

As Engrossed: 1/29/91, 1/30/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Travis Miles**

A BILL ACT 765 OF 1991
SENATE BILL II

For An Act To Be Entitled

8 "AN ACT TO AMEND THE ARKANSAS CODE SECTIONS PROVIDING FOR
9 CITYWIDE AND COUNTYWIDE SALES AND USE TAXES TO ALLOW
10 CITIES AND COUNTIES TO LEVY A SALES AND USE TAX OF ONE-
11 FOURTH PERCENT, ONE-HALF PERCENT, THREE-FOURTHS PERCENT,
12 OR ONE PERCENT; AND FOR OTHER PURPOSES."

13
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. Arkansas Code 14-164-327(a) is amended to read as
17 follows:

18 "(a) In lieu of or in addition to the levying of an ad valorem
19 tax to retire bonds for capital improvement purposes, the legislative body of
20 a municipality or county may adopt an ordinance levying a local sales and use
21 tax in the amount of one-fourth of one percent, one-half of one percent,
22 three-fourths of one percent, or one percent (1%) to retire the bonds in
23 accordance with the terms of this section and §§14-164-328 - 14-164-335."

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25 SECTION 2. Arkansas Code 14-164-328(a)(2) is amended to read as
26 follows:

27 "(2) In addition to the requirements of 14-164-309, and in lieu
28 of a reference to an ad valorem tax, if none is to be levied, there shall be
29 set forth on the ballot a statement that a local sales and use tax of
30percent (....%) shall be levied and pledged to the retirement of the bonds
31 approved by the voters."

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33 SECTION 3. Arkansas Code 14-164-337(a) is amended to read as
34 follows:

35 "(a) In any municipality or county which has in effect the levy
36 of a local sales and use tax, the legislative body may by ordinance pledge all

1 or a specified portion of the existing tax to retire its bonds as provided in
2 this subchapter."

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4 SECTION 4. Arkansas Code 14-164-338 is amended to read as follows:

5 "14-164-338. Alternative to issuance of bonds. If a
6 legislative body determines that a sales or use tax of one percent (1%) or
7 less or any other local tax authorized by law would, if levied for no longer
8 that twenty-four (24) months, produce sufficient revenue to finance capital
9 improvements of a public nature without resorting to a bond issue, the
10 legislative body may dispense with the issuance of bonds, levy the tax for no
11 longer than twenty-four (24) months, and appropriate the resulting revenues,
12 subject to the Arkansas Constitution, Article 12, Section 4, paragraphs 2
13 through 4, provided:

14 (1) A majority of the qualified electors of the county or municipality
15 voting on the question at a general or special election shall have approved
16 the tax and the purpose of the capital improvements; and

17 (2) The revenues from the tax are expended solely for the purpose
18 authorized by the electorate."

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20 SECTION 5. Arkansas Code 19-6-301(124) is amended to read as
21 follows:

22 "(124) Three percent (3%) of local sales and use taxes, which
23 are further identified as the three percent (3%) collection cost of the local
24 sales and use taxes imposed by cities, as enacted by Act 25 of the First
25 Extraordinary Session of 1981, § 26-75-201 et seq., and all laws amendatory
26 thereto; and imposed by counties, as enacted by Act 26 of the First
27 Extraordinary Session of 1981, § 26-74-201 et seq., and all laws amendatory
28 thereto;"

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30 SECTION 6. Arkansas Code 26-74-207(a) is amended to read as follows:

31 "(a) The county quorum courts may call an election for the levy
32 of a countywide sales and use tax *in the amount of one-fourth of one percent,*
33 *one-half of one percent, three-fourths of one percent, or one percent (1%).*
34 The election shall be held within one hundred twenty (120) days of the
35 ordinance calling the election."

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SECTION 7. Arkansas Code 26-74-208(a) is amended to read as follows:

"(a) The ballot title to be used shall be substantially in the following form:

"FOR adoption of a percent (...%) sales and use tax within(Name of county)."

"AGAINST adoption of a percent (...%) sales and use tax within(Name of county)."

