

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

366

By: Senator Yates

For An Act To Be Entitled

"AN ACT TO AUTHORIZE REGIONAL WATER DISTRIBUTION DISTRICTS TO LEVY A ONE PERCENT GROSS RECEIPTS AND COMPENSATING TAX FOR CAPITAL IMPROVEMENTS FOR THE DISTRICT; AND FOR OTHER PURPOSES."

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

SECTION 1. (a) The board of directors of a nonprofit regional water distribution district organized under The Regional Water Distribution Act (Title 14, Chapter 116, Arkansas Code of 1987 Annotated), may adopt a resolution levying a local sales and use tax of one percent (1%).

(b) Any tax levied pursuant to the authority granted in this section shall be effective only after approval of the tax by the qualified electors of such regional water distribution district in the manner provided in this act.

(c) The board of directors of any regional water distribution district levying a tax as authorized in this act, shall, by separate resolution adopted prior to any expenditure of tax money, state its intent to provide water to any public entity, nonprofit rural water association or planned community development within the district which shall request the same.

(d) Proceeds of a tax levied pursuant to this act may be expended only:

- (1) to acquire or construct capital improvements for the district,
- (2) to pay the principal of and interest on debt incurred, either before or after the levy of the tax, to finance such capital improvements, or
- (3) to pay the principal of and interest on debt incurred for the purpose of refunding debt described in (2).

SECTION 2. (a) (1) When the governing board of any regional district adopts a resolution levying a local sales and use tax as authorized in this act, the board shall provide, either in the resolution levying the tax or in a

separate resolution, for submission of the question of the levy to the qualified electors of the regional district either at the next regular election or at a special election. The resolution shall set forth the form of the ballot title, which shall include a statement of the maximum period of collection of the tax.

(2) If the resolution provides for submitting the question at a special election, the election shall be called for a date not less than thirty (30) nor more than ninety (90) days from the date of the adoption of the resolution calling the election.

(b) The board of the regional district shall notify the county board of election commissioners of each county in which there is area included within the district that the question of the levy of the tax has been referred to a vote of the people at the next regular election or at a special election to be held on the date set by resolution and shall submit a copy of the ballot title to each county board of election commissioners.

(c) The ballot title to be used at the election shall be in substantially the following form:

"[] FOR the levy of a one percent (1%) local sales and use tax within(name of district), to be collected for a maximum period of ____ years for the purpose of financing or refinancing capital improvements."

"[] AGAINST the levy of a one percent (1%) local sales and use tax within(name of district), to be collected for a maximum period of ____ years for the purpose of financing or refinancing capital improvements."

(d) Notice of the election shall be given by the board by one publication in a newspaper having general circulation within each county in which there is area included within the District not less than ten (10) days prior to the election. No other publication or posting of notice shall be required.

(e) (1) Following the election, the board of directors of the district shall issue a proclamation of the results of the election and the proclamation shall be published one (1) time in a newspaper having general circulation in each county in which there is area included in the district.

(2) (A) If a majority of the electors of the district voting on the issue vote against the levy of the tax, the tax shall not be levied and

the question of the levy of a tax under this act shall not again be submitted to the electors of the regional district for one (1) year.

(B) If a majority of the electors of the district voting on the issue vote for the levy of the tax, the tax shall be levied and collected as provided for in this act.

(3) (A) A person desiring to challenge the results of the election shall file the challenge in the chancery court of any county in which there is area included within the regional district within thirty (30) days of the date of publication of the proclamation.

(B) (i) If no election challenge is filed within this period, the resolution levying the tax shall become effective on the first day of the first calendar month after the expiration of the thirty-day period for challenge of the results of the election.

(ii) In the event of an election contest, the effective date of the resolution shall be the first day of the first calendar month subsequent to the final judicial determination with respect to the litigation.

(f) (1) If a majority of electors voting on the issue vote "FOR" the levy of the tax, a copy of the proclamation of the results of the election shall be transmitted by the board of the district to the Director of the Department of Finance and Administration of the State of Arkansas within ten (10) days after the election.

(2) (A) At the time of transmitting the proclamation, the board shall also send to the director a map of the regional district clearly showing the boundaries of the regional district.

(B) (i) If any such regional district shall thereafter change or alter its boundaries, the regional district board shall forward to the director a certified copy of the court order adding or detaching territory from the regional district, and the order shall be accompanied by a map clearly showing the territory added or detached.

(ii) After receipt of the order and map, the tax imposed under this act shall be effective in the added territory or abolished in the detached territory on the first day of the first calendar month following the expiration of thirty (30) days from the date that the annexation or detachment becomes effective.

SECTION 3. When any regional district levies a sales and use tax

pursuant to the authority granted in this act, the tax shall be levied upon the same sales and the same items as are subject to taxation under the Arkansas Gross Receipts Act, Ark. Code 26-52-101 et seq., and the Arkansas Compensating Tax Act, Ark. Code 26-53-101 et seq.

SECTION 4. (a) (1) In each regional district where a sales and use tax has been imposed in the manner provided by this act, every retailer shall add the tax imposed by the Arkansas Gross Receipts Act, Ark. Code 26-52-101 et seq., the Arkansas Compensating Tax Act, Ark. Code 26-53-101 et seq., and this act to his sale price.

