

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 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1300

4
5 By: Representative Wyatt
6 By: Senator Critcher

For An Act To Be Entitled

10 AN ACT TO PROVIDE THAT ELECTIONS MAY BE CALLED
11 WITH RESPECT TO CERTAIN LOCAL SALES AND USE TAXES
12 UPON PETITION OF THE LEGAL VOTERS OF THE
13 MUNICIPALITY; AND FOR OTHER PURPOSES.

Subtitle

16 TO PROVIDE THAT ELECTIONS MAY BE CALLED
17 WITH RESPECT TO CERTAIN LOCAL SALES AND
18 USE TAXES UPON PETITION OF THE LEGAL
19 VOTERS OF THE MUNICIPALITY.

20
21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. Arkansas Code § 26-75-207 [Effective until July 1, 2007],
25 is amended to read as follows:

26 26-75-207. Levying of tax. [Effective until July 1, 2007.]

27 (a)(1) The governing body of any city may adopt an ordinance levying a
28 local sales and use tax in the amount of one-eighth of one percent (0.125%),
29 one-fourth of one percent (0.25%), one-half of one percent (0.5%), three-
30 fourths of one percent (0.75%), one percent (1%), or any combination of these
31 amounts for the benefit of the city in accordance with the provisions of this
32 subchapter.

33 (2) Each local sales and use tax authorized under this
34 subchapter shall be adopted by ordinance or by petition as described in
35 subsection (b) of this section and with the approval of the voters of the
36 municipality in accordance with this subchapter.



1 (b)(1) A legal voter of a city may file a petition with the governing
 2 body of that city requesting a special election on the question of levying a
 3 local sales and use tax authorized under this subchapter in an amount as
 4 provided in subdivision (a)(1) of this section.

5 (2) The petition shall be signed by a number of the legal voters
 6 in the city that is no less than fifteen percent (15%) of the number of votes
 7 cast for the office of city clerk at the last preceding general election.

8 ~~(b)(1)(c)(1)~~ The governing body of the city by such levying ordinance
 9 or the petition described in subsection (b) of this section is not required
 10 to but may provide for an expiration date for such local sales and use tax.

11 (2) If an expiration date is provided, that date shall be the
 12 last day of the last month of a calendar quarter.

13 ~~(e)(d)~~ The sales tax portion of any local sales and use tax adopted
 14 under this subchapter shall be levied by the governing body on the receipts
 15 from the sale at retail within the city of all items that are subject to
 16 taxation under the Arkansas Gross Receipts Act, § 26-52-101 et seq.

17
 18 SECTION 2. Arkansas Code § 26-75-207 [Effective July 1, 2007], is
 19 amended to read as follows:

20 26-75-207. Levying of tax. [Effective July 1, 2007.]

21 (a)(1) The governing body of any city may adopt an ordinance levying a
 22 local sales and use tax in the amount of one-eighth of one percent (0.125%),
 23 one-fourth of one percent (0.25%), one-half of one percent (0.5%), three-
 24 fourths of one percent (0.75%), one percent (1%), or any combination of these
 25 amounts for the benefit of the city in accordance with the provisions of this
 26 subchapter.

27 (2) Each local sales and use tax authorized under this
 28 subchapter shall be adopted by ordinance or by petition as described in
 29 subsection (b) of this section and with the approval of the voters of the
 30 municipality in accordance with this subchapter.

31 (b)(1) A legal voter of a city may file a petition with the governing
 32 body of that city requesting a special election on the question of levying a
 33 local sales and use tax authorized under this subchapter in an amount as
 34 provided in subdivision (a)(1) of this section.

35 (2) The petition shall be signed by a number of the legal voters
 36 in the city that is no less than fifteen percent (15%) of the number of votes

1 cast for the office of city clerk at the last preceding general election.

2 ~~(b)(1)(c)(1)~~ The governing body of the city by such levying ordinance
 3 or the petition described in subsection (b) of this section is not required
 4 to but may provide for an expiration date for such local sales and use tax.

5 (2) If an expiration date is provided, that date shall be the
 6 last day of the last month of a calendar quarter.

7 ~~(e)(d)~~ The sales tax portion of any local sales and use tax adopted
 8 under this subchapter shall be levied by the governing body on the receipts
 9 from the sale at retail of all items and services that are subject to
 10 taxation under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,
 11 and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

12
 13 SECTION 3. Arkansas Code § 26-75-208(a) and (b), pertaining to special
 14 elections on the levying of a municipal sales and use tax, is amended to read
 15 as follows:

16 (a)(1) On the date of the filing of a petition described in § 26-75-
 17 207(b) or on the date of adoption of an ordinance levying a local sales and
 18 use tax for the benefit of the city, or within thirty (30) days following the
 19 filing of the petition described in § 26-75-207(b) or adoption of the
 20 ordinance, the city by ordinance shall provide for the calling and holding of
 21 a special election on the question.

