

As Engrossed: 3/6/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Mahony**

A Bill

ACT 565 OF 1995
SENATE BILL 302

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE TO
9 REQUIRE THAT ALL NEW OR AMENDED LOCAL SALES AND USE TAXES
10 BEGIN AND END ON A CALENDAR QUARTER; AND FOR OTHER
11 PURPOSES."

Subtitle

12
13 "AN ACT TO PROVIDE THAT ALL NEW OR
14 AMENDED LOCAL SALES AND USE TAXES BEGIN
15 AND END ON A CALENDAR QUARTER."
16

17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19
20 SECTION 1. Arkansas Code § 26-74-208(b) is amended to read as follows:

21 "(b) The ballot title may also include an expiration date for the levy
22 of the tax, and, if adopted in this form, the tax shall cease to be levied on
23 the date noted on the ballot. The expiration date shall be the last day of a
24 calendar quarter unless the tax proceeds are pledged for the payment of bonds,
25 in which case the tax shall terminate as otherwise provided by law."
26

27 SECTION 2. Arkansas Code § 26-74-209(d) is amended to read as follows:

28 "(d) If no election challenge is timely filed, the countywide tax shall
29 be levied, effective on the first day of the first month of the calendar
30 quarter subsequent to the expiration of the thirty-day challenge period, on
31 the gross receipts from the sale at retail within the county of all items
32 which are subject to the Arkansas Gross Receipts Act, §26-52-101 et seq. and,
33 in every county where the local sales and use tax has been adopted pursuant to
34 the provisions of this subchapter, there is imposed an excise tax on the
35 storage, use, distribution or consumption within the county of tangible
36 personal property purchased, leased, or rented from any retailer outside the

1 state after the effective date of the sales and use tax for storage, use,
2 distribution or other consumption in the county, at the same rate on the sale
3 price of the property or, in the case of leases or rentals, on the lease or
4 rental price, the rate of the use tax to correspond to the rate of the sales
5 tax portion of the tax. The use tax portion of the local sales and use tax
6 shall be collected according to the terms of the Arkansas Compensating Tax
7 Act, §26-53-101 et seq."

8

9 SECTION 3. Arkansas Code § 26-74-308(b) is amended to read as follows:

10 "(b) The ballot title may also include an expiration date, and, if
11 adopted in this form, the tax shall cease to be levied on the date noted on
12 the ballot. The expiration date shall be the last day of a calendar quarter
13 unless the proceeds are pledged for the payment of bonds, in which case the
14 tax shall terminate as otherwise provided by law."

15

16 SECTION 4. Arkansas Code § 26-74-309(d) is amended to read as follows:

17 "(d) If no election challenge is timely filed, the countywide tax shall
18 be levied, effective on the first day of the first month of the calendar
19 quarter subsequent to the expiration of the thirty-day challenge period, on
20 the gross receipts from the sale at retail within the county of all items
21 which are subject to the Arkansas Gross Receipts Act, §26-52-101 et seq."

22

23 SECTION 5. Arkansas Code § 26-74-404(d) is amended to read as follows:

24 "(d) If no election challenge is timely filed, there shall be levied,
25 effective on the first day of the first month of the calendar quarter
26 subsequent to the expiration of the thirty-day challenge period, a one-half
27 percent (0.5%) tax on the gross receipts from the sale at retail within the
28 county of all items which are subject to the Arkansas Gross Receipts Act, §26-
29 52-101 et seq., and, in every county where the local sales and use tax has
30 been adopted pursuant to the provisions of this subchapter, there is imposed
31 an excise tax on the storage, use, distribution or consumption within the
32 county of tangible personal property purchased, leased, or rented from any
33 retailer outside the state after the effective date of the sales and use tax
34 for storage, use, distribution or other consumption in the county, at a rate
35 of one-half percent (0.5%) of the sale price of the property or, in the case

1 of leases or rentals, of the lease or rental price, the rate of the use tax to
2 correspond to the rate of the sales tax portion of the tax. The use tax
3 portion of the local sales and use tax shall be collected according to the
4 terms of the Arkansas Compensating Tax Act of 1949, §26-53-101 et seq."