(2) When added, the combined tax shall:

(A) Constitute a part of the price;

(B) Be a debt of the purchaser to the retailer until paid; and

(C) Be recoverable at law in the same manner as the purchase price.

(b) (1) Retailers shall collect and remit the tax levied by any regional district pursuant to this act in the same manner and at the same time as the state gross receipts tax or compensating tax is collected and remitted.

(2) The tax levied in this section on motor vehicles shall be collected by the Director of the Department of Finance and Administration directly from the purchaser in the same manner as the state gross receipts tax.

SECTION 5. The Director of the Department of Finance and Administration shall deposit all regional sales and use taxes collected under this act with the State Treasurer.

SECTION 6. (a) The State Treasurer shall transmit to the treasurer or financial officer of each such regional district that regional district's share of local sales and use taxes collected under this act periodically as promptly as feasible. Transmittals required under this act shall be made at least monthly in each state fiscal year. Funds so transmitted may be used by the regional district for the purposes set forth herein. Before transmitting such funds, the State Treasurer shall deduct three percent (3%) of the sum collected from each such regional district during such period as a charge by the state for its services specified in this act, and the amount so deducted

shall be deposited by the State Treasurer to the credit of the account of the State Central Services Fund.

(b) The State Treasurer is authorized to retain in the suspense account of any regional district a portion of the regional district's share of the tax collected under this act. Such balance so retained in the suspense account shall not exceed five percent (5%) of the amount remitted to the regional district. The State Treasurer is authorized to make refunds from the suspense account of any regional district for overpayments made to such accounts, after such refunds have been approved by the director, and to redeem dishonored checks and drafts deposited to the credit of the suspense account of such regional district.

(c) When any regional district shall adopt the local sales and use tax and shall thereafter abolish such tax, the State Treasurer shall retain in the suspense account of such regional district for a period of one (1) year five percent (5%) of the final remittance to such regional district at the time of termination of collection of such tax in the regional district to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one (1) year has elapsed after the effective date of abolishment of such tax, the State Treasurer shall remit the balance of such account to the regional district and close the account. After this one-year period has lapsed and the account is closed, no refund will be allowed.

SECTION 7. All revenues received by a regional district from taxes levied pursuant to the authority granted in this act shall be deposited in the regional district treasury and credited to a special account and shall be used for the purposes specified in this act.

SECTION 8. (a) (1) On and after the effective date of any tax imposed pursuant to the provisions of this act, the Director of the Department of Finance and Administration shall perform all functions incidental to the administration, collection, enforcement, and operation of the tax.

(2) The director shall collect taxes levied pursuant to this act at the same time and in the same manner as he collects the state gross receipts tax and the state compensating tax.

(b) When notified that any tax levied under this act has expired or has

been abolished, the director shall cease to collect the tax as provided in this act.

SECTION 9. A district levying a tax pursuant to this act may pledge all or a specified portion of the tax to retire bonds of the district issued pursuant to The Regional Water Distribution Act issued for a purpose specified in (2) or (3) of Section 1(d) of this act.

SECTION 10. The tax authorized by this act shall be collected for no longer than the period specified in the ballot title for the election at which it is authorized. The board of directors of the levying district may by resolution provide for abolishing the tax prior to expiration of the period for which voted. However, if any portion of the tax is pledged to the retirement of bonds, the tax shall not be abolished so long as the bonds are outstanding.

SECTION 11. (a) Any sales and use tax levied pursuant to this act shall be levied and collected only to a maximum tax of twenty-five dollars (\$25.00) on each single transaction, and vendors shall be responsible for collecting and remitting the tax only to the maximum of twenty-five dollars (\$25.00) for each single transaction.

(b) (1) For any taxpayer not subject to the levy of a use tax on tangible personal property brought into the State of Arkansas for storage until such property is subsequently initially used in the State of Arkansas, the use tax portion of the local sales and use tax authorized by this act shall be computed on each purchase of the property by the taxpayer as if all such property was subject upon purchase to such use tax up to a maximum of twenty-five dollars (\$25.00) per single transaction.

(2) The taxes so computed in the preceding sentence shall be aggregated on a monthly basis and the aggregate monthly amount shall be divided by the sum of the total purchases of the property on which the taxes are computed and the quotient shall be multiplied by the amount of the taxpayer's property subsequently initially used and subject to levy of such use tax within the municipality or county during the month for which the monthly aggregate tax figure was computed, and the product shall be the amount of such use tax liability for the taxpayer for the month computed.

SECTION 12. The Director of the Department of Finance and Administration shall adopt appropriate rules and regulations, not inconsistent with the provisions of this act, to implement the enforcement, administration, and collection of the taxes authorized in this act.

SECTION 13. 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 14. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 15. EMERGENCY. It is hereby found and determined by the General Assembly that regional water distribution districts have an urgent need to acquire and construct new facilities in order to provide an adequate supply of water to all persons residing within district boundaries and that the existing method of financing facilities solely through user fees is inadequate. An emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval.