

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

A Bill

SENATE BILL 302

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE TO
9 REQUIRE THAT ALL NEW OR AMENDED LOCAL SALES AND USE TAXES
10 BEGIN AND END ON A CALENDAR QUARTER; AND FOR OTHER
11 PURPOSES."

Subtitle

14 "AN ACT TO PROVIDE THAT ALL NEW OR
15 AMENDED LOCAL SALES AND USE TAXES BEGIN
16 AND END ON A CALENDAR QUARTER."

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

20 SECTION 1. Arkansas Code § 26-74-208(b) is amended to read as follows:

21 "(b) The ballot title may also include an expiration date for the levy
22 of the tax, and, if adopted in this form, the tax shall cease to be levied on
23 the date noted on the ballot. The expiration date shall be the last day of a
24 calendar quarter unless the tax proceeds are pledged for the payment of
25 bonds, in which case the tax shall terminate as otherwise provided by law."

27 SECTION 2. Arkansas Code § 26-74-209(d) is amended to read as follows:

28 "(d) If no election challenge is timely filed, the countywide tax shall
29 be levied, effective on the first day of the first month of the calendar
30 quarter subsequent to the expiration of the thirty-day challenge period, on
31 the gross receipts from the sale at retail within the county of all items
32 which are subject to the Arkansas Gross Receipts Act, §26-52-101 et seq. and,
33 in every county where the local sales and use tax has been adopted pursuant
34 to the provisions of this subchapter, there is imposed an excise tax on the
35 storage, use, distribution or consumption within the county of tangible

1 personal property purchased, leased, or rented from any retailer outside the
2 state after the effective date of the sales and use tax for storage, use,
3 distribution or other consumption in the county, at the same rate on the sale
4 price of the property or, in the case of leases or rentals, on the lease or
5 rental price, the rate of the use tax to correspond to the rate of the sales
6 tax portion of the tax. The use tax portion of the local sales and use tax
7 shall be collected according to the terms of the Arkansas Compensating Tax
8 Act, §26-53-101 et seq."

9

10 SECTION 3. Arkansas Code § 26-74-308(b) is amended to read as follows:

11 "(b) The ballot title may also include an expiration date, and, if
12 adopted in this form, the tax shall cease to be levied on the date noted on
13 the ballot. The expiration date shall be the last day of a calendar quarter
14 unless the proceeds are pledged for the payment of bonds, in which case the
15 tax shall terminate as otherwise provided by law."

16

17 SECTION 4. Arkansas Code § 26-74-309(d) is amended to read as follows:

18 "(d) If no election challenge is timely filed, the countywide tax shall
19 be levied, effective on the first day of the first month of the calendar
20 quarter subsequent to the expiration of the thirty-day challenge period, on
21 the gross receipts from the sale at retail within the county of all items
22 which are subject to the Arkansas Gross Receipts Act, §26-52-101 et seq."

23

24 SECTION 5. Arkansas Code § 26-74-404(d) is amended to read as follows:

25 "(d) If no election challenge is timely filed, there shall be levied,
26 effective on the first day of the first month of the calendar quarter
27 subsequent to the expiration of the thirty-day challenge period, a one-half
28 percent (0.5%) tax on the gross receipts from the sale at retail within the
29 county of all items which are subject to the Arkansas Gross Receipts Act,
30 §26-52-101 et seq., and, in every county where the local sales and use tax
31 has been adopted pursuant to the provisions of this subchapter, there is
32 imposed an excise tax on the storage, use, distribution or consumption within
33 the county of tangible personal property purchased, leased, or rented from
34 any retailer outside the state after the effective date of the sales and use
35 tax for storage, use, distribution or other consumption in the county, at a

1 rate of one-half percent (0.5%) of the sale price of the property or, in the
2 case of leases or rentals, of the lease or rental price, the rate of the use
3 tax to correspond to the rate of the sales tax portion of the tax. The use
4 tax portion of the local sales and use tax shall be collected according to
5 the terms of the Arkansas Compensating Tax Act of 1949, §26-53-101 et seq."

