For An Act To Be Entitled

AN ACT TO REQUIRE VOTER APPROVAL OF CERTAIN TAX LEVIES; TO MAKE TECHNICAL CORRECTIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE VOTER APPROVAL OF CERTAIN TAX LEVIES; TO MAKE TECHNICAL CORRECTIONS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code §§ 26-74-501 and 26-74-502 are amended to read as follows:


Any county which does not levy a tax under § 14-20-112, county gross receipts tax on hotels and restaurants, and where in which there is not located a city which levies a tax under § 26-75-602 or § 26-75-701, by either an ordinance of the county quorum court under § 26-74-502(a) or through petition pursuant to § 26-74-502(b) may levy a tax in the amount necessary for the payment of bonds issued or indebtedness incurred by the county public facilities board for the purposes prescribed in this subchapter, but in no event to exceed two percent (2%) upon the gross receipts or gross proceeds from either or both of the following:

(1)(A) Gross receipts or gross proceeds from the renting, leasing, or otherwise furnishing of hotel, motel, or short-term condominium rental accommodations for sleeping, meeting, or party room facilities for

Stricken language would be deleted from and underlined language would be added to present law.
profit in such city, but such accommodations shall the county.

(B) Subdivision (1)(A) of this section does not include the rental or lease of such accommodations described in subdivision (1)(A) of this section for periods a period of thirty (30) days or more; and

(2)(A) Portions The portion of gross receipts or gross proceeds received from the sale of prepared food and beverages for on-premises or off-premises consumption by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, and similar businesses as shall be defined in the levying ordinance, from the sale of prepared food and beverages for on-premises or off-premises consumption, but such.

(B) The tax levied under this section shall not apply to such the gross receipts or gross proceeds of fraternal organizations qualified under 26 U.S.C. § 501(c)(3), as it existed on January 1, 2023.

26-74-502. Voter approval of levy or increase of tax — Petitions requesting an election.

(a)(1)(A) If a county quorum court enacts an ordinance levying or increasing a tax under § 26-74-501, the county quorum court shall submit the question of the levying or increase of the tax to the electors at the earliest date permitted for a special election under § 7-11-205.

(B) If the earliest date permitted for a special election under § 7-11-205 is less than seventy-five (75) days from the date the ordinance is enacted under subdivision (a)(1)(A) of this section, the election on the question of the levying or increase of the tax shall be delayed until the next date permitted for a special election under § 7-11-205.

(2) The tax shall be levied or increased upon approval of a majority of the qualified electors voting on the question of the levying or increase of the tax at the special election held under § 7-11-205.

(a)(b)(1)(A) If petitions are a petition signed by at least five hundred (500) qualified electors in the county is filed requesting an election for an initiated ordinance levying or increasing the tax authorized under this subchapter § 26-74-501, the county quorum court shall submit the question of the levying or increase of the tax to the electors at the earliest date permitted for a special election under § 7-11-205.

(B) If the earliest date permitted for a special election
under § 7-11-205 is less than seventy-five (75) days from the date the petition is filed, the election for an initiated ordinance levying or increasing the tax authorized under § 26-74-501 shall be delayed until the next date permitted for a special election under § 7-11-205.

(2) The tax shall be levied or increased upon approval of a majority of the qualified electors voting on the issue question of the levying or increase of the tax at the special election held under § 7-11-205.

(b) If petitions requesting a referendum election are filed, the quorum court levying a tax under this subchapter shall submit the question of the levying of the tax to the electors. The petitions must be signed by not less than five hundred (500) electors of the county and must be filed with the quorum court within thirty (30) days after the adoption of the ordinance levying the tax.

SECTION 2. Arkansas Code §§ 26-75-602 and 26-75-603 are amended to read as follows:

26-75-602. Gross receipts taxes authorized — Voter approval of levy or increase of tax.

(a)(1) Any A city of the first class, city of the second class, or incorporated town by ordinance of the governing body thereof may levy a tax not to exceed three percent (3%) upon the gross receipts or gross proceeds identified in subsection (c) of this section.

(2)(A) If the governing body enacts an ordinance levying or increasing a tax under this section, the governing body shall submit the question of the levying or increase of the tax to the electors at the earliest date permitted for a special election under § 7-11-205.

(B) If the earliest date permitted for a special election under § 7-11-205 is less than seventy-five (75) days from the date the ordinance is enacted under this subsection, the election on the question of the levying or increase of the tax shall be delayed until the next date permitted for a special election under § 7-11-205.

(3) The tax shall be levied or increased upon approval of a majority of the qualified electors voting on the question of the levying or increase of the tax at the special election held under § 7-11-205.

