

1 State of Arkansas
2 78th General Assembly
3 Regular Session, 1991
4 By: Representative Dawson

A Bill ACT 885 OF 1991

HOUSE BILL 1641

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6
7 **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 26, CHAPTER 74 TO ADD
9 A NEW SUBCHAPTER ALLOWING COUNTIES NOT HAVING A ONE
10 PERCENT (1%) COUNTYWIDE SALES AND USE TAX TO LEVY A ONE-
11 HALF (1/2%) PERCENT COUNTYWIDE SALES AND USE TAX TO BE
12 USED FOR ANY PURPOSE FOR WHICH COUNTY GENERAL FUNDS OR
13 COUNTY ROAD FUNDS MAY BE USED; AND FOR OTHER PURPOSES."

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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16
17 SECTION 1. Arkansas Code Title 26, Chapter 74 is amended to add the
18 following new subchapter to read as follows:

19 "SUBCHAPTER 4.

20
21 26-74-401. Definitions.

22 As used in this subchapter 'Director' means the Director of the
23 Department of Finance and Administration of the State of Arkansas, or any
24 successor thereof, or any authorized agent thereof.

25
26 26-74-402. Call for tax election.

27 (a) The county quorum court of any county not having a countywide one
28 percent (1%) sales and use tax on *March 14, 1991* may call an election for the
29 levy of a one-half percent (1/2%) countywide sales and use tax for any purpose
30 for which the County General Fund or County Road Fund may be used *including*
31 *allocating portions of this tax to the municipalities located therein.* The
32 election shall be held within one hundred twenty (120) days of the ordinance
33 calling the election.

34 (b) The quorum courts shall notify their respective county board of
35 election commissioners that the measure has been referred to the vote of the
36 people and shall submit a copy of the ballot title to their respective boards.

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26-74-403. Form of ballot.

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

'FOR adoption of a one-half percent (1/2%) sales and use tax within(Name of county).'

'AGAINST adoption of a one-half percent (1/2%) sales and use tax within(Name of county).'

(b) The ballot title may also include an expiration date for the levy of the tax, and, if adopted in this form, the tax shall cease to be levied on the date noted on the ballot.

(c) Any tax adopted for a specified period of time shall cease to be levied on the date indicated on the ballot.

26-74-404. Conduct of election and results - Challenges.

(a) The election shall be conducted in the manner provided by law for all other county elections unless otherwise specified in this subchapter.

(b) Once the election results have been certified, the county court shall immediately issue a proclamation declaring the results of the election and cause the proclamation to be published one (1) time in a newspaper having general circulation within the county.

(c) Any person desiring to challenge the results of the election as published in the proclamation shall file such challenge in the chancery court of the county within thirty (30) days after the date of publication of the proclamation.

(d) If no election challenge is timely filed, there shall be levied, effective on the first day of the first calendar month subsequent to the expiration of the thirty-day challenge period, a one-half percent (1/2%) tax 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

1 after the effective date of the sales and use tax for storage, use, or other
2 consumption in the county, at a rate of one-half percent (1/2%) of the sale
3 price of the property or, in the case of leases or rentals, of 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 (e) In the event of an election challenge, the effective date of the
9 tax levy shall be the first day of the first calendar month subsequent to the
10 final judicial determination of the challenge. Hearings involving such
11 litigation shall be advanced on the docket of the courts and disposed of at
12 the earliest feasible time.

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14 26-74-405. Resubmission of question of levy.

15 (a)(1) When the question of the levy of a county sales and use tax is
16 submitted to the electors and the proposition is defeated, the question shall
17 not again be submitted to the electors by ordinance of the quorum court of the
18 county at a special or general election for a period of one (1) year from the
19 date the proposition was last voted upon.

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21 26-74-406. Notification of results.

22 Within ten (10) days after the certification of the votes of any
23 election resulting in the adoption of a tax levied pursuant to this
24 subchapter, the county court shall notify the director of such results.

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26 26-74-407. Applicability of tax.

27 (a) A county sales tax levied pursuant to the authority granted in this
28 subchapter or in § 26-74-301 et seq., shall be applicable to sales of items
29 and services sold by a business located in the levying county to a resident or
30 nonresident of the levying county.

31 (b) This sales tax shall not be applicable to sales of items or
32 services by a business located in a county which levies no county sales tax,
33 regardless of the place of residence of the purchaser.

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35 26-74-408. Rebates.

1 (a) A county shall provide in its ordinance authorized by this
2 subchapter a rebate from the county for taxes collected pursuant to this
3 subchapter in excess of twenty-five dollars (\$25.00) paid to the county on a
4 single transaction.