6

7 SECTION 6. Arkansas Code § 26-75-207(b) is amended to read as follows:

8 "(b) The governing body of the city by such levying ordinance may, but
9 is not required to, provide for an expiration date for such local sales and
10 use tax. If an expiration date is provided, that date shall be the last day
11 of the last month of a calendar quarter."

12

13 SECTION 7. Arkansas Code § 26-75-209 is amended to read as follows:

14 "26-75-209. Effective date of ordinance.

15 In order to provide time for the preparations for election set forth in
16 this subchapter and to provide for the accomplishment of the administrative
17 duties of the director, the following effective dates are applicable with
18 reference to any such ordinance levying such tax:

19 (1) The ordinance levying the tax shall not be effective until after
20 the election has been held. Following the election, the mayor of the city
21 shall issue his proclamation of the results of the election with reference to
22 the local sales and use tax, and the proclamation shall be published one (1)
23 time in a newspaper having general circulation in the city. Any person
24 desiring to challenge the results of the election as published in the
25 proclamation shall file such challenge in the chancery court of the county in
26 which the city is located within thirty (30) days of the date of publication
27 of the proclamation. If no election challenge is filed within this period,
28 the ordinance shall become effective on the first day of the first month of
29 the calendar quarter subsequent to the expiration of the full thirty-day
30 period of challenge.

31 (2) In the event of an election contest, the tax shall be collected as
32 prescribed in subdivision (1) of this section unless enjoined by court order.
33 Hearings of such matters of litigation shall be advanced on the docket of
34 the courts and disposed of at the earliest feasible time."

35

1 SECTION 8. Arkansas Code § 26-75-211(b) is amended to read as follows:

2 "(b) If any such city in which a local sales and use tax has been
3 imposed in the manner provided for in this subchapter shall thereafter change
4 or alter its boundaries, the city clerk of the city shall forward to the
5 director a certified copy of the ordinance adding or detaching territory from
6 the city, which shall be accompanied by a map clearly showing the territory
7 added thereto or detached therefrom. After receipt of the ordinance and map,
8 the tax imposed under this subchapter shall be effective in the added
9 territory or abolished in the detached territory on the first day of the
10 first month of the calendar quarter following the expiration of thirty (30)
11 days from the date that the annexation or detachment becomes effective."
12

13 SECTION 9. Arkansas Code § 26-75-309 is amended to read as follows:

14 "26-75-309. Effective date of ordinance.

15 In order to provide time for the preparations for election set forth in
16 this subchapter and to provide for the accomplishment of the administrative
17 duties of the director, the following effective dates are applicable with
18 reference to any such ordinance levying such tax:

19 (1) The ordinance levying the tax shall not be effective until after
20 the election has been held. Following the election, the mayor of the city
21 shall issue his proclamation of the results of the election with reference to
22 the local sales and use tax, and the proclamation shall be published one (1)
23 time in a newspaper having general circulation in the city. Any person
24 desiring to challenge the results of the election as published in the
25 proclamation shall file such challenge in the chancery court of the county
26 in which the city is located within thirty (30) days of the date of
27 publication of the proclamation. If no election challenge is filed within
28 this period, the ordinance shall become effective on the first day of the
29 first month of the calendar quarter subsequent to the expiration of the full
30 thirty-day period of challenge.

31 (2) In the event of an election contest, the tax shall be collected as
32 prescribed in subdivision (1) of this section unless enjoined by court order.
33 Hearings of such matters of litigation shall be advanced on the docket of
34 the courts and disposed of at the earliest practicable time."
35