(b)(1) Any A city of the first class in which is located a city park of one thousand (1,000) acres or more in a like manner is located may levy an
additional tax of one percent (1%) upon the gross receipts or gross proceeds
identified in subsection (c) of this section.

(2) Revenues collected from the additional tax authorized
under subdivision (b)(1) of this section shall be used by the city parks and
recreation department for the promotion and development of city parks and
recreation areas.

(c) The tax authorized in this subchapter section shall be upon any
one (1) or more of the following, as specified in the levying ordinance:

(1) (A) The gross receipts or gross proceeds from renting,
leasing, or otherwise furnishing hotel, motel, house, cabin, bed and
breakfast, campground, condominium, or other similar rental accommodations
for sleeping, meeting, or party room facilities for profit in such the city
or town, but such accommodations shall.

(B) Subdivision (c)(1)(A) of this section does not include
the rental or lease of such accommodations described in subdivision (c)(1)(A)
of this section for periods a period of thirty (30) days or more;

(2) (A) The portion of the gross receipts or gross proceeds
received from the sale of prepared food and beverages for on-premises or off-
premises consumption by restaurants, cafes, cafeterias, delicatessens, drive-
in restaurants, carry-out restaurants, concession stands, convenience stores,
grocery store-restaurants, or similar businesses as shall be defined in the
levying ordinance from the sale of prepared food and beverages for on-
premises or off-premises consumption, but such.

(B) The tax shall not apply to such the gross receipts or
gross proceeds of organizations qualified under 26 U.S.C. § 501(c)(3), as it
existed on January 1, 2023; and

(3) The admission price to a state park located within the
municipal boundary of the city or town.

26-75-603. Collection of tax.

(a) From the effective date of the levying ordinance, the tax so
levied shall be paid by the persons, firms, and corporations liable therefor
A person liable for a tax levied under § 26-75-602 shall pay the tax, and
shall be collected by the advertising and promotion commission of the levying
city or by a designated agent of the commission shall collect the tax in the
same manner and at the same time as the tax levied by the Arkansas Gross

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Receipts Act of 1941, § 26-52-101 et seq.

(b)(1)(A) The person paying the tax levied under § 26-75-602 shall report and remit it upon forms provided by the commission and as directed by the commission.

(B) The rules, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Tax Procedure Act, § 26-18-101 et seq., so far as practicable shall be applicable with respect to the enforcement and collection of the tax levied pursuant to the authority of this subchapter under § 26-75-602.

(2)(A) However, the administration, and enforcement of the tax levied under § 26-75-602, and all actions arising from the tax levied under § 26-75-602 shall be by and in the name of the commission through the proper commission officials or agents.

(B) The commission shall have the authority to sue and be sued in its name.

(3) The Department of Finance and Administration shall have no authority to enforce or collect the tax levied pursuant to this subchapter under § 26-75-602.

(c) The levying city is authorized to adopt ordinances: consistent

(1) Consistent with and in similar form to the Arkansas Tax Procedure Act, § 26-18-101 et seq., to enable the commission or its agent to enforce the tax levied under § 26-75-602 through examination of records, notices of proposed and final assessment, and administrative hearings on proposed assessments. The levying city is also authorized to adopt ordinances which; and

(2) That enable the commission to:

(i) Assess penalties and interest against taxpayers who fail to timely report or pay the tax levied under § 26-75-602.

(ii) The penalty is equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax.

(iii) Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum;

(2)(B) Assess unpaid or unreported tax within three (3) years of the date the tax is due;
Provide for judicial relief from proposed assessments in accordance with subsection (d) of this section; and

Issue certificates of indebtedness in accordance with subdivision (c)(3)(c)(2)(C) of this section.

Within thirty (30) days of the issuance of the notice and demand for payment of a deficiency in tax established by a final determination of the hearing officer, a taxpayer may seek judicial relief from the final determination by either:

(A) Paying under protest the amount of the deficiency, plus penalty and interest determined by the commission to be due, and filing a suit to recover that amount within one (1) year from the date of payment under protest; or

(B)(i) Filing with the commission a bond in double the amount of the tax deficiency due and by filing suit within thirty (30) days thereafter to stay the effect of the commission’s determination.

(ii) The bond shall be subject to the condition that the taxpayer shall file:

(a) File suit within thirty (30) days after filing the bond to stay the effect of the commission’s determination; shall

faithfully

(b) Faithfully and diligently prosecute the suit to a final determination; and shall pay

(c) Pay any deficiency found by the court to be due and any court costs assessed against the taxpayer.

