

**Stricken language would be deleted from and underlined language would be added to the law as it existed
prior to this session of the General Assembly.
Act 116 of the Regular Session**

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1300

5 By: Representative Wyatt
6 By: Senator Critcher
7
8

For An Act To Be Entitled

AN ACT TO PROVIDE THAT ELECTIONS MAY BE CALLED
WITH RESPECT TO CERTAIN LOCAL SALES AND USE TAXES
UPON PETITION OF THE LEGAL VOTERS OF THE
MUNICIPALITY; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE THAT ELECTIONS MAY BE CALLED
WITH RESPECT TO CERTAIN LOCAL SALES AND
USE TAXES UPON PETITION OF THE LEGAL
VOTERS OF THE MUNICIPALITY.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 26-75-207 [Effective until July 1, 2007],
25 is amended to read as follows:

26 26-75-207. Levying of tax. [Effective until July 1, 2007.]

27 (a)(1) The governing body of any city may adopt an ordinance levying a
28 local sales and use tax in the amount of one-eighth of one percent (0.125%),
29 one-fourth of one percent (0.25%), one-half of one percent (0.5%), three-
30 fourths of one percent (0.75%), one percent (1%), or any combination of these
31 amounts for the benefit of the city in accordance with the provisions of this
32 subchapter.

33 (2) Each local sales and use tax authorized under this
34 subchapter shall be adopted by ordinance or by petition as described in
35 subsection (b) of this section and with the approval of the voters of the



1 municipality in accordance with this subchapter.

2 (b)(1) A legal voter of a city may file a petition with the governing
 3 body of that city requesting a special election on the question of levying a
 4 local sales and use tax authorized under this subchapter in an amount as
 5 provided in subdivision (a)(1) of this section.

6 (2) The petition shall be signed by a number of the legal voters
 7 in the city that is no less than fifteen percent (15%) of the number of votes
 8 cast for the office of city clerk at the last preceding general election.

9 ~~(b)(1)(c)(1)~~ (1) The governing body of the city by such levying ordinance
 10 or the petition described in subsection (b) of this section is not required
 11 to but may provide for an expiration date for such local sales and use tax.

12 (2) If an expiration date is provided, that date shall be the
 13 last day of the last month of a calendar quarter.

14 ~~(e)(d)~~ The sales tax portion of any local sales and use tax adopted
 15 under this subchapter shall be levied by the governing body on the receipts
 16 from the sale at retail within the city of all items that are subject to
 17 taxation under the Arkansas Gross Receipts Act, § 26-52-101 et seq.

18
 19 SECTION 2. Arkansas Code § 26-75-207 [Effective July 1, 2007], is
 20 amended to read as follows:

21 26-75-207. Levying of tax. [Effective July 1, 2007.]

22 (a)(1) The governing body of any city may adopt an ordinance levying a
 23 local sales and use tax in the amount of one-eighth of one percent (0.125%),
 24 one-fourth of one percent (0.25%), one-half of one percent (0.5%), three-
 25 fourths of one percent (0.75%), one percent (1%), or any combination of these
 26 amounts for the benefit of the city in accordance with the provisions of this
 27 subchapter.

28 (2) Each local sales and use tax authorized under this
 29 subchapter shall be adopted by ordinance or by petition as described in
 30 subsection (b) of this section and with the approval of the voters of the
 31 municipality in accordance with this subchapter.

32 (b)(1) A legal voter of a city may file a petition with the governing
 33 body of that city requesting a special election on the question of levying a
 34 local sales and use tax authorized under this subchapter in an amount as
 35 provided in subdivision (a)(1) of this section.

36 (2) The petition shall be signed by a number of the legal voters

1 in the city that is no less than fifteen percent (15%) of the number of votes
 2 cast for the office of city clerk at the last preceding general election.

3 ~~(b)(1)(c)(1)~~ The governing body of the city by such levying ordinance
 4 or the petition described in subsection (b) of this section is not required
 5 to but may provide for an expiration date for such local sales and use tax.

6 (2) If an expiration date is provided, that date shall be the
 7 last day of the last month of a calendar quarter.

8 ~~(e)(d)~~ The sales tax portion of any local sales and use tax adopted
 9 under this subchapter shall be levied by the governing body on the receipts
 10 from the sale at retail of all items and services that are subject to
 11 taxation under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
 12 and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

13
 14 SECTION 3. Arkansas Code § 26-75-208(a) and (b), pertaining to special
 15 elections on the levying of a municipal sales and use tax, is amended to read
 16 as follows:

17 (a)(1) On the date of the filing of a petition described in § 26-75-
 18 207(b) or on the date of adoption of an ordinance levying a local sales and
 19 use tax for the benefit of the city, or within thirty (30) days following the
 20 filing of the petition described in § 26-75-207(b) or adoption of the
 21 ordinance, the city by ordinance shall provide for the calling and holding of
 22 a special election on the question.

