

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/9/05 H3/16/05

A Bill

HOUSE BILL 2475

5 By: Representatives Glidewell, Medley, Childers
6 By: Senator Altes
7
8

For An Act To Be Entitled

10 AN ACT TO AMEND THE PROCEDURES FOR ABOLISHING
11 MUNICIPAL SALES AND USE TAXES; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 TO AMEND THE PROCEDURES FOR ABOLISHING
15 MUNICIPAL SALES AND USE TAXES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 *SECTION 1. Arkansas Code § 26-75-210 is amended to read as follows:*
22 *26-75-210. Abolishment of tax.*

23 *(a)(1) Except as set forth in subsection (b) of this section, in any*
24 *city in which a city sales and use tax has been adopted in the manner*
25 *provided in this subchapter, and subsequent to the adoption of the city tax*
26 *the county in which the city is located enacts a county sales and use tax,*
27 *then the city may abolish its sales and use tax ~~by~~:*

28 *(A) By a roll call of two-thirds (2/3) of all the members*
29 *elected to the ~~city council~~ governing body of the city, excluding the mayor;*
30 *or*

31 *(B) After an election called by:*

32 *(i) Action of the governing body of the city; or ~~by~~*

33 *a*

34 *(ii) A petition of the qualified voters in the city.*

35 *~~Where no county sales and use tax has been imposed, then in any city in which~~*
36 *~~a local sales and use tax has been adopted in the manner provided for in this~~*



1 ~~subchapter,~~

2 (2) In all other cases, except under subsection (b) of this
3 section, the city may abolish ~~such~~ all or a portion of the sales and use tax
4 after, and only after, an election called by action of its governing body or
5 by a petition of the qualified voters in the city by:

6 (A) A roll call vote of two-thirds (2/3) of all members
7 elected to the governing body of the city, excluding the mayor, if the
8 governing body of the city has determined that the purposes of the tax cannot
9 be fulfilled or cannot continue to be fulfilled; or

10 (B) After an election called by:

11 (i) Action of the governing body of the city; or

12 (ii) A petition of the qualified voters in the city.

13 (3) As to ~~such~~ petitions of the qualified voters, the provision
14 of Arkansas Constitution, Amendment 7, with reference to initiative
15 procedures, together with any ordinances of the city governing such
16 initiative procedures pursuant to the authority granted to municipalities by
17 Amendment 7, shall govern the petition procedure and the calling and holding
18 of an election with reference to abolishment of such tax ~~The initiative~~
19 procedures in Arkansas Constitution, Article 5, § 1 and any ordinances of the
20 city governing initiative procedures shall govern the petition of the
21 qualified voters under subsection (a) of this section and the calling and
22 holding of an election concerning the abolishment of the tax.

23 (4) The governing body of the city may call for such an election
24 according to the procedures set forth in this subchapter for the calling of
25 the initial election on such question.

26 (5)(A) The ballot title for use in any such election shall be
27 substantially the same as indicated in § 26-75-208(b) except that the word
28 "ABOLITION" shall be substituted for the word "ADOPTION" as it appears in the
29 ballot title set forth in ~~that subsection~~ § 26-75-208(b). ~~The effective dates~~
30 of any affirmative vote to abolish such tax shall correspond to the dates
31 indicated in § 26-75-209 for the initial effective date of such tax.

32 (B) A ballot title that contains a question for qualified
33 voters on whether to continue the levy of a local sales and use tax complies
34 with this subdivision (a)(5).

35 (b)(1) In any city in which a local sales and use tax has been adopted
36 in the manner provided for in this subchapter and all or any portion pledged

1 to secure the payment of lease rentals or bonds as authorized by this
2 subchapter, that portion of the tax pledged to lease rentals or bonds shall
3 not be repealed, abolished, or reduced so long as the lease is in effect or
4 any of ~~such~~ the bonds are outstanding.

5 (2) Bonds shall not be deemed outstanding to the extent that
6 sufficient tax collections have been set aside to pay the bonds when due.

7 (c) The effective date of any affirmative vote of the qualified voters
8 to abolish the tax under subsection (a) of this section shall correspond to
9 the dates indicated in § 26-75-209 for the initial effective date of the tax.

10 (d)(1)(A) Beginning on the effective date of this subdivision
11 (d)(1)(A) and ending on the effective date of subdivision (d)(1)(B) of this
12 section, the effective date of any affirmative vote by the governing body of
13 the city to abolish the tax under subsection (a) of this section shall be on
14 the first day of the calendar quarter after the expiration of thirty (30)
15 days from the date a written statement signed by the chief executive officer
16 of the city abolishing the tax is filed with the Director of the Department
17 of Finance and Administration certifying that the governing body of the city
18 has adopted an ordinance abolishing the tax.

19 (B)(i) Except as provided in subdivision (d)(1)(A) of this
20 section, the effective date of any affirmative vote by the governing body of
21 the city to abolish the tax under subsection (a) of this section shall be on
22 the first day of the calendar quarter after the expiration of ninety (90)
23 days from the date a written statement signed by the chief executive officer
24 of the city abolishing the tax is filed with the Director of the Department
25 of Finance and Administration certifying that the governing body of the city
26 has adopted an ordinance abolishing the tax.