5

6 SECTION 6. Arkansas Code § 26-75-207(b) is amended to read as follows:

7 "(b) The governing body of the city by such levying ordinance may, but
8 is not required to, provide for an expiration date for such local sales and
9 use tax. If an expiration date is provided, that date shall be the last day
10 of the last month of a calendar quarter."

11

12 SECTION 7. Arkansas Code § 26-75-209 is amended to read as follows:

13 "26-75-209. Effective date of ordinance.

14 In order to provide time for the preparations for election set forth in
15 this subchapter and to provide for the accomplishment of the administrative
16 duties of the director, the following effective dates are applicable with
17 reference to any such ordinance levying such tax:

18 (1) The ordinance levying the tax shall not be effective until after the
19 election has been held. Following the election, the mayor of the city shall
20 issue his proclamation of the results of the election with reference to the
21 local sales and use tax, and the proclamation shall be published one (1) time
22 in a newspaper having general circulation in the city. Any person desiring
23 to challenge the results of the election as published in the proclamation
24 shall file such challenge in the chancery court of the county in which the
25 city is located within thirty (30) days of the date of publication of the
26 proclamation. If no election challenge is filed within this period, the
27 ordinance shall become effective on the first day of the first month of the
28 calendar quarter subsequent to the expiration of the full thirty-day period of
29 challenge.

30 (2) In the event of an election contest, the tax shall be collected as
31 prescribed in subdivision (1) of this section unless enjoined by court order.
32 Hearings of such matters of litigation shall be advanced on the docket of the
33 courts and disposed of at the earliest feasible time."

34

35 SECTION 8. Arkansas Code § 26-75-211(b) is amended to read as follows:

1 "(b) If any such city in which a local sales and use tax has been
2 imposed in the manner provided for in this subchapter shall thereafter change
3 or alter its boundaries, the city clerk of the city shall forward to the
4 director a certified copy of the ordinance adding or detaching territory from
5 the city, which shall be accompanied by a map clearly showing the territory
6 added thereto or detached therefrom. After receipt of the ordinance and map,
7 the tax imposed under this subchapter shall be effective in the added
8 territory or abolished in the detached territory on the first day of the first
9 month of the calendar quarter following the expiration of thirty (30) days
10 from the date that the annexation or detachment becomes effective."
11

12 SECTION 9. Arkansas Code § 26-75-309 is amended to read as follows:

13 "26-75-309. Effective date of ordinance.

14 In order to provide time for the preparations for election set forth in
15 this subchapter and to provide for the accomplishment of the administrative
16 duties of the director, the following effective dates are applicable with
17 reference to any such ordinance levying such tax:

18 (1) The ordinance levying the tax shall not be effective until after the
19 election has been held. Following the election, the mayor of the city shall
20 issue his proclamation of the results of the election with reference to the
21 local sales and use tax, and the proclamation shall be published one (1) time
22 in a newspaper having general circulation in the city. Any person desiring to
23 challenge the results of the election as published in the proclamation shall
24 file such challenge in the chancery court of the county in which the city is
25 located within thirty (30) days of the date of publication of the
26 proclamation. If no election challenge is filed within this period, the
27 ordinance shall become effective on the first day of the first month of the
28 calendar quarter subsequent to the expiration of the full thirty-day period of
29 challenge.

30 (2) In the event of an election contest, the tax shall be collected as
31 prescribed in subdivision (1) of this section unless enjoined by court order.
32 Hearings of such matters of litigation shall be advanced on the docket of the
33 courts and disposed of at the earliest practicable time."
34

35 SECTION 10. Arkansas Code § 26-75-311(b) is amended to read as follows:

1 "(b) If any such city in which a local sales and use tax has been
2 imposed in the manner provided for in this subchapter shall thereafter change
3 or alter its boundaries, the city clerk of the city shall forward to the
4 director a certified copy of the ordinance adding or detaching territory from
5 the city, which shall be accompanied by a map clearly showing the territory
6 added thereto or detached therefrom. After receipt of the ordinance and the
7 map, the tax imposed under this subchapter shall be effective in the added
8 territory or abolished in the detached territory on the first day of the first
9 month of the calendar quarter following the expiration of thirty (30) days
10 from the date that the annexation or detachment becomes effective."