1 SECTION 10. Arkansas Code § 26-75-311(b) is amended to read as
2 follows:

3 "(b) If any such city in which a local sales and use tax has been
4 imposed in the manner provided for in this subchapter shall thereafter change
5 or alter its boundaries, the city clerk of the city shall forward to the
6 director a certified copy of the ordinance adding or detaching territory from
7 the city, which shall be accompanied by a map clearly showing the territory
8 added thereto or detached therefrom. After receipt of the ordinance and the
9 map, the tax imposed under this subchapter shall be effective in the added
10 territory or abolished in the detached territory on the first day of the
11 first month of the calendar quarter following the expiration of thirty (30)
12 days from the date that the annexation or detachment becomes effective."
13

14 SECTION 11. Arkansas Code § 26-75-404(d)(3)(B)(i) is amended to read
15 as follows:

16 "(i) If no election challenge is filed within this period, the
17 ordinance shall become effective on the first day of the first month of the
18 calendar quarter after the expiration of the thirty-day period for challenge
19 of the results of the election."
20

21 SECTION 12. Arkansas Code § 26-75-404(e)(2)(B)(ii) is amended to read
22 as follows:

23 "(ii) After receipt of the ordinance and map, the tax imposed under
24 this subchapter shall be effective in the added territory or abolished in the
25 detached territory on the first day of the first month of the calendar
26 quarter following the expiration of thirty (30) days from the date that the
27 annexation or detachment becomes effective."
28

29 SECTION 13. Ark. Code § 26-73-113(c)(5) is amended to read as follows:

30 "(5) If no election challenge is filed within thirty (30) days of the
31 date of the publication of the proclamation of the results of the election
32 under this subsection, the abolition of the tax and the levy of a new tax, if
33 any, shall become effective on the first day of the first month of the
34 calendar quarter subsequent to the expiration of the thirty-day period for
35 challenge in §14-164-329. In the event of an election contest, the tax

1 shall be collected as prescribed in this subsection unless enjoined by court
2 order. Hearings of such matters of litigation shall be advanced on the
3 docket of the courts and disposed of at the earliest practicable time."

4

5 SECTION 14. Arkansas Code § 26-73-102 is amended to read as follows:
6 "26-73-102. Definitions.

7 As used in this subchapter, unless the context otherwise requires:

8 (1) County means each of the counties of this state;

9 (2) Municipality and city mean any city of the first or second
10 class or incorporated town in this state;

11 (3) Director means the Director of the Department of Finance and
12 Administration in the exercise of those powers, functions, and duties
13 formerly vested in the Commissioner of Revenues of the State of Arkansas
14 which were merged into the Department of Finance and Administration under the
15 provisions of § 25-2-101 et seq., or any of his authorized agents;

16 (4) Local government means city or county;

17 (5) Calendar quarter means the three (3) month period beginning on
18 January 1, April 1, July 1 or October 1."

19

20 SECTION 15. Arkansas Code § 26-74-203 is amended to read as follows:
21 "§ 26-74-203. Definitions.

22 As used in this subchapter, unless the context otherwise requires:

23 (1) Director means the Director of the Department of Finance and
24 Administration of the State of Arkansas, or any successor thereof, or any
25 authorized agent thereof;

26 (2) Capital improvements of a public nature means streets, roads,
27 public parks, port facilities, tourism facilities, airport facilities,
28 sewerage facilities, waterworks facilities, fire protection facilities,
29 convention center facilities, courthouses, police facilities, public transit
30 facilities, auditoriums, prisons, libraries, hospital and nursing home
31 facilities, solid waste facilities, sanitation facilities, bridges, electric
32 facilities, hydroelectric facilities, facilities for the securing and
33 developing of industry, natural gas facilities, parking facilities, public
34 housing facilities, pollution control facilities, public education
35 facilities, drainage facilities, pedestrian facilities, lakes, dams, and

1 waterways;

2 (3) Facilities means real property, personal property, or mixed
3 property of any and every kind, including, without limitation, rights-of-way,
4 utilities, materials, equipment, fixtures, machinery, furniture, furnishings,
5 buildings, and other improvements of every kind;

6 (4) Acquire means to obtain at any time hereafter by gift, purchase,
7 or other arrangement, any capital improvement of a public nature or any
8 portion thereof, whether theretofore constructed and equipped, theretofore
9 partially constructed and equipped, or being constructed and equipped at the
10 time of acquisition, for such consideration and pursuant to such terms and
11 conditions as the quorum court of the county shall determine;