27 (ii) Subdivision (d)(1)(B)(i) of this section shall
28 be effective on the first day of the first calendar quarter following the
29 effective date of the Streamlined Sales Tax Agreement, which becomes
30 effective when at least ten (10) states comprising at least twenty percent
31 (20%) of the total population as determined by the 2000 Federal Decennial
32 Census of all states imposing a state sales tax have petitioned for
33 membership and have been found to be in compliance with the requirements of
34 the Streamlined Sales Tax Agreement.

35 (2) A copy of the ordinance shall be attached to the
36 certificate.

1
2 SECTION 2. Arkansas Code § 26-75-310 is amended to read as follows:

3 26-75-310. Abolishment of tax.

4 (a)(1) In any city in which a local sales and use tax has been adopted
5 in the manner provided for in this subchapter and all or any portion pledged
6 to secure the payment of lease rentals or bonds as authorized by this
7 subchapter, that portion of the tax pledged to lease rentals or bonds shall
8 not be abolished so long as the lease is effective or any of the bonds are
9 outstanding.

10 (2) Bonds shall not be deemed outstanding to the extent that
11 there are sufficient tax collections set aside to pay the bonds when due.

12 (b) The city may abolish all or that portion of the sales and use tax
13 that is not pledged to lease rentals during which the lease is effective or
14 to outstanding bonds ~~after, and only after, an:~~

15 (1) By a roll call vote of two-thirds (2/3) of all members
16 elected to the governing body of the city, excluding the mayor, if the
17 governing body of the city has determined that the purposes of the tax cannot
18 be fulfilled or cannot continue to be fulfilled; or

19 (2) After an election called by ~~action:~~

20 (A) Action of ~~it's~~ the city's governing body; or ~~by a~~

21 (B) A petition of the qualified voters in the city.

22 ~~(c) As to such a petition of the qualified voters, the provisions of~~
23 ~~Arkansas Constitution, Amendment 7, with reference to initiative procedures,~~
24 ~~together with any ordinances of the city governing these initiative~~
25 ~~procedures, pursuant to the authority granted to municipalities by Amendment~~
26 ~~7, shall govern the petition procedure and the calling and holding of an~~
27 ~~election with reference to abolishment of such tax~~ The initiative procedures
28 in Arkansas Constitution, Article 5, § 1 and any ordinances of the city
29 governing initiative procedures shall govern the petition of the qualified
30 voters under subsection (b) of this section and the calling and holding of an
31 election concerning the abolishment of the tax.

32 (d) The governing body of the city may call for ~~such~~ an election
33 according to the procedures set forth in this subchapter for the calling of
34 the initial election on ~~such~~ the question.

35 (e)(1) The ballot title for use in ~~any such~~ the election shall be
36 substantially the same as indicated in § 26-75-308**(b)**, except that the word

1 "ABOLITION" shall be substituted for the word "ADOPTION" as it appears in the
2 ballot title set forth in ~~that subsection~~ § 26-75-308(b).

3 (2) A ballot title that contains a question for qualified voters
4 on whether to continue the levy of a local sales and use tax complies with
5 this subsection (e).

6 (f) The effective dates of any affirmative vote by the qualified
7 voters to abolish ~~such tax~~ the tax under subdivision (b)(2) of this section
8 shall correspond to the dates indicated in § 26-75-309 for the initial
9 effective date of ~~such~~ the tax.

10 (g)(1)(A) Beginning on the effective date of this subdivision
11 (g)(1)(A) and ending on the effective date of subdivision (g)(1)(B) of this
12 section, the effective date of any affirmative vote by the governing body of
13 the city to abolish the tax under subsection (b) of this section shall be on
14 the first day of the calendar quarter after the expiration of thirty (30)
15 days from the date a written statement signed by the chief executive officer
16 of the city abolishing the tax is filed with the Director of the Department
17 of Finance and Administration certifying that the governing body of the city
18 has adopted an ordinance abolishing the tax.

19 (B)(i) Except as provided in subdivision (g)(1)(A) of this
20 section, the effective date of any affirmative vote by the governing body of
21 the city to abolish the tax under subsection (b) of this section shall be on
22 the first day of the calendar quarter after the expiration of ninety (90)
23 days from the date a written statement signed by the chief executive officer
24 of the city abolishing the tax is filed with the Director of the Department
25 of Finance and Administration certifying that the governing body of the city
26 has adopted an ordinance abolishing the tax.

27 (ii) Subdivision (g)(1)(B)(i) of this section shall
28 be effective on the first day of the first calendar quarter following the
29 effective date of the Streamlined Sales Tax Agreement, which becomes
30 effective when at least ten (10) states comprising at least twenty percent
31 (20%) of the total population as determined by the 2000 Federal Decennial
32 Census, of all states imposing a state sales tax have petitioned for
33 membership and have been found to be in compliance with the requirements of
34 the Streamlined Sales Tax Agreement.

35 (2) A copy of the ordinance shall be attached to the
36 certificate.

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SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that current law provides that if a municipality has levied sales and use taxes and the county in which the city is located subsequently levies county sales and use taxes, the municipality may abolish its tax; that provisions are needed in this law to protect the revenues pledged to pay lease rentals and outstanding bonds; that this act would allow a portion and not all of the tax to be abolished; and that this act is immediately necessary because it provides that a portion of the tax may be abolished and also protects revenues pledged to pay leases and outstanding bonds. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ Glidewell, et al