

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

## A Bill

HOUSE BILL 1561

4  
5 By: Representative McGinnis  
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### For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE 26-73-113 IN ORDER TO  
10 EXPAND THE PURPOSES FOR WHICH THE ALTERNATIVE LOCAL SALES  
11 AND USE TAX AUTHORIZED THEREBY MAY BE USED; PRESCRIBING  
12 OTHER MATTERS RELATING THERETO; DECLARING AN EMERGENCY;  
13 AND FOR OTHER PURPOSES."

### Subtitle

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16 "TO EXPAND THE PURPOSES FOR WHICH THE  
17 ALTERNATIVE LOCAL SALES AND USE TAX MAY  
18 BE USED."  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code 26-73-113 is amended to read as follows:

23 "26-73-113. Alternative local sales and use tax.

24 (a)(1) In lieu of using all or a portion of its authority to levy a  
25 sales and use tax solely to pay bonded debt under § 14-164-327, the  
26 governing body of any municipality or county may adopt an ordinance  
27 levying a tax in the amount of one-fourth of one percent (.25%),  
28 one-half of one percent (0.5%), three-fourths of one percent (.75%),  
29 or one percent (1%) upon all taxable sales of property and services  
30 subject to the tax levied by the Arkansas Gross Receipts Act, §§  
31 26-52-101 et seq., and upon the privilege of storing, using,  
32 distributing or consuming within this state any tangible personal  
33 property which is subject to the Arkansas Compensating Tax Act, §§  
34 26-53-101 et seq. The ordinance or ordinances must specify that the  
35 tax is being levied under this law. By levying a tax under this  
36 section, the municipality or county levying a tax hereunder shall lose

1 its authority to levy up to a one percent (1%) sales and use tax under  
2 § 14-164-327 solely to pay bonded debt only to the extent of the tax  
3 levied hereunder.

4 (2) The proceeds of a tax levied under this section may be used  
5 to:

6 (A) Finance the operation, ~~or~~ maintenance and/or rental expense of  
7 capital improvements, or a solid waste management system or part thereof as  
8 defined in § 8-6-203, or both;

9 (B) Secure the repayment of bonds by the municipality or county  
10 issued under §§ 14-164-301 - 14-164-339;

11 (C) Acquire or construct capital improvements of a public  
12 nature for no more than twenty-four (24) months; or

13 (D) Any or all of the above.

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

19 (c)(1) A municipality or county levying a sales and use tax under  
20 this section may abolish the tax or both abolish the tax and levy a  
21 new sales and use tax at a lower rate after an election called in the  
22 same manner as provided in §§ 14-164-301 - 14-164-338 or by a petition  
23 of the qualified voters of the municipality or county which levied the  
24 tax. As to a petition of the qualified voters, the provisions of  
25 Arkansas Constitution, Amendment 7 shall govern. A new sales and use  
26 tax levied under this subsection shall be at a rate authorized by  
27 subsection (a).

28 (2) This section shall also apply to any tax levied by ordinance  
29 adopted prior to February 28, 1992, so long as:

30 (A) The ordinance levying the tax recited that the tax was  
31 being levied under this section; and

32 (B) The tax was approved at a general or special election for  
33 one or more of the uses set forth in subdivision (a)(2). The effect  
34 of this provision is for such a tax to be levied for the approved  
35 uses, whether or not the ordinance levying the tax was adopted and the  
36 election held prior to February 28, 1992, from and after the date a

1 sales and use tax would otherwise become effective under §§ 14-164-301  
2 - 14-164-339.

3 (3) The provisions of this section shall not prohibit or affect  
4 the ability of a municipality or county from levying a sales and use  
5 tax under §§ 26-74-201 - 26-74-223, 26-74-301 - 26-74-319, 26-75-201 -  
6 26-75-223, 26-75-301 - 26-75-318, and 14-164-301 - 14-164-339, and use  
7 all or a portion of the proceeds thereof to operate, maintain and/or  
8 finance capital improvements of a public nature.

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

14 (5)(A) If no election challenge is filed within thirty (30) days  
15 of the date of the publication of the proclamation of the results of  
16 the election under this subsection, the abolition of the tax and the  
17 levy of a new tax, if any, shall become effective on the first day of  
18 the first month of the calendar quarter subsequent to the expiration  
19 of the thirty-day period for challenge in § 14-164-329.

20 (B)(i) In the event of an election contest, the tax shall be  
21 collected as prescribed in this subsection unless enjoined by court  
22 order.

23 (ii) Hearings of such matters of litigation shall be advanced  
24 on the docket of the courts and disposed of at the earliest  
25 practicable time.

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

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

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34 SECTION 3. If any provision of this act or the application thereof to  
35 any person or circumstance is held invalid, such invalidity shall not affect  
36 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this  
2 act are declared to be severable.

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

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7 SECTION 5. EMERGENCY. It is hereby found and determined by the General  
8 Assembly that the existing taxing authority for counties to fund vital county  
9 services is inadequate; and that this act will provide authority for the  
10 counties to raise additional revenues to provide for vital county services for  
11 the residents of the county by renting capital improvements. Therefore, an  
12 emergency is declared to exist and this act being immediately necessary for  
13 the preservation of the public peace, health and safety shall become effective  
14 on the date of its approval by the Governor. If the bill is neither approved  
15 nor vetoed by the Governor, it shall become effective on the expiration of the  
16 period of time during which the Governor may veto the bill. If the bill is  
17 vetoed by the Governor and the veto is overridden, it shall become effective  
18 on the date the last house overrides the veto.

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