23 (2)(A) The special election shall be called for a date within
 24 one hundred twenty (120) days from the date of action of the governing body
 25 in establishing the date of the special election.

26 (B)(i) The special election shall occur on the second
 27 Tuesday of any month, except as provided in subdivision (a)(2)(B)(ii) of this
 28 section.

29 (ii)(a)(1) A special election held in a month in
 30 which a presidential preferential primary election, preferential primary
 31 election, general primary election, or general election is scheduled to occur
 32 shall be held on the date of the presidential preferential primary election,
 33 preferential primary election, general primary election, or general election.

34 (2)(A)(i) If the special election is
 35 held on the date of the presidential preferential primary election,
 36 preferential primary election, or general primary election, the issue or

1 issues to be voted upon at the special election shall be included on the
2 ballot of each political party.

3 (ii) However, a separate
4 ballot containing only the issue or issues to be voted upon at the special
5 election shall be prepared and made available to a voter requesting a
6 separate ballot.

7 (B) No voter shall be required to
8 vote in a political party's presidential preferential primary election,
9 preferential primary election, or general primary election in order to be
10 able to vote in the special election.

11 (b) A special election scheduled to occur in a
12 month in which the second Tuesday is a legal holiday shall be held on the
13 third Tuesday of the month.

14 (3) The date for the special election may be the same as the
15 date for the next regular municipal election if the next regular municipal
16 election is to be held within the one-hundred-twenty-day period.

17 (4) The governing body of the city shall notify the county board
18 of election commissioners that the question has been referred to the vote of
19 the people and shall submit a copy of the ballot title to the county board of
20 election commissioners.

21 (b)(1) The ballot title to be used at such election shall be
22 substantially in the following form:

23 [] "FOR adoption of a . . . percent (. . . %) local sales and use
24 tax within name of city)."

25 [] "AGAINST adoption of a . . . percent (. . . %) local sales and
26 use tax within (name of city)."

27 (2) If an expiration date as described in § 26-75-207(c) for the
28 local sales and use tax has been provided for by the governing body of the
29 city in the levying ordinance or the petition described in § 26-75-207(b) ~~as~~
30 ~~described in § 26-75-207(b)~~, the ballot title shall also include an
31 expiration date for the levy of the tax, and, if adopted in this form, the
32 tax shall cease to be levied on the date noted on the ballot.

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

36

1 SECTION 4. Arkansas Code § 26-75-209(1) [Effective until July 1,
 2 2007], concerning the effective date of an ordinance, is amended to read as
 3 follows:

4 (1)(A) The ordinance or petition described in § 26-75-207 levying the
 5 tax shall not be effective until after the election has been held.

6 (B) Following the election, the mayor of the city shall issue
 7 his or her proclamation of the results of the election with reference to the
 8 local sales and use tax, and the proclamation shall be published one (1) time
 9 in a newspaper having general circulation in the city.

10 (C) Any person desiring to challenge the results of the election
 11 as published in the proclamation shall file such challenge in the ~~chancery~~
 12 circuit court of the county in which the city is located within thirty (30)
 13 days of the date of publication of the proclamation.

14 (D) If no election challenge is filed within this period, the
 15 ordinance or petition described in § 26-75-207 shall become effective on the
 16 first day of the first month of the calendar quarter subsequent to the
 17 expiration of the full thirty-day period of challenge; and

18
 19 SECTION 5. Arkansas Code § 26-75-209(1) [Effective July 1, 2007],
 20 concerning the effective date of an ordinance, is amended to read as follows:

21 (1)(A) The ordinance or petition described in § 26-75-207
 22 levying the tax shall not be effective until after the election has been
 23 held.

24 (B) Following the election, the mayor of the city shall
 25 issue his or her proclamation of the results of the election with reference
 26 to the local sales and use tax, and the proclamation shall be published one
 27 (1) time in a newspaper having general circulation in the city.

28 (C) Any person desiring to challenge the results of the
 29 election as published in the proclamation shall file the challenge in the
 30 circuit court of the county in which the city is located within thirty (30)
 31 days of the date of publication of the proclamation.

32 (D)(i) The mayor of the city shall notify the director of
 33 the rate change after publication of the proclamation has occurred and ninety
 34 (90) days before the effective date of the tax.

35 (ii) If no election challenge is filed within the
 36 thirty-day challenge period, the ordinance or petition described in § 26-75-

1 207 shall become effective on the first day of the first month of the
 2 calendar quarter after a minimum of sixty (60) days' notice by the director
 3 to sellers and after the expiration of the full thirty-day period of
 4 challenge.

5 (E) The rate change shall become applicable on the first
 6 day of a quarter after one hundred twenty (120) days' notice by the director
 7 to sellers on a purchase from a printed catalog in which the purchaser
 8 computed the tax based upon local tax rates published in the catalog; and
 9

10 SECTION 6. Arkansas Code § 26-75-307 is amended to read as follows:
 11 26-75-307. Levying of tax.

12 (a)(1) The governing body of any city may adopt an ordinance levying a
 13 local sales or gross receipts and use tax in the amount of one-eighth of one
 14 percent (0.125%), one-fourth of one percent (0.25%), one-half of one percent
 15 (0.5%), three-fourths of one percent (0.75%), one percent (1%), or any
 16 combination of these amounts for the benefit of the city in accordance with
 17 the provisions of this subchapter.