SECTION 8. Arkansas Code 26-74-209(d) is amended to read as follows:

"(d) If no election challenge is timely filed, the countywide tax shall be levied, effective on the first day of the first calendar month subsequent to the expiration of the thirty-day challenge period, on the gross receipts from the sale at retail within the county of all items which are subject to the Arkansas Gross Receipts Act, § 26-52-101 et seq., and, in every county where the local sales and use tax has been adopted pursuant to the provisions of this subchapter, there is imposed an excise tax on the storage, use, or consumption within the county of tangible personal property purchased, leased, or rented from any retailer outside the state after the effective date of the sales and use tax for storage, use, or other consumption in the county, at the same rate on the sale price of the property or, in the case of leases or rentals, on the lease or rental price, the rate of the use tax to correspond to the rate of the sales tax portion of the tax. The use tax portion of the local sales and use tax shall be collected according to the terms of the Arkansas Compensating Tax Act, § 26-53-101 et seq."

SECTION 9. Arkansas Code 26-74-212(b) is amended to read as follows:

"(b) A county sales tax levied pursuant to the provisions of this subchapter or the provisions of § 26-74-301 et seq. shall not be applicable to sale of items and services sold to a nonresident of the levying county if the sale is made for delivery to an address which is in a city or county that does not impose a city or county sales tax, if the sale is documented by a sales invoice indicating that the sale was made for delivery, and that delivery was actually made to the person at the place noted thereon

1 located outside the county in which the sales tax is levied."

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3 SECTION 10. Arkansas Code 26-74-307(a) is amended to read as
4 follows:

5 (a) The county quorum courts may call an election for the levy
6 a county-wide sales tax in an amount of one-fourth of one percent, one-half of
7 one percent, three-fourths of one percent, or one percent. The election shall
8 be held within one hundred twenty (120) days of the ordinance calling for the
9 election."

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11 SECTION 11. Arkansas Code 26-74-308(a) is amended to read as
12 follows:

13 (a) The ballot title to be used shall be substantially in the
14 following form:

15 [] "FOR adoption of a percent (...%) sales and use tax
16 within.....(Name of county)."

17 [] "AGAINST adoption of a percent (...%) sales and use tax
18 within(Name of county)."

19

20 SECTION 12. Arkansas Code 26-74-309(d) is amended to read as
21 follows:

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

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28 SECTION 13. Arkansas Code 26-74-313(d) is amended to read as
29 follows:

30 (d) (1) The State Treasurer shall transmit to the treasurer or
31 financial officer of each city and county their per capita share, after
32 deducting the amount required for claims, overpayments, and bad checks, as
33 certified by the director.

34 (2) (A) Except as is otherwise provided in subdivision (8) of
35 this subsection, the last official federal decennial census or later special

1 census which included the county as a whole shall be used in computing the per
2 capita share that each city and county shall receive from the proceeds of the
3 tax. Every county that is petitioned by, and city or town located in that
4 county for, a countywide special census to be conducted shall request a
5 countywide special census on the condition that the city or town requesting
6 the census post adequate bond with the county clerk to cover the cost of the
7 census. Further, the cost of conducting the census shall be borne by the
8 several taxing units within the county in the same proportion that they will
9 receive an increase in the distribution of a countywide sales tax as a result
10 of the special census.

11 (B) However, in the case of those counties in which an official
12 census has been conducted in a municipality therein since the last federal
13 decennial census and before April 7, 1987, the proceeds from the countywide
14 sales tax shall continue to be distributed in the manner and under the same
15 formula as was used for the distribution of funds prior to April 7, 1987,
16 until such time as a countywide census is conducted in that county.

17 (3) Transmittals shall be made at least quarterly in each
18 fiscal year. Funds so transmitted may be used by the cities and counties for
19 any purpose for which the city's general funds or county's general funds may
20 be used. Before transmitting these funds, the State Treasurer shall deduct
21 three percent (3%) of the sum collected as a charge by the state for its
22 services specified in this subchapter, and the amount so deducted shall be
23 deposited by the State Treasurer to the credit of the Constitutional Officers
24 Fund and the State Central Services Fund or to any successor State Treasury
25 fund or funds established by law to replace the Constitutional Officers Fund
26 and the State Central Services Fund.

27 (4) The director is authorized to retain in the suspense
28 account a balance not to exceed five percent (5%) of the amount remitted to
29 the local governments. The director is authorized to make refunds from the
30 suspense account of any overpayments made and to redeem dishonored checks and
31 drafts deposited to the credit of the suspense account.

32 (5) When any tax adopted pursuant to this subchapter is
33 thereafter abolished, the director shall retain in the suspense account for a
34 period of one (1) year five percent (5%) of the final remittance to the local
35 governments at the time of termination of collection of the tax to:

1 (A) Cover possible refunds for overpayment of the tax; and
2 (B) Redeem dishonored checks and drafts deposited to the credit
3 of the suspense account.

