

1 SB204
2 148550-2
3 By Senators Orr, Allen, Whatley, Beasley, Ward, Dial and
4 Holtzclaw
5 RFD: Finance and Taxation General Fund
6 First Read: 14-FEB-13

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8 SYNOPSIS: Current law provides for an expense
9 allowance to Alabama taxpayers under Section 179 of
10 the Internal Revenue Code for irrigation and
11 provides for an income tax credit of 20% of the
12 cost of the purchase and installation of certain
13 conversion costs related to irrigation systems or
14 the development of irrigation reservoirs and water
15 wells.

16 This bill would change the annual flow rate
17 of rivers or streams, excepted from the qualified
18 reservoir requirement, from 10,000 cubic feet per
19 second to 8,000 cubic fee per second.

20 This bill would allow the tax credit to be
21 carried to each of the 5 years following the
22 taxable year the qualified irrigation system or
23 reservoir is placed in service.

24 This bill would allow shareholders of
25 certain business entities to receive a pro rata
26 share of the credit claimed by the business entity.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Section 40-18-342 of the Code of Alabama
6 1975, relating to tax credit for the purchase and installation
7 of certain irrigation systems; to provide for changes to the
8 annual flow rate of rivers or streams excepted from the
9 qualified reservoir requirement; to allow the tax credit to be
10 carried forward 5 years; and to allow shareholders a pro rata
11 share of the credit claimed by certain business entities.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 40-18-342 of the Code of Alabama
14 1975, is amended to read as follows:

15 "§40-18-342.

16 For all tax years beginning after December 31, 2011,
17 there shall be allowed to any agricultural trade or business
18 an income tax credit of equal to 20% of the cost of the
19 purchase and installation of any qualified irrigation
20 equipment and any conversion costs related to the conversion
21 of irrigation equipment from fuel to electricity or qualified
22 reservoirs. For a surface water withdrawal irrigation system
23 to be eligible for credit, the irrigation system must operate
24 utilizing a qualified reservoir, except when the surface water
25 withdrawal is directly from any river or stream whose average
26 annual flow exceeds ~~10,000 (ten thousand)~~ 8,000 (eight
27 thousand) cubic feet per second. A qualified reservoir is not

1 required for a ground water withdrawal irrigation system. The
2 credit shall be equal to 20% of the accrued cost of the
3 qualified irrigation equipment and the cost of constructing
4 the qualified reservoir, but shall not exceed \$10,000 in any
5 tax year and shall not exceed the taxpayer's Alabama income
6 tax liability computed without regard to the credit. The
7 credit shall be taken in the year in which the qualified
8 irrigation equipment or the qualified reservoir is placed in
9 service.

10 The credit provided in this article shall be limited
11 to only one purchase and installation of qualified irrigation
12 equipment or one qualified reservoir per taxpayer.

13 The credit may be carried to each of the 5 years
14 following the taxable year the qualified irrigation system or
15 reservoir is placed in service. The portion of the credit
16 which shall be carried to each of the other taxable years
17 shall be the excess, if any, of the amount of credit over the
18 sum of the income tax due for each of the prior taxable years
19 to which the credit may be carried.

20 The Legislature recognizes that a substantial number
21 of businesses are organized as limited liability companies,
22 partnerships, and other types of business entities and that
23 certain business entities, organized as corporations elect to
24 be treated as "S" corporations under federal and state tax
25 laws, and that it is essential that the irrigation credit
26 amount shall be available on a pass-through basis. The
27 shareholders, partners, members, owners or beneficiaries of

1 any of the fore mentioned businesses claiming the credit
2 allowed in Section 3 shall be allowed their pro rata share of
3 the credit against their income tax levied.

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.