

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Bell

A Bill

SENATE BILL 244

For An Act To Be Entitled

8 "AN ACT TO EXEMPT PROPERTY PURCHASED FOR USE IN
9 CONSTRUCTION CONTRACTS ENTERED INTO PRIOR TO THE EFFECTIVE
10 DATE OF ANY ACT WHICH INCREASES THE ARKANSAS GROSS
11 RECEIPTS TAX AND COMPENSATING (USE) TAX FROM ANY SUCH
12 INCREASE, TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES."

Subtitle

16 "EXEMPTS CERTAIN PROPERTY PURCHASED FOR
17 USE IN CONSTRUCTION CONTRACTS FROM SALES
18 AND USE TAX."

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

22 SECTION 1. Tangible personal property which becomes a recognizable
23 part of a completed structure or improvement to real property and which is
24 purchased for use or consumption in the performance of construction contracts
25 shall be exempt from any additional gross receipts tax or compensating (use)
26 tax levied by the state or any city or county, when the construction contract
27 for which the property was purchased is entered into prior to the effective
28 date of the levy of the additional state, city or county gross receipts tax
29 or compensating (use) tax.

31 SECTION 2. For the purposes of this Act "construction contract" means
32 a contract to construct, manage or supervise the construction, erection, or
33 substantial modification of a building or other improvement or structure
34 affixed to real property. The term "construction contract" shall not mean
35 contract to produce tangible personal property.

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SECTION 3. The exemption provided by this act shall apply to tangible personal property purchased with five (5) years from the effective date of the levy of the additional state, city, or county gross receipts tax or compensating (use) tax. The exemption shall not apply to cost plus contracts which allow the contractor to pass any additional tax on to the principal as a part of the contractor's costs.

SECTION 4. 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 5. 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 6. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 7. Emergency. It is hereby found and determined by the General Assembly that the application of any additional Gross Receipts or Compensating (Use) Tax levied by the state or any city or county to tangible personal property purchased for the performance of construction contracts entered into prior to the effective date of the tax increase will substantially increase the cost of performing contracts; that contractors are not able to include the additional tax in their contract price at the time the contract is entered into and, therefore, imposition of the tax to purchases of construction contractors would cause undue hardship. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from the date of its approval.

/s/Bell