5 (b) Where a rebate would be due pursuant to the provisions of this
6 subchapter as a result of the purchase of a new or used motor vehicle and
7 where the tax thereon is collected directly from the purchaser pursuant to the
8 provisions of § 26-52-510, then the director shall collect only the amount of
9 tax due less the amount to which the purchaser would be entitled under the
10 rebate provisions of this subchapter. Where the rebate is credited against
11 tax paid as set out in this subsection, then no other rebate of the tax shall
12 be given.

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14 26-74-409. Disposition of funds.

15 (a)(1) The director shall maintain a record of the amount of tax
16 collected pursuant to this subchapter in each county and shall deposit all
17 such revenues with the State Treasurer.

18 (2) Upon receipt of the funds, the State Treasurer shall deduct
19 three percent (3%) thereof as a charge by the state for its services as
20 specified in this subchapter and shall credit the three percent (3%) to the
21 Constitutional and Fiscal Agencies Fund. In addition, the State Treasurer is
22 authorized to retain in the Local Sales and Use Tax Trust Fund an amount not
23 to exceed five percent (5%) of the total amount received from the tax levied
24 by each county, to be used by the State Treasurer to:

25 (A) Make remittances to the county for rebates made by the
26 county for taxes in excess of amounts specified by the particular county
27 ordinances paid by a taxpayer on a single transaction;

28 (B) Make refunds for overpayment of the taxes; and

29 (C) Redeem dishonored checks and drafts received and
30 deposited in the Local Sales and Use Tax Trust Fund.

31 *Furthermore, the State Treasurer shall determine which cities or towns*
32 *within the county do not levy a local sales tax and remit to those cities or*
33 *towns a percentage of the tax based upon the population of the city or town*
34 *versus the population of the county.*

35 (b)(1) All funds received by the State Treasurer from the sales tax

1 levied by each county, after deducting the amounts required by subsection (a)
2 of this section shall be credited to the account of the county in which
3 collected.

4 (2) The State Treasurer shall monthly transmit to the county
5 treasurer the moneys received by the State Treasurer from the sales tax levied
6 by such county and credited to the account of the county in the Local Sales
7 and Use Tax Trust Fund. The county treasurer of any county which has levied a
8 sales tax pursuant to this subchapter and which rebates taxes paid on a single
9 transaction in excess of a specified amount shall monthly certify to the State
10 Treasurer the total amount of rebates paid since the preceding certification,
11 and the State Treasurer shall remit that amount to the county treasurer from
12 the Local Sales and Use Tax Trust Fund.

13 (c) Funds received by the counties pursuant to the provisions of this
14 subchapter may be used by the counties for any purpose for which the County
15 General Fund or County Road Fund may be used *including allocating portions to*
16 *municipalities located therein.*

17 (d) The State Treasurer is authorized to make refunds for overpayment
18 of the county sales tax and to redeem dishonored checks and drafts issued in
19 payment of the county sales tax from the Local Sales and Use Tax Trust Fund.

20 (e) When any tax adopted by a county pursuant to this subchapter
21 ceases, the director shall retain in the account of that county in the Local
22 Sales and Use Tax Trust Fund for a period of one (1) year an amount equal to
23 five percent (5%) of the final remittance to the county and municipalities
24 therein at the time of termination of the collection of the tax to:

- 25 (1) Cover possible rebates by the county;
 - 26 (2) Cover refunds for overpayment of taxes;
 - 27 (3) Redeem dishonored checks and drafts deposited to the credit
- 28 of the Local Sales and Use Tax Trust Fund. After one (1) year has elapsed
29 after the tax ceases in any county, the director shall transfer the balance in
30 that county's account to the county and shall close the account.

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32 26-74-410. Rules and regulations.

33 The director may promulgate reasonable rules and regulations not
34 inconsistent with the provisions of this subchapter to implement the
35 administration, collection, enforcement, and operation of the taxes authorized

1 in this subchapter.

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3 26-74-411. Procedures and penalties for enforcement.

4 (a) The procedures and penalties used by the director in enforcing any
5 local tax imposed pursuant to this subchapter shall be the same as for the
6 state gross receipts tax and compensating tax, as set out in the Arkansas Tax
7 Procedure Act, § 26-18-101 et seq., except as specifically set out in this
8 subchapter.