11

12 SECTION 11. Arkansas Code § 26-75-404(d)(3)(B)(i) is amended to read as
13 follows:

14 "(i) If no election challenge is filed within this period, the ordinance
15 shall become effective on the first day of the first month of the calendar
16 quarter after the expiration of the thirty-day period for challenge of the
17 results of the election."

18

19 SECTION 12. Arkansas Code § 26-75-404(e)(2)(B)(ii) is amended to read
20 as follows:

21 "(ii) After receipt of the ordinance and map, the tax imposed under this
22 subchapter shall be effective in the added territory or abolished in the
23 detached territory on the first day of the first month of the calendar quarter
24 following the expiration of thirty (30) days from the date that the annexation
25 or detachment becomes effective."

26

27 SECTION 13. Ark. Code § 26-73-113(c)(5) is amended to read as follows:

28 "(5) If no election challenge is filed within thirty (30) days of the
29 date of the publication of the proclamation of the results of the election
30 under this subsection, the abolition of the tax and the levy of a new tax, if
31 any, shall become effective on the first day of the first month of the calendar
32 quarter subsequent to the expiration of the thirty-day period for challenge in
33 §14-164-329. In the event of an election contest, the tax shall be collected
34 as prescribed in this subsection unless enjoined by court order. Hearings of
35 such matters of litigation shall be advanced on the docket of the courts and

1 disposed of at the earliest practicable time."

2

3 SECTION 14. Arkansas Code § 26-73-102 is amended to read as follows:

4 "26-73-102. Definitions.

5 As used in this subchapter, unless the context otherwise requires:

6 (1) County means each of the counties of this state;

7 (2) Municipality and city mean any city of the first or second
8 class or incorporated town in this state;

9 (3) Director means the Director of the Department of Finance and
10 Administration in the exercise of those powers, functions, and duties formerly
11 vested in the Commissioner of Revenues of the State of Arkansas which were
12 merged into the Department of Finance and Administration under the provisions
13 of § 25-2-101 et seq., or any of his authorized agents;

14 (4) Local government means city or county;

15 (5) Calendar quarter means the three (3) month period beginning on
16 January 1, April 1, July 1 or October 1."

17

18 SECTION 15. Arkansas Code § 26-74-203 is amended to read as follows:

19 "§ 26-74-203. Definitions.

20 As used in this subchapter, unless the context otherwise requires:

21 (1) Director means the Director of the Department of Finance and
22 Administration of the State of Arkansas, or any successor thereof, or any
23 authorized agent thereof;

24 (2) Capital improvements of a public nature means streets, roads,
25 public parks, port facilities, tourism facilities, airport facilities,
26 sewerage facilities, waterworks facilities, fire protection facilities,
27 convention center facilities, courthouses, police facilities, public transit
28 facilities, auditoriums, prisons, libraries, hospital and nursing home
29 facilities, solid waste facilities, sanitation facilities, bridges, electric
30 facilities, hydroelectric facilities, facilities for the securing and
31 developing of industry, natural gas facilities, parking facilities, public
32 housing facilities, pollution control facilities, public education facilities,
33 drainage facilities, pedestrian facilities, lakes, dams, and waterways;

34 (3) Facilities means real property, personal property, or mixed
35 property of any and every kind, including, without limitation, rights-of-way,

1 utilities, materials, equipment, fixtures, machinery, furniture, furnishings,
2 buildings, and other improvements of every kind;

3 (4) Acquire means to obtain at any time hereafter by gift, purchase,
4 or other arrangement, any capital improvement of a public nature or any
5 portion thereof, whether theretofore constructed and equipped, theretofore
6 partially constructed and equipped, or being constructed and equipped at the
7 time of acquisition, for such consideration and pursuant to such terms and
8 conditions as the quorum court of the county shall determine;