12 (5) Construct means to build, in whole or in part, in such manner
13 and by such method, including contracting therefor, and if the latter, by
14 negotiation or bidding upon such terms and pursuant to such advertising as
15 determined by the quorum court of the county, under the circumstances
16 existing at the time, as will most effectively serve the purposes of this
17 subchapter;

18 (6) Equip means to install or place in or on any building or
19 structure equipment of any and every kind, whether or not affixed, including,
20 without limitation, building service equipment, fixtures, heating equipment,
21 air conditioning equipment, machinery, furniture, furnishings, and personal
22 property of every kind;

23 (7) Lease shall mean a lease of capital improvements of a public
24 nature by and between a county as lessee and a person as lessor, except as
25 used in § 26-74-204;

26 (8) Calendar quarter means the three (3) month period beginning on
27 January 1, April 1, July 1 or October 1."
28

29 SECTION 16. Arkansas Code § 26-74-303 is amended to read as follows:

30 "26-74-303. Definitions.

31 As used in this subchapter, unless the context otherwise requires:

32 (1) Director means the Director of the Department of Finance and
33 Administration of the State of Arkansas, or any successor thereof, or any
34 authorized agent thereof;

35 (2) Capital improvements of a public nature means streets, roads,

1 public parks, port facilities, tourism facilities, airport facilities,
2 sewerage facilities, waterworks facilities, fire protection facilities,
3 convention center facilities, courthouses, police facilities, public transit
4 facilities, auditoriums, prisons, libraries, hospital and nursing home
5 facilities, solid waste facilities, sanitation facilities, bridges, electric
6 facilities, hydroelectric facilities, facilities for the securing and
7 developing of industry, natural gas facilities, parking facilities, public
8 housing facilities, pollution control facilities, public education
9 facilities, drainage facilities, pedestrian facilities, lakes, dams, and
10 waterways;

11 (3) Facilities means real, personal, or mixed property of any and
12 every kind, including, without limitation, rights-of-way, utilities,
13 materials, equipment, fixtures, machinery, furniture, furnishings, buildings,
14 and other improvements of every kind;

15 (4) Acquire means to obtain at any time, by gift, purchase, or other
16 arrangement, any capital improvement of a public nature, or any portion
17 thereof, whether theretofore constructed and equipped, theretofore partially
18 constructed and equipped, or being constructed and equipped at the time of
19 acquisition, for such consideration and pursuant to such terms and conditions
20 as the quorum court of the county shall determine;

21 (5) Construct means to build, in whole or in part, in such manner
22 and by such method, including contracting therefor and, if the latter, by
23 negotiation or bidding upon such terms and pursuant to such advertising as
24 determined by the quorum court of the county, under the circumstances
25 existing at the time as will most effectively serve the purposes of this
26 subchapter;

27 (6) Equip means to install or place in or on any building or
28 structure equipment of any and every kind, whether or not affixed including,
29 without limitation, building service equipment, fixtures, heating equipment,
30 air conditioning equipment, machinery, furniture, furnishings, and personal
31 property of every kind;

32 (7) Sales tax means the sales tax levied by a county pursuant to
33 this subchapter or sales and use tax levied by a county pursuant to §§
34 26-74-219 and 26-74-316;

35 (8) Lease shall mean any lease of capital improvements of a public

1 nature by and between the county as lessee and a person as lessor;

2 (9) Calendar quarter means the three (3) month period beginning on
3 January 1, April 1, July 1 or October 1."

4

5 SECTION 17. Arkansas Code § 26-74-401 is amended to read as follows:

6 "26-74-401. Definitions.

7 As used in this subchapter:

8 (1) Director means the Director of the Department of Finance and
9 Administration of the State of Arkansas, or any successor thereof, or any
10 authorized agent thereof;

11 (2) Calendar quarter means the three (3) month period beginning on
12 January 1, April 1, July 1 or October 1."