22 (2)(A) The special election shall be called for a date within
 23 one hundred twenty (120) days from the date of action of the governing body
 24 in establishing the date of the special election.

25 (B)(i) The special election shall occur on the second
 26 Tuesday of any month, except as provided in subdivision (a)(2)(B)(ii) of this
 27 section.

28 (ii)(a)(1) A special election held in a month in
 29 which a presidential preferential primary election, preferential primary
 30 election, general primary election, or general election is scheduled to occur
 31 shall be held on the date of the presidential preferential primary election,
 32 preferential primary election, general primary election, or general election.

33 (2)(A)(i) If the special election is
 34 held on the date of the presidential preferential primary election,
 35 preferential primary election, or general primary election, the issue or
 36 issues to be voted upon at the special election shall be included on the

1 ballot of each political party.

2 (ii) However, a separate
3 ballot containing only the issue or issues to be voted upon at the special
4 election shall be prepared and made available to a voter requesting a
5 separate ballot.

6 (B) No voter shall be required to
7 vote in a political party's presidential preferential primary election,
8 preferential primary election, or general primary election in order to be
9 able to vote in the special election.

10 (b) A special election scheduled to occur in a
11 month in which the second Tuesday is a legal holiday shall be held on the
12 third Tuesday of the month.

13 (3) The date for the special election may be the same as the
14 date for the next regular municipal election if the next regular municipal
15 election is to be held within the one-hundred-twenty-day period.

16 (4) The governing body of the city shall notify the county board
17 of election commissioners that the question has been referred to the vote of
18 the people and shall submit a copy of the ballot title to the county board of
19 election commissioners.

20 (b)(1) The ballot title to be used at such election shall be
21 substantially in the following form:

22 [] "FOR adoption of a . . . percent (. . . %) local sales and use
23 tax within name of city)."

24 [] "AGAINST adoption of a . . . percent (. . . %) local sales and
25 use tax within (name of city)."

26 (2) If an expiration date as described in § 26-75-207(c) for the
27 local sales and use tax has been provided for by the governing body of the
28 city in the levying ordinance or the petition described in § 26-75-207(b) ~~as~~
29 ~~described in § 26-75-207(b)~~, the ballot title shall also include an
30 expiration date for the levy of the tax, and, if adopted in this form, the
31 tax shall cease to be levied on the date noted on the ballot.

32 (3) The election shall be conducted in the manner provided by
33 law for all other municipal elections unless otherwise specified in this
34 subchapter.

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36 SECTION 4. Arkansas Code § 26-75-209(1) [Effective until July 1,

1 2007], concerning the effective date of an ordinance, is amended to read as
 2 follows:

3 (1)(A) The ordinance or petition described in § 26-75-207 levying the
 4 tax shall not be effective until after the election has been held.

5 (B) Following the election, the mayor of the city shall issue
 6 his or her proclamation of the results of the election with reference to the
 7 local sales and use tax, and the proclamation shall be published one (1) time
 8 in a newspaper having general circulation in the city.

9 (C) Any person desiring to challenge the results of the election
 10 as published in the proclamation shall file such challenge in the ~~chancery~~
 11 circuit court of the county in which the city is located within thirty (30)
 12 days of the date of publication of the proclamation.

13 (D) If no election challenge is filed within this period, the
 14 ordinance or petition described in § 26-75-207 shall become effective on the
 15 first day of the first month of the calendar quarter subsequent to the
 16 expiration of the full thirty-day period of challenge; and

17
 18 SECTION 5. Arkansas Code § 26-75-209(1) [Effective July 1, 2007],
 19 concerning the effective date of an ordinance, is amended to read as follows:

20 (1)(A) The ordinance or petition described in § 26-75-207
 21 levying the tax shall not be effective until after the election has been
 22 held.

23 (B) Following the election, the mayor of the city shall
 24 issue his or her proclamation of the results of the election with reference
 25 to the local sales and use tax, and the proclamation shall be published one
 26 (1) time in a newspaper having general circulation in the city.

27 (C) Any person desiring to challenge the results of the
 28 election as published in the proclamation shall file the challenge in the
 29 circuit court of the county in which the city is located within thirty (30)
 30 days of the date of publication of the proclamation.

31 (D)(i) The mayor of the city shall notify the director of
 32 the rate change after publication of the proclamation has occurred and ninety
 33 (90) days before the effective date of the tax.

34 (ii) If no election challenge is filed within the
 35 thirty-day challenge period, the ordinance or petition described in § 26-75-
 36 207 shall become effective on the first day of the first month of the

1 calendar quarter after a minimum of sixty (60) days' notice by the director
 2 to sellers and after the expiration of the full thirty-day period of
 3 challenge.