4 (6) After one (1) year has elapsed after the effective date of
5 the abolishment of the tax, the director shall remit the balance of the
6 account to the governing bodies of the cities and counties and close the
7 account.

8 (7) The restriction of the use of the last federal decennial
9 census referred to in this subsection shall not apply in the case of
10 annexation, nor shall it affect the taking of a special census for any purpose
11 other than the distribution of a countywide sales tax.

12 (8) It is the intention of this subsection that the proceeds
13 from the countywide gross receipts tax shall be allocated and distributed to
14 each county and the municipalities therein on the basis of the last federal
15 decennial census or the last countywide special census, whichever is the most
16 recent. However, in those counties in which one (1) or more municipalities had
17 a special census before April 7, 1987, and the proceeds of the tax were
18 distributed on the basis of the special census, the proceeds of the tax shall
19 continue to be allocated and distributed in the same manner as those funds
20 were distributed before April 7, 1987, until a special countywide census or a
21 federal decennial census is conducted in the county."
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23 SECTION 14. Arkansas Code 26-75-207 is amended to read as follows:

24 "26-75-207. Levying of tax. The governing body of any city may
25 adopt an ordinance levying a local sales and use tax *in the amount of one-*
26 *fourth of one percent, one-half of one percent, three-fourths of one percent,*
27 *or one percent (1%) for the benefit of such city in accordance with the*
28 *provisions of this subchapter. The tax shall be levied on the receipts from*
29 *the sale at retail within the city of all items which are subject to taxation*
30 *under the Arkansas Gross Receipts Act, § 26-52-101 et seq.*
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33 SECTION 15. Arkansas Code 26-75-208(b) is amended to read as
34 follows:

35 "(b) The ballot title to be used shall be substantially in the

1 following form:

2 "FOR adoption of a percent (...%) sales and use tax
3 within(Name of county)."

4 "AGAINST adoption of a percent (...%) sales and use tax
5 within(Name of county)."

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7 SECTION 16. Arkansas Code 26-75-216(b) is amended to read as
8 follows:

9 "(b) A city sales tax levied pursuant to the provisions of this
10 subchapter or the provisions of § 26-75-301 et seq. shall not be applicable to
11 sale of items and services sold to a nonresident of the levying city if the
12 sale is made for delivery to an address which is in a city or county that does
13 not impose a city or county sales tax, if such sale is documented by a sales
14 invoice indicating that the sale was made for delivery and that delivery was
15 actually made to the person at the place noted thereon located outside the
16 city in which the sales tax is levied."

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18 SECTION 17. Arkansas Code 26-75-307 is amended to read as follows:

19 "26-75-307. Levying of tax. The governing body of any city
20 may adopt an ordinance levying a local sales or gross receipts and use tax *in*
21 *the amount of one-fourth of one percent, one-half of one percent, three-*
22 *fourths of one percent, or one percent (1%)* for the benefit of the city in
23 accordance with the provisions of this subchapter."

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26 SECTION 18. Arkansas Code 26-75-308(b) is amended to read as
27 follows:

28 "(b) The ballot title to be used at the election shall be
29 substantially in the following form:

30 "FOR adoption of a percent (...%) local sales and use
31 tax within the city."

32 "AGAINST adoption of a percent (...%) local sales and
33 use tax within the city."

34 The election shall be conducted in the manner provided by law for all other
35 municipal elections unless otherwise specified in this subchapter."

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SECTION 19. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 20. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 21. All laws and parts of laws in conflict with this act are repealed.

SECTION 22. EMERGENCY. It is hereby found and determined by the General Assembly that cities and counties are faced with financial crises with reference to having sufficient tax resources to fund capital improvements of a public nature and to provide services to their inhabitants; that under current law the counties are restricted to a one percent (1%) levy and the cities are restricted to a one-half of one percent (0.05%) or one percent (1%) levy; that the ability to levy a sales and use tax computed on *one-fourth of one percent, one-half of one percent, three-fourths of one percent, or one percent (1%)* would be a feasible alternative for some cities and counties in financial crisis; and that such financial crises constitute such an emergency that the immediate passage of this act is necessary in order to provide financial relief to the cities and counties. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall take effect and be in full force from and after its passage and approval.

/s/Miles

APPROVED: 3\26\91

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