9 (b) Where property is seized by the director under the provisions of
10 any law authorizing seizure of property of a taxpayer who is delinquent in
11 payment of the taxes imposed by the Arkansas Gross Receipts Act, § 26-52-101
12 et seq., or Arkansas Compensating Tax Act, § 26-53-101 et seq., and where the
13 taxpayer is also delinquent in payment of any tax imposed by this subchapter,
14 the director shall sell sufficient property to pay the delinquent taxes and
15 penalty due to any county under this subchapter in addition to that required
16 to pay any amount due the state under these statutes. The proceeds from such
17 sale shall first be applied to all sums due to the state, and the remainder,
18 if any, shall be applied to all sums due the county.

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20 26-74-412. Maximum tax limitation.

21 (a) Any county general sales or use tax levied pursuant to this
22 subchapter shall be levied and collected only to a maximum tax of twenty-five
23 dollars (\$25.00) on each single transaction, and vendors shall be responsible
24 for collecting and remitting the tax only to the maximum of twenty-five
25 dollars (\$25.00) for each single transaction. Vendors collecting, reporting,
26 and remitting the county sales or use taxes shall show county sales taxes as a
27 separate entry on the tax report form filed with the director.

28 (b) The term 'single transaction,' as used in this section and §§ 26-
29 75-207 - 26-75-212, shall be defined by ordinance of the county levying the
30 tax. In the case of any taxpayer not subject to the levy of a use tax on
31 tangible personal property brought into the State of Arkansas for storage
32 until such property is subsequently initially used in the State of Arkansas, a
33 county use tax shall be computed on each purchase of such property by the
34 taxpayer as if all such property was subject upon purchase to the county use
35 tax up to a maximum of twenty- five dollars (\$25.00) per single transaction.

1 The taxes so computed shall be aggregated on a monthly basis, and the
 2 aggregate monthly amount shall be divided by the sum of the total purchases of
 3 such property on which the taxes are computed, and the quotient shall be
 4 multiplied by the amount of the taxpayer's property subsequently initially
 5 used and subject to levy of a use tax within the county during the month for
 6 which the monthly aggregate tax figure was computed, and the product shall be
 7 the amount of county use tax liability for the taxpayer for the month
 8 computed.

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10 26-74-413. Administration of Local Sales and Use Tax Trust Fund.

11 (a)(1) There is created a trust fund for the remittance of local sales
 12 and use taxes which shall be known as The Local Sales and Use Tax Trust Fund.

13 (2)(A) There is also created a trust fund which shall be known as
 14 the Identification Pending Trust Fund for Local Sales and Use Taxes.

15 (B)(i) Money reported as local sales and use taxes which
 16 was collected in local taxing jurisdictions which are not immediately
 17 identifiable and money collected in local jurisdictions which have no tax
 18 shall be deposited in the Identification Pending Trust Fund for Local Sales
 19 and Use Taxes.

20 (ii) When a local tax jurisdiction is identified for
 21 money which has been deposited in the Identification Pending Trust Fund for
 22 Local Sales and Use Taxes, the money shall be transferred to the Local Sales
 23 and Use Tax Trust Fund.

24 (iii) When the total amount in the Identification
 25 Pending Trust Fund for Local Sales and Use Taxes exceeds fifty thousand
 26 dollars (\$50,000), the State Treasurer shall transfer any amount in excess of
 27 fifty thousand dollars (\$50,000) to general revenues.

28 (b)(1) The State Treasurer, as the administrator of the Local Sales and
 29 Use Tax Trust Fund, shall review the flow of moneys through the trust fund in
 30 the State Treasury for the purpose of estimating the amount of the moneys as
 31 may be surplus to the immediate requirements of the fund.

32 (2) After making the estimate, the administrator shall invest the
 33 estimated surplus amount in certificates of deposit issued by any financial
 34 institution located in the State of Arkansas. All interest income derived
 35 from the certificates of deposit shall be credited, as trust fund income, to

1 the Local Sales and Use Tax Trust Fund.

2 (3) The State Treasurer shall monthly transmit to the county
3 treasurers and city treasurers their proportionate share of the interest
4 derived from investment of the Local Sales and Use Tax Trust Fund.

5 *26-74-414. Notwithstanding any other laws granting counties authority
6 to levy sales and use taxes, no county levying a tax pursuant to this act
7 shall have authority to levy combined total sales and use taxes at a rate
8 greater than two percent (2%). If any county levying a one-half percent tax
9 under the authority of this act subsequently levies any additional sales and
10 use taxes under authority of any other law, the net revenues derived from any
11 such additional levy or levies shall be allocated and distributed to the
12 county and the municipalities in the county on a per capita basis in the
13 manner provided in Arkansas Code 26-74-313."*

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15 SECTION 2. All provisions of this act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 3. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 4. All laws or parts of laws in conflict with this act are
26 hereby repealed.

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28 /s/J. Dawson

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30 APPROVED: 3/29/91

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