(iii) A taxpayer’s failure to file suit, diligently prosecute the suit, or pay any tax deficiency and court costs, as required by this subsection, shall result in the forfeiture of the bond in the amount of the assessment and assessed court costs.

The method provided in this section is the exclusive method for seeking relief from a written decision of the commission establishing a deficiency in tax.

No injunction shall issue A court shall not issue an injunction to stay proceedings for assessment or collection of the tax levied under § 26-75-602.

If a taxpayer does not timely and properly pursue the taxpayer’s remedies seeking relief from a decision of the commission and a
final assessment is made against the taxpayer, or if the taxpayer fails to pay the deficiency assessed upon notice and demand, then the commission as soon as practicable thereafter shall issue to the circuit clerk of the county where in which the taxpayer's business is located a certificate of indebtedness certifying that the person named therein in the certificate of indebtedness is indebted to the commission for the amount of the tax established by the commission as due.

(2) The circuit clerk shall enter immediately upon the circuit court judgment docket:

(A) The name of the delinquent taxpayer;
(B) The amount certified as being due;
(C) The name of the tax; and
(D) The date of entry upon the judgment docket.

(3) The entry of the certificate of indebtedness shall have:

(A) Has the same force and effect as the entry of a judgment rendered by the circuit court; and
(B) This entry shall constitute the commission's lien upon the title of any real and personal property of the taxpayer in the county where in which the certificate of indebtedness is recorded.

(4)(A) The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten-year period has run.
(B) Actions on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate, and not afterward.

(5) The commission shall have has all remedies and may take all proceedings for the collection of the tax which levied under § 26-75-602 that may be taken for the recovery of a judgment at law.

(f) The provisions of subsections Subsections (d) and (e) of this section shall be are effective only when the levying city adopts and the voters approve an ordinance which under § 26-75-602 that specifically provides that these provisions shall be utilized by the commission shall utilize subsections (d) and (e) of this section in enforcing the tax levied under § 26-75-602.
SECTION 3. Arkansas Code § 26-75-701(b), concerning the sales tax authorized on hotels and restaurants, is amended to read as follows:

(b)(1) Any tourist attraction with total gross receipts of seven hundred fifty thousand dollars ($750,000) or more that has a portion of the real property on which the attraction is located that abuts and adjoins a city may petition the adjoining city to be included without annexation in the levy and collection of the tax set forth authorized in subsection (a) of this section.

(2) Upon receipt of the petition, the governing body may pass an ordinance effective on or after January 1, 2000, levying the tax set forth authorized in this section on the petitioning area at the same rate as that of the adjoining city.

(3) The adjoining city shall have no authority over the petitioning tourist attraction except as provided in this section.

(4) As used in this section, “tourist attraction” means:

(A) A cultural or historical site;
(B) A recreational or entertainment facility;
(C) An area of natural phenomena or scenic beauty;
(D) A theme park;
(E) An amusement or entertainment park;
(F) An indoor or outdoor play or music show;
(G) A botanical garden; or
(H) A cultural or educational center.

SECTION 4. Arkansas Code § 26-75-702 is amended to read as follows:

26-75-702. Election required.

(a)(1) The if a governing body of a city enacts an ordinance levying or increasing a tax under § 26-75-701, the governing body of a city levying or increasing the tax authorized in this subchapter shall submit the question of levying or increasing such a tax to the electors of the city, if petitions signed by not less than five hundred (500) qualified electors of the city requesting an election are filed with the governing body of the city within thirty (30) days after the adoption of the ordinance levying the tax at the earliest date permitted for a special election under § 7-11-205.

(2) If the earliest date permitted for a special election under § 7-11-205 is less than seventy-five (75) days from the date the ordinance is
enacted under this subsection, the election on the question of the levying or
increase of the tax shall be delayed until the next date permitted for a
special election under § 7-11-205.

(b) A tax levied or increased under § 26-75-701 shall be levied or
increased under § 26-75-701 shall be levied upon approval of a majority of
the qualified electors voting on the question of the levying of the tax at
the special election held under § 7-11-205.

SECTION 5. DO NOT CODIFY. Applicability.

This act applies to ordinances levying or increasing taxes subject to
this act that are enacted on or after the effective date of this act.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that Arkansans suffer from a higher
state and local tax burden than any state in the southeastern region of the
United States; that Arkansans are economically burdened by having the third
highest combined state and local sales tax rate in the entire country; and
that this act is immediately necessary because delaying the implementation of
this act would result in even more economic distress on the citizens of
Arkansans. 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/Ray