payment of less than 35% must contain the names, addresses, and telephone numbers of contact persons with the local government, the business, and the school districts who can provide information related to the proposed agreement.

2. Immediately upon receipt of approval from the city or county in support of the business' request for an in lieu of tax payment of less than 35%, ADED will conduct a cost benefit analysis, to review the effects of the proposed agreement on public school funding, and consider other relevant matters. The CFO shall assist ADED, as requested, in obtaining all information needed for ADED to conduct the cost benefit analysis. The proposed agreement will be evaluated considering the amount of capital investment anticipated, the number of jobs to be created, the anticipated additional payroll to be created, the amount of property taxes to be abated, the anticipated additional state tax collections resulting from the project, and all other factors relevant to the project.

3. As soon as the analysis described above is completed, the Director of ADED and the CFO shall issue a joint letter to the mayor of the city or county judge of the county either approving or denying the request for a payment of less than 35% of the property tax on the new facility.

4. The CFO will monitor all agreements entered into by cities and counties and maintain files and statistics regarding activity for all in lieu of tax payments for use by the General Assembly in conducting a study of the impact of in lieu of tax payments as provided in Act 1629 of 2001.

Richard A. Weiss, Director

Arkansas Department of Finance and
Administration

Date: July 2, 2002

Jim Pickens, Director

Arkansas Department of Economic
Development

Date: July 2, 2002

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Legal Notice

In compliance with Act 434 of 1967, the Arkansas Administrative Procedure Act, as amended, notice is hereby given that the Department of Finance and Administration intends to repeal Rule 2002-1, titled “In-Lieu of Tax Payments Rule 2002-1”. This administrative rule only covered agreements, between local governments and industrial prospects, executed between July 1, 2001 and June 30, 2003.

The public hearing will be held September 8, 2025, at 2:00 p.m. in the media conference room 2450 of the Joel Y Ledbetter Building, 1816 West 7th Street, Little Rock, Arkansas. All interested parties may attend and present their views on the proposed rule repeal. Written comments may be mailed to the Department of Finance and Administration, P.O. Box 1272, Room 2380, Little Rock, Arkansas 72203. Additionally, comments may be submitted at public.comment@dfa.arkansas.gov.

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