13

14 SECTION 18. Arkansas Code § 26-75-203 is amended to read as follows:

15 "26-75-203. Definitions.

16 As used in this subchapter, unless the context otherwise requires:

17 (1) City means any city of the first class, city of the second
18 class, or incorporated town of the State of Arkansas;

19 (2) Director means the Director of the Department of Finance and
20 Administration of the State of Arkansas, or any successor thereof, or any
21 authorized agent thereof;

22 (3) Capital improvements of a public nature means streets, roads,
23 public parks, port facilities, tourism facilities, airport facilities,
24 sewerage facilities, waterworks facilities, fire protection facilities,
25 convention center facilities, city halls, courthouses, police facilities,
26 public transit facilities, auditoriums, prisons, libraries, hospital and
27 nursing home facilities, solid waste facilities, sanitation facilities,
28 bridges, electric facilities, hydroelectric facilities, facilities for the
29 securing and developing of industry, natural gas facilities, parking
30 facilities, public housing facilities, pollution control facilities, public
31 education facilities, drainage facilities, pedestrian facilities, lakes,
32 dams, and waterways;

33 (4) Facilities means real property, personal property, or mixed
34 property of any and every kind including, without limitation, rights-of-way,
35 utilities, materials, equipment, fixtures, machinery, furniture, furnishings,

1 buildings, and other improvements of every kind;

2 (5) Acquire means to obtain at any time by gift, purchase, or other
3 arrangement any capital improvement of a public nature, or any portion
4 thereof, whether theretofore constructed and equipped, theretofore partially
5 constructed and equipped, or being constructed and equipped at the time of
6 acquisition for such consideration and pursuant to such terms and conditions
7 as the governing body of the municipality shall determine;

8 (6) Construct means to build, in whole or in part, in such manner
9 and by such method, including contracting therefore, and if the latter, by
10 negotiation or bidding upon such terms and pursuant to such advertising as
11 determined by the governing body of the municipality, under the circumstances
12 existing at the time, as will most effectively serve the purposes of this
13 subchapter;

14 (7) Equip means to install or place in or on any building or
15 structure equipment of any and every kind, whether or not affixed, including,
16 without limitations, building service equipment, fixtures, heating equipment,
17 air conditioning equipment, machinery, furniture, furnishings, and personal
18 property of every kind;

19 (8) Lease means a lease of capital improvements of a public nature
20 by and between a city as lessee and another person as lessor, except as used
21 in § 26-75-214;

22 (9) Calendar quarter means the three (3) month period beginning on
23 January 1, April 1, July 1 or October 1."

24

25 SECTION 19. Arkansas Code § 26-75-303 is amended to read as follows:

26 "26-75-303. Definitions.

27 As used in this subchapter, unless the context otherwise requires:

28 (1) City means any city of the first class, city of the second
29 class, or incorporated town of the State of Arkansas. Any city in this state
30 having a population of three thousand (3,000) or fewer inhabitants according
31 to the most recent federal decennial census, located in a county that borders
32 on the state line of another state, having therein a designated historic
33 district that is included in the National Registry of Historic Places, and
34 which is certified by the State Parks, Recreation, and Travel Commission as
35 having tourism as the major industry in the city shall be deemed to be a city

1 within the meaning of the term city as the same is provided in this
2 subchapter, and any such city is authorized to levy a local sales, gross
3 receipts, and use tax for the benefit of the city, in accordance with the
4 provisions of, and in the same manner and procedures as provided in this
5 subchapter;

6 (2) Director means the Director of the Department of Finance and
7 Administration of the State of Arkansas, or any successor thereof, or any
8 authorized agent thereof;