4 (E) The rate change shall become applicable on the first
 5 day of a quarter after one hundred twenty (120) days' notice by the director
 6 to sellers on a purchase from a printed catalog in which the purchaser
 7 computed the tax based upon local tax rates published in the catalog; and
 8

9 SECTION 6. Arkansas Code § 26-75-307 is amended to read as follows:
 10 26-75-307. Levying of tax.

11 (a)(1) The governing body of any city may adopt an ordinance levying a
 12 local sales or gross receipts and use tax in the amount of one-eighth of one
 13 percent (0.125%), one-fourth of one percent (0.25%), one-half of one percent
 14 (0.5%), three-fourths of one percent (0.75%), one percent (1%), or any
 15 combination of these amounts for the benefit of the city in accordance with
 16 the provisions of this subchapter.

17 ~~(b)(2)~~ Each local sales or gross receipts and use tax authorized
 18 under this subchapter shall be adopted by ordinance or by petition as
 19 described in subsection (b) of this section and with the approval of the
 20 voters of the municipality in accordance with this subchapter.

21 (b)(1) A legal voter of a city may file a petition with the governing
 22 body of that city requesting a special election on the question of levying a
 23 local sales or gross receipts and use tax authorized under this subchapter in
 24 an amount as provided in subdivision (a)(1) of this section.

25 (2) The petition shall be signed by a number of the legal voters
 26 in the city that is no less than fifteen percent (15%) of the number of votes
 27 cast for the office of city clerk at the last preceding general election.
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29 SECTION 7. Arkansas Code § 26-75-308(a)(1), pertaining to special
 30 elections on the levying of a municipal sales and use tax, is amended to read
 31 as follows:

32 (a)(1) On the date of the filing of a petition described in § 26-75-
 33 307(b) or on the date of adoption of an ordinance levying a local sales and
 34 use tax for the benefit of the city, or within thirty (30) days following the
 35 filing of the petition described in § 26-75-307(b) or adoption of the
 36 ordinance, the city by ordinance shall provide for the calling and holding of

1 a special election on the question.

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3 SECTION 8. Arkansas Code § 26-75-309(1) [Effective until July 1,
4 2007], pertaining to the effective date of an ordinance, is amended as
5 follows:

6 (1)(A) The ordinance or petition described in § 26-75-307
7 levying the tax shall not be effective until after the election has been
8 held.

9 (B) Following the election, the mayor of the city shall
10 issue his or her proclamation of the results of the election with reference
11 to the local sales and use tax, and the proclamation shall be published one
12 (1) time in a newspaper having general circulation in the city.

13 (C) Any person desiring to challenge the results of the
14 election as published in the proclamation shall file such challenge in the
15 ~~chancery~~ circuit court of the county in which the city is located within
16 thirty (30) days of the date of publication of the proclamation.

17 (D) If no election challenge is filed within this period,
18 the ordinance or petition described in § 26-75-307 shall become effective on
19 the first day of the first month of the calendar quarter subsequent to the
20 expiration of the full thirty-day period of challenge; and

21

22 SECTION 9. Arkansas Code § 26-75-309(1) [Effective July 1, 2007],
23 pertaining to effective date of an ordinance, is amended to read as follows:

24 (1)(A) The ordinance or petition described in § 26-75-307
25 levying the tax shall not be effective until after the election has been
26 held.

27 (B) Following the election, the mayor of the city shall
28 issue his or her proclamation of the results of the election with reference
29 to the local sales and use tax, and the proclamation shall be published one
30 (1) time in a newspaper having general circulation in the city.

31 (C) Any person desiring to challenge the results of the
32 election as published in the proclamation shall file the challenge in the
33 circuit court of the county in which the city is located within thirty (30)
34 days of the date of publication of the proclamation.

35 (D)(i) The mayor of the city shall notify the director
36 after publication of the proclamation has occurred and ninety (90) days

1 before the effective date of the tax.

2 (ii) If no election challenge is filled within the
3 thirty-day challenge period, the ordinance or petition described in § 26-75-
4 307 shall become effective on the first day of the first month of the
5 calendar quarter after a minimum of sixty (60) days' notice by the director
6 to sellers and after the expiration of the full thirty-day period of
7 challenge.

8 (E) The rate change shall become applicable on the first
9 day of a quarter after one hundred twenty (120) days' notice by the director
10 to sellers on a purchase from a printed catalog in which the purchaser
11 computed the tax based upon local tax rates published in the catalog; and
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13 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that the citizens of municipalities
15 do not have the authority under current law to petition for the election on
16 the question of the levying of a local sales and use tax; that the levying of
17 a city sales and use tax must be in accordance with state enabling
18 legislation; that there is an immediate need for municipalities to obtain
19 additional revenues to operate; and that city services are suffering due to a
20 lack of revenues. Therefore, an emergency is declared to exist and this act
21 being immediately necessary for the preservation of the public peace, health,
22 and safety shall become effective on:

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

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

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

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