

1 **State of Arkansas**

Call Item 40

2 **78th General Assembly**

A Bill

3 **First Extraordinary Session, 1992**

HOUSE BILL 1029

4 **By: Representatives K. Wood, Dawson, Tullis, Newman, Beatty,**

5 **Smith and Forgey**

6

7

For An Act To Be Entitled

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"AN ACT TO AMEND ARKANSAS CODE 26-73-113 CONCERNING AN

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ALTERNATIVE LOCAL SALES AND USE TAX; AND FOR OTHER

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PURPOSES."

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

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14 SECTION 1. Arkansas Code 26-73-113 is amended to read as follows:

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"26-73-113. (a) (1) In lieu of using all or a portion of its authority

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to levy a sales and use tax solely to pay bonded debt under Arkansas Code 14-

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164-327, the governing body of any municipality or county may adopt an

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ordinance levying a tax in the amount of one-fourth of one percent (.25%),

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one-half of one percent (0.5%), three-fourths of one percent (.75%), or one

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percent (1%) upon all taxable sales of property and services subject to the

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tax levied by the Arkansas Gross Receipts Act and upon the privilege of

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storing, using, distributing or consuming within this state any tangible

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personal property which is subject to the Arkansas Compensating Tax Act. The

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ordinance or ordinances must specify that the tax is being levied under this

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law. By levying a tax under this section, the municipality or county levying

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a tax hereunder shall lose its authority to levy up to a one (1) percent sales

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and use tax under Arkansas Code 14-164-327 solely to pay bonded debt only to

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the extent of the tax levied hereunder.

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(2) The proceeds of a tax levied under this section may be used

30 *to:*

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(A) Finance the operation or maintenance of capital

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improvements or a solid waste management system or part thereof as defined in

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Act 751 of 1991 (Ark. Code Ann. 8-6-203) or both;

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(B) Secure the repayment of bonds by the municipality or

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county issued under §§14-164-301 through 339;

1 (C) *acquire or construct capital improvements of a public*
2 *nature for no more than twenty-four (24) months; or*

3 (D) *any or all of the above.*

4 (b) To the extent permitted by this section, a governing body levying a
5 tax under this section shall follow the procedures prescribed by §§ 14-164-301
6 - 14-164-338, and the tax shall be collected, reported, and remitted in the
7 same manner and at the same time as a tax levied under that subchapter.

8 (c)(1) A municipality or county levying a sales and use tax under this
9 section may abolish the tax or both abolish the tax and levy a new sales and
10 use tax at a lower rate after an election called in the same manner as
11 provided in §§ 14-164-301 to 14-164-338 or by a petition of the qualified
12 voters of the municipality or county which levied the tax. As to a petition
13 of the qualified voters, the provisions of Arkansas Constitution, Amendment 7
14 shall govern. A new sales and use tax levied under this subsection shall be
15 at a rate authorized by subsection (a).

16 (2) This section shall apply to any tax levied *by ordinance*
17 *adopted* prior to February 28, 1992, so long as (a) the ordinance levying the
18 tax recited that the tax was being levied under Act 777 of 1991 or §26-73-113
19 and (b) the tax was approved at a general or special election for one or more
20 of the uses set forth in §26-73-113(a)(2). The effect of this provision is
21 for such a tax to be levied for the approved uses, whether or not the
22 ordinance levying the tax was adopted and the election held prior to February
23 28, 1992, from and after the date a sales and use tax would otherwise become
24 effective under §§14-164-301 - 14-164-338.

25 (3) The provisions of this section shall not prohibit or affect
26 the ability of a municipality or county from levying a sales and use tax under
27 §§26-74-201-223, 26-74-301-319, 26-75-201-223, 26-75-301-318, and 14-164-301-
28 391, and use all or a portion of the proceeds thereof to operate, maintain
29 and/or finance capital improvements of a public nature.

30 (4) In any municipality or county in which a local sales and use
31 tax has been adopted under this section, and all or a portion of the tax is
32 pledged to secure the payment of bonds, that portion of the tax pledged to
33 retire the bonds shall not be repealed, abolished, or reduced so long as the
34 bonds are outstanding.

35 (5) If no election challenge is filed within thirty (30) days of

1 the date of the publication of the proclamation of the results of the election
2 under this subsection, the abolition of the tax and the levy of a new tax, if
3 any, shall become effective on the first day of the first calendar month
4 subsequent to the expiration of the thirty-day period for challenge *in Section*
5 *14-164-329*. In the event of an election contest, the effective date shall be
6 the first day of the first calendar month subsequent to the final
7 determination of the litigation.

8 *(d) Nothing herein shall be construed to expand or limit the aggregate*
9 *rate at which a sales and use tax may be levied by municipalities and counties*
10 *under laws in effect on January 1, 1992."*

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

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

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

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25 SECTION 5. EMERGENCY. It is hereby found and determined by the General
26 Assembly that the existing taxing authority for counties to fund vital county
27 services is inadequate; and that this act will provide authority for the
28 counties to raise additional revenues to provide for vital county services for
29 the residents of the county. Therefore, an emergency is hereby declared to
30 exist and this act being necessary for the preservation of the public peace,
31 health and safety shall be in full force and effect from and after its passage
32 and approval.

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/s/K. Wood, et al

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