9 (3) Capital improvements of a public nature means streets, roads,
10 public parks, port facilities, tourism facilities, airport facilities,
11 sewerage facilities, waterworks facilities, fire protection facilities,
12 convention center facilities, city halls, courthouses, police facilities,
13 public transit facilities, auditoriums, prisons, libraries, hospital and
14 nursing home facilities, solid waste facilities, sanitation facilities,
15 bridges, electric facilities, hydroelectric facilities, facilities for the
16 securing and developing of industry, natural gas facilities, parking
17 facilities, public housing facilities, pollution control facilities, public
18 education facilities, drainage facilities, pedestrian facilities, lakes,
19 dams, and waterways;

20 (4) Facilities means real, personal, or mixed property of any and
21 every kind, including, without limitation, rights of way, utilities,
22 materials, equipment, fixtures, machinery, furniture, furnishings, buildings,
23 and other improvements of every kind;

24 (5) Acquire means to obtain at any time by gift, purchase, or other
25 arrangement any capital improvement of a public nature, or any portion
26 thereof, whether theretofore constructed and equipped, theretofore partially
27 constructed and equipped, or being constructed and equipped at the time of
28 acquisition, for such consideration and pursuant to such terms and conditions
29 as the governing body shall determine;

30 (6) Construct means to build, in whole or in part, in such manner
31 and by such method, including contracting therefor and, if contracting, by
32 negotiation or bidding upon such terms and pursuant to such advertising as
33 the governing body determines, under the circumstances existing at the time,
34 will most effectively serve the purposes of this subchapter;

35 (7) Equip means to install or place in or on any building or

1 structure equipment of any and every kind, whether or not affixed, including,
2 without limitation, building service equipment, fixtures, heating equipment,
3 air conditioning equipment, machinery, furniture, furnishings, and personal
4 property of every kind;

5 (8) Lease means a lease of a capital improvement or capital
6 improvements of a public nature by and between a city as lessee and another
7 person as lessor, except as used in §§ 26-75-304 and 26-75-313;

8 (9) Calendar quarter means the three (3) month period beginning on
9 January 1, April 1, July 1 or October 1."

10

11 SECTION 20. Title 26, Chapter 75, Subchapter 4 of the Arkansas Code is
12 amended by adding a new section to read as follows:

13 "26-75-411. Definition.

14 As used in this subchapter, calendar quarter means the three (3)
15 month period beginning on January 1, April 1, July 1 or October 1."

16

17 SECTION 21. Arkansas Code 14-164-333(a) is amended to read as follows:

18 "(a)(1) A sales and use tax levied pursuant to the authority granted
19 by this subchapter shall be administered and collected subject to the
20 provisions of § 26-74-212 or § 26-75-216, whichever shall be applicable.

21 (2)(A) The director shall perform all functions incidental to
22 the administration, collection, enforcement, and operation of the tax, as
23 provided in §§ 26-74-201 - 26-74-219, 26-74-221, 26-74-315 - 26-74-317, 26-
24 75-201 - 26-75-221, 26-75-223, 26-75-317, and 26-75-318. Provided, however,
25 to the extent the provisions of Arkansas Code 14-164-329 conflict with any
26 provisions of chapter 74 or 75 of title 26 of the Arkansas Code or any other
27 law, Arkansas Code 14-164-329 shall be deemed to supersede the conflicting
28 statutes.

29 (B) The tax levied in this subchapter on new and used motor vehicles
30 shall be collected by the director directly from the purchaser in the manner
31 prescribed in § 26-52-510."

32

33 SECTION 22. All provisions of this act of a general and permanent
34 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
35 Code Revision Commission shall incorporate the same in the Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SECTION 23. 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 24. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 25. EMERGENCY. It is hereby found and determined by the General Assembly of the State of Arkansas that there are in excess of 300 different local sales and use taxes in effect; that many of these taxes are for specified duration; that notification of affected taxpayers of the beginning and ending of these taxes is time consuming and costly; that requiring local sales and use taxes to begin and end on a calendar quarter basis will ease the administrative burden of taxpayers and the cost to the State of Arkansas; and that an effective date of July 1, 1995 is necessary to achieve the purpose of this legislation. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1995.

/s/Mahony

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20