9 (5) Construct means to build, in whole or in part, in such manner and
10 by such method, including contracting therefor, and if the latter, by
11 negotiation or bidding upon such terms and pursuant to such advertising as
12 determined by the quorum court of the county, under the circumstances existing
13 at the time, as will most effectively serve the purposes of this subchapter;

14 (6) Equip means to install or place in or on any building or
15 structure equipment of any and every kind, whether or not affixed, including,
16 without limitation, building service equipment, fixtures, heating equipment,
17 air conditioning equipment, machinery, furniture, furnishings, and personal
18 property of every kind;

19 (7) Lease shall mean a lease of capital improvements of a public
20 nature by and between a county as lessee and a person as lessor, except as
21 used in § 26-74-204;

22 (8) Calendar quarter means the three (3) month period beginning on
23 January 1, April 1, July 1 or October 1."

24

25 SECTION 16. Arkansas Code § 26-74-303 is amended to read as follows:

26 "26-74-303. Definitions.

27 As used in this subchapter, unless the context otherwise requires:

28 (1) Director means the Director of the Department of Finance and
29 Administration of the State of Arkansas, or any successor thereof, or any
30 authorized agent thereof;

31 (2) Capital improvements of a public nature means streets, roads,
32 public parks, port facilities, tourism facilities, airport facilities,
33 sewerage facilities, waterworks facilities, fire protection facilities,
34 convention center facilities, courthouses, police facilities, public transit
35 facilities, auditoriums, prisons, libraries, hospital and nursing home

1 facilities, solid waste facilities, sanitation facilities, bridges, electric
2 facilities, hydroelectric facilities, facilities for the securing and
3 developing of industry, natural gas facilities, parking facilities, public
4 housing facilities, pollution control facilities, public education facilities,
5 drainage facilities, pedestrian facilities, lakes, dams, and waterways;

6 (3) Facilities means real, personal, or mixed property of any and
7 every kind, including, without limitation, rights-of-way, utilities,
8 materials, equipment, fixtures, machinery, furniture, furnishings, buildings,
9 and other improvements of every kind;

10 (4) Acquire means to obtain at any time, by gift, purchase, or other
11 arrangement, any capital improvement of a public nature, or any portion
12 thereof, whether theretofore constructed and equipped, theretofore partially
13 constructed and equipped, or being constructed and equipped at the time of
14 acquisition, for such consideration and pursuant to such terms and conditions
15 as the quorum court of the county shall determine;

16 (5) Construct means to build, in whole or in part, in such manner and
17 by such method, including contracting therefor and, if the latter, by
18 negotiation or bidding upon such terms and pursuant to such advertising as
19 determined by the quorum court of the county, under the circumstances existing
20 at the time as will most effectively serve the purposes of this subchapter;

21 (6) Equip means to install or place in or on any building or
22 structure equipment of any and every kind, whether or not affixed including,
23 without limitation, building service equipment, fixtures, heating equipment,
24 air conditioning equipment, machinery, furniture, furnishings, and personal
25 property of every kind;

26 (7) Sales tax means the sales tax levied by a county pursuant to this
27 subchapter or sales and use tax levied by a county pursuant to §§ 26-74-219
28 and 26-74-316;

29 (8) Lease shall mean any lease of capital improvements of a public
30 nature by and between the county as lessee and a person as lessor;

31 (9) Calendar quarter means the three (3) month period beginning on
32 January 1, April 1, July 1 or October 1."

33

34 SECTION 17. Arkansas Code § 26-74-401 is amended to read as follows:

35 "26-74-401. Definitions.

1 As used in this subchapter:

2 (1) Director means the Director of the Department of Finance and
3 Administration of the State of Arkansas, or any successor thereof, or any
4 authorized agent thereof;

5 (2) Calendar quarter means the three (3) month period beginning on
6 January 1, April 1, July 1 or October 1."

7

8 SECTION 18. Arkansas Code § 26-75-203 is amended to read as follows:

9 "26-75-203. Definitions.

10 As used in this subchapter, unless the context otherwise requires:

11 (1) City means any city of the first class, city of the second class,
12 or incorporated town of the State of Arkansas;

13 (2) Director means the Director of the Department of Finance and
14 Administration of the State of Arkansas, or any successor thereof, or any
15 authorized agent thereof;

16 (3) Capital improvements of a public nature means streets, roads,
17 public parks, port facilities, tourism facilities, airport facilities,
18 sewerage facilities, waterworks facilities, fire protection facilities,
19 convention center facilities, city halls, courthouses, police facilities,
20 public transit facilities, auditoriums, prisons, libraries, hospital and
21 nursing home facilities, solid waste facilities, sanitation facilities,
22 bridges, electric facilities, hydroelectric facilities, facilities for the
23 securing and developing of industry, natural gas facilities, parking
24 facilities, public housing facilities, pollution control facilities, public
25 education facilities, drainage facilities, pedestrian facilities, lakes, dams,
26 and waterways;

27 (4) Facilities means real property, personal property, or mixed
28 property of any and every kind including, without limitation, rights-of-way,
29 utilities, materials, equipment, fixtures, machinery, furniture, furnishings,
30 buildings, and other improvements of every kind;

31 (5) Acquire means to obtain at any time by gift, purchase, or other
32 arrangement any capital improvement of a public nature, or any portion
33 thereof, whether theretofore constructed and equipped, theretofore partially
34 constructed and equipped, or being constructed and equipped at the time of
35 acquisition for such consideration and pursuant to such terms and conditions

1 as the governing body of the municipality shall determine;

2 (6) Construct means to build, in whole or in part, in such manner and
3 by such method, including contracting therefore, and if the latter, by
4 negotiation or bidding upon such terms and pursuant to such advertising as
5 determined by the governing body of the municipality, under the circumstances
6 existing at the time, as will most effectively serve the purposes of this
7 subchapter;

8 (7) Equip means to install or place in or on any building or
9 structure equipment of any and every kind, whether or not affixed, including,
10 without limitations, building service equipment, fixtures, heating equipment,
11 air conditioning equipment, machinery, furniture, furnishings, and personal
12 property of every kind;

13 (8) Lease means a lease of capital improvements of a public nature by
14 and between a city as lessee and another person as lessor, except as used in
15 § 26-75-214;

16 (9) Calendar quarter means the three (3) month period beginning on
17 January 1, April 1, July 1 or October 1."

18

19 SECTION 19. Arkansas Code § 26-75-303 is amended to read as follows:

20 "26-75-303. Definitions.

21 As used in this subchapter, unless the context otherwise requires:

22 (1) City means any city of the first class, city of the second class,
23 or incorporated town of the State of Arkansas. Any city in this state having a
24 population of three thousand (3,000) or fewer inhabitants according to the
25 most recent federal decennial census, located in a county that borders on the
26 state line of another state, having therein a designated historic district
27 that is included in the National Registry of Historic Places, and which is
28 certified by the State Parks, Recreation, and Travel Commission as having
29 tourism as the major industry in the city shall be deemed to be a city within
30 the meaning of the term city as the same is provided in this subchapter, and
31 any such city is authorized to levy a local sales, gross receipts, and use tax
32 for the benefit of the city, in accordance with the provisions of, and in the
33 same manner and procedures as provided in this subchapter;

34 (2) Director means the Director of the Department of Finance and
35 Administration of the State of Arkansas, or any successor thereof, or any

1 authorized agent thereof;

2 (3) Capital improvements of a public nature means streets, roads,
3 public parks, port facilities, tourism facilities, airport facilities,
4 sewerage facilities, waterworks facilities, fire protection facilities,
5 convention center facilities, city halls, courthouses, police facilities,
6 public transit facilities, auditoriums, prisons, libraries, hospital and
7 nursing home facilities, solid waste facilities, sanitation facilities,
8 bridges, electric facilities, hydroelectric facilities, facilities for the
9 securing and developing of industry, natural gas facilities, parking
10 facilities, public housing facilities, pollution control facilities, public
11 education facilities, drainage facilities, pedestrian facilities, lakes, dams,
12 and waterways;

13 (4) Facilities means real, personal, or mixed property of any and
14 every kind, including, without limitation, rights of way, utilities,
15 materials, equipment, fixtures, machinery, furniture, furnishings, buildings,
16 and other improvements of every kind;

17 (5) Acquire means to obtain at any time by gift, purchase, or other
18 arrangement any capital improvement of a public nature, or any portion
19 thereof, whether theretofore constructed and equipped, theretofore partially
20 constructed and equipped, or being constructed and equipped at the time of
21 acquisition, for such consideration and pursuant to such terms and conditions
22 as the governing body shall determine;

23 (6) Construct means to build, in whole or in part, in such manner and
24 by such method, including contracting therefor and, if contracting, by
25 negotiation or bidding upon such terms and pursuant to such advertising as the
26 governing body determines, under the circumstances existing at the time, will
27 most effectively serve the purposes of this subchapter;

28 (7) Equip means to install or place in or on any building or
29 structure equipment of any and every kind, whether or not affixed, including,
30 without limitation, building service equipment, fixtures, heating equipment,
31 air conditioning equipment, machinery, furniture, furnishings, and personal
32 property of every kind;

33 (8) Lease means a lease of a capital improvement or capital
34 improvements of a public nature by and between a city as lessee and another
35 person as lessor, except as used in §§ 26-75-304 and 26-75-313;

1 (9) *_Calendar quarter_ means the three (3) month period beginning on*
2 *January 1, April 1, July 1 or October 1."*

3

4 SECTION 20. Title 26, Chapter 75, Subchapter 4 of the Arkansas Code is
5 amended by adding a new section to read as follows:

6 "26-75-411. Definition.

7 As used in this subchapter, *_calendar quarter_ means the three (3) month*
8 *period beginning on January 1, April 1, July 1 or October 1."*

9

10 SECTION 21. *Arkansas Code 14-164-333(a) is amended to read as follows:*

11 "*(a) (1) A sales and use tax levied pursuant to the authority granted by*
12 *this subchapter shall be administered and collected subject to the provisions*
13 *of § 26-74-212 or § 26-75-216, whichever shall be applicable.*

14 *(2) (A) The director shall perform all functions incidental to the*
15 *administration, collection, enforcement, and operation of the tax, as provided*
16 *in §§ 26-74-201 - 26-74-219, 26-74-221, 26-74-315 - 26-74-317, 26-75-201 - 26-*
17 *75-221, 26-75-223, 26-75-317, and 26-75-318. Provided, however, to the extent*
18 *the provisions of Arkansas Code 14-164-329 conflict with any provisions of*
19 *chapter 74 or 75 of title 26 of the Arkansas Code or any other law, Arkansas*
20 *Code 14-164-329 shall be deemed to supersede the conflicting statutes.*

21 *(B) The tax levied in this subchapter on new and used motor vehicles*
22 *shall be collected by the director directly from the purchaser in the manner*
23 *prescribed in § 26-52-510."*

24

25 SECTION 22. All provisions of this act of a general and permanent
26 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
27 Code Revision Commission shall incorporate the same in the Code.

28

29 SECTION 23. If any provision of this act or the application thereof to
30 any person or circumstance is held invalid, such invalidity shall not affect
31 other provisions or applications of the act which can be given effect without
32 the invalid provision or application, and to this end the provisions of this
33 act are declared to be severable.

34

35 SECTION 24. All laws and parts of laws in conflict with this act are

1 hereby repealed.

2

3 SECTION 25. EMERGENCY. It is hereby found and determined by the General
4 Assembly of the State of Arkansas that there are in excess of 300 different
5 local sales and use taxes in effect; that many of these taxes are for
6 specified duration; that notification of affected taxpayers of the beginning
7 and ending of these taxes is time consuming and costly; that requiring local
8 sales and use taxes to begin and end on a calendar quarter basis will ease the
9 administrative burden of taxpayers and the cost to the State of Arkansas; and
10 that an effective date of July 1, 1995 is necessary to achieve the purpose of
11 this legislation. Therefore, an emergency is hereby declared to exist and
12 this act being necessary for the preservation of the public peace, health and
13 safety shall be in full force and effect on and after July 1, 1995.

14

15

/s/Mahony

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17

APPROVED: 3-9-95

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