18 ~~(b)(2)~~ Each local sales or gross receipts and use tax authorized
 19 under this subchapter shall be adopted by ordinance or by petition as
 20 described in subsection (b) of this section and with the approval of the
 21 voters of the municipality in accordance with this subchapter.

22 (b)(1) A legal voter of a city may file a petition with the governing
 23 body of that city requesting a special election on the question of levying a
 24 local sales or gross receipts and use tax authorized under this subchapter in
 25 an amount as provided in subdivision (a)(1) of this section.

26 (2) The petition shall be signed by a number of the legal voters
 27 in the city that is no less than fifteen percent (15%) of the number of votes
 28 cast for the office of city clerk at the last preceding general election.
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30 SECTION 7. Arkansas Code § 26-75-308(a)(1), pertaining to special
 31 elections on the levying of a municipal sales and use tax, is amended to read
 32 as follows:

33 (a)(1) On the date of the filing of a petition described in § 26-75-
 34 307(b) or on the date of adoption of an ordinance levying a local sales and
 35 use tax for the benefit of the city, or within thirty (30) days following the
 36 filing of the petition described in § 26-75-307(b) or adoption of the

1 ordinance, the city by ordinance shall provide for the calling and holding of
 2 a special election on the question.

3

4 SECTION 8. Arkansas Code § 26-75-309(1) [Effective until July 1,
 5 2007], pertaining to the effective date of an ordinance, is amended as
 6 follows:

7 (1)(A) The ordinance or petition described in § 26-75-307
 8 levying the tax shall not be effective until after the election has been
 9 held.

10 (B) Following the election, the mayor of the city shall
 11 issue his or her proclamation of the results of the election with reference
 12 to the local sales and use tax, and the proclamation shall be published one
 13 (1) time in a newspaper having general circulation in the city.

14 (C) Any person desiring to challenge the results of the
 15 election as published in the proclamation shall file such challenge in the
 16 ~~chancery~~ circuit court of the county in which the city is located within
 17 thirty (30) days of the date of publication of the proclamation.

18 (D) If no election challenge is filed within this period,
 19 the ordinance or petition described in § 26-75-307 shall become effective on
 20 the first day of the first month of the calendar quarter subsequent to the
 21 expiration of the full thirty-day period of challenge; and

22

23 SECTION 9. Arkansas Code § 26-75-309(1) [Effective July 1, 2007],
 24 pertaining to effective date of an ordinance, is amended to read as follows:

25 (1)(A) The ordinance or petition described in § 26-75-307
 26 levying the tax shall not be effective until after the election has been
 27 held.

28 (B) Following the election, the mayor of the city shall
 29 issue his or her proclamation of the results of the election with reference
 30 to the local sales and use tax, and the proclamation shall be published one
 31 (1) time in a newspaper having general circulation in the city.

32 (C) Any person desiring to challenge the results of the
 33 election as published in the proclamation shall file the challenge in the
 34 circuit court of the county in which the city is located within thirty (30)
 35 days of the date of publication of the proclamation.

36 (D)(i) The mayor of the city shall notify the director

1 after publication of the proclamation has occurred and ninety (90) days
2 before the effective date of the tax.

3 (ii) If no election challenge is filled within the
4 thirty-day challenge period, the ordinance or petition described in § 26-75-
5 307 shall become effective on the first day of the first month of the
6 calendar quarter after a minimum of sixty (60) days' notice by the director
7 to sellers and after the expiration of the full thirty-day period of
8 challenge.

9 (E) The rate change shall become applicable on the first
10 day of a quarter after one hundred twenty (120) days' notice by the director
11 to sellers on a purchase from a printed catalog in which the purchaser
12 computed the tax based upon local tax rates published in the catalog; and
13

14 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly of the State of Arkansas that the citizens of municipalities
16 do not have the authority under current law to petition for the election on
17 the question of the levying of a local sales and use tax; that the levying of
18 a city sales and use tax must be in accordance with state enabling
19 legislation; that there is an immediate need for municipalities to obtain
20 additional revenues to operate; and that city services are suffering due to a
21 lack of revenues. Therefore, an emergency is declared to exist and this act
22 being immediately necessary for the preservation of the public peace, health,
23 and safety shall become effective on:

24 (1) The date of its approval by the Governor;

25 (2) If the bill is neither approved nor vetoed by the Governor, the
26 expiration of the period of time during which the Governor may veto the bill;
27 or

28 (3) If the bill is vetoed by the Governor and the veto is overridden,
29 the date the last house overrides the veto.

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31 APPROVED: 2/16/2007
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