

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1027

5 By: Representative Ray
6 By: Senator M. Johnson
7

For An Act To Be Entitled

9 AN ACT TO REQUIRE VOTER APPROVAL OF CERTAIN TAX
10 LEVIES; TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

15 TO REQUIRE VOTER APPROVAL OF CERTAIN TAX
16 LEVIES; AND TO MAKE TECHNICAL
17 CORRECTIONS.
18
19

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

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

24 26-74-501. Levy of tax.

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

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



1 profit in such city, but such accommodations shall the county.

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

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

12 (B) The tax levied under this section shall not apply to
 13 ~~such~~ the gross receipts or gross proceeds of fraternal organizations
 14 qualified under 26 U.S.C. § 501(c)(3), as it existed on January 1, 2021.

15
 16 26-74-502. Voter approval of levy of tax – Petitions requesting an
 17 election.

18 (a)(1)(A) If a county quorum court enacts an ordinance levying a tax
 19 under § 26-74-501, the county quorum court shall submit the question of the
 20 levying of the tax to the electors at the next primary or general election.

21 (B) If the next primary or general election is less than
 22 seventy-five (75) days from the date the ordinance is enacted under
 23 subdivision (a)(1)(A) of this section, the election on the question of the
 24 levying of the tax shall be delayed until the following primary or general
 25 election, whichever occurs first.

26 (2) The tax shall be levied upon approval of a majority of the
 27 qualified electors voting on the question of the levying of the tax at the
 28 primary or general election.

29 ~~(a)(b)(1)(A)~~ If petitions are a petition signed by at least five
 30 hundred (500) qualified electors in the county is filed requesting an
 31 election for an initiated ordinance levying the tax authorized under ~~this~~
 32 ~~subchapter~~ § 26-74-501, the county quorum court shall submit the question of
 33 the levying of the tax to the electors at the next primary or general
 34 election.

35 (B) If the next primary or general election is less than
 36 seventy-five (75) days from the date the petition is filed, the election for

1 an initiated ordinance levying the tax authorized under § 26-74-501 shall be
 2 delayed until the following primary or general election, whichever occurs
 3 first.

4 (2) The tax shall be levied upon approval of a majority of the
 5 qualified electors voting on the ~~issue~~ question of the levying of the tax at
 6 the primary or general election.

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

13
 14 SECTION 2. Arkansas Code §§ 26-75-602 and 26-75-603 are amended to
 15 read as follows:

16 26-75-602. Gross receipts taxes authorized ~~–~~ Voter approval of levy of
 17 tax.

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

22 (2)(A) If the governing body enacts an ordinance levying a tax
 23 under this section, the governing body shall submit the question of the
 24 levying of the tax to the electors at the next primary or general election.

25 (B) If the next primary or general election is less than
 26 seventy-five (75) days from the date the ordinance is enacted under this
 27 subsection, the election on the question of the levying of the tax shall be
 28 delayed until the following primary or general election, whichever occurs
 29 first.

30 (3) The tax shall be levied upon approval of a majority of the
 31 qualified electors voting on the question of the levying of the tax at the
 32 primary or general election.

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

1 report and remit it upon forms provided by the commission and as directed by
2 the commission.

3 (B) The rules, forms of notice, assessment procedures, and
4 the enforcement and collection of the tax under the Arkansas Gross Receipts
5 Act of 1941, § 26-52-101 et seq., and the Arkansas Tax Procedure Act, § 26-
6 18-101 et seq., ~~so far as practicable shall be~~ are applicable with respect to
7 the enforcement and collection of the tax levied ~~pursuant to the authority of~~
8 ~~this subchapter~~ under § 26-75-602.

9 (2)(A) However, the administration, ~~and~~ enforcement of the tax
10 levied under § 26-75-602, and all actions arising from the tax levied under §
11 26-75-602 shall be by and in the name of the commission through the proper
12 commission officials or agents.

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

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

18 (c) The levying city ~~is authorized to~~ may adopt ordinances; ~~consistent~~

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

25 (2) That enable the commission to:

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

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

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

33 ~~(2)(B)~~ (B) Assess unpaid or unreported tax within three (3)
34 years of the date the tax is due;

35 ~~(3)(C)~~ (C) Provide ~~for~~ judicial relief from proposed
36 assessments in accordance with subsection (d) of this section; and

1 ~~(4)(D)~~ Issue certificates of indebtedness in accordance
 2 with subdivision ~~(e)(3)(c)(2)(C)~~ of this section.

3 (d)(1) Within thirty (30) days of the issuance of the notice and
 4 demand for payment of a deficiency in tax established by a final
 5 determination of the hearing officer, a taxpayer may seek judicial relief
 6 from the final determination by either:

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

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

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

16 (a) File suit within thirty (30) days after
 17 filing the bond, to stay the effect of the commission's determination; ~~shall~~
 18 ~~faithfully~~

19 (b) Faithfully and diligently prosecute the
 20 suit to a final determination, ~~and shall pay~~

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

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

27 (2)(A) The ~~method~~ methods provided in this section ~~is~~ are the
 28 exclusive ~~method~~ methods for seeking relief from a written decision of the
 29 commission establishing a deficiency in tax.

30 (B) ~~No injunction shall issue~~ A court shall not issue an
 31 injunction to stay proceedings for assessment or collection of ~~this~~ the tax
 32 levied under § 26-75-602.

33 (e)(1) If a taxpayer does not timely and properly pursue the
 34 taxpayer's remedies seeking relief from a decision of the commission and a
 35 final assessment is made against the taxpayer, or if the taxpayer fails to
 36 pay the deficiency assessed upon notice and demand, then the commission as

1 soon as practicable thereafter shall issue to the circuit clerk of the county
 2 ~~where in which~~ the taxpayer's business is located a certificate of
 3 indebtedness certifying that the person named ~~therein~~ in the certificate of
 4 indebtedness is indebted to the commission for the amount of the tax
 5 established by the commission as due.

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

8 (A) The name of the delinquent taxpayer;

9 (B) The amount certified as being due;

10 (C) The name of the tax; and

11 (D) The date of entry upon the judgment docket.

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

13 (A) Has the same force and effect as the entry of a
 14 judgment rendered by the circuit court; ~~and~~

15 (B) This entry shall constitute Constitutes the
 16 commission's lien upon the title of any real and personal property of the
 17 taxpayer in the county ~~where in which~~ the certificate of indebtedness is
 18 recorded.

19 ~~(4)(A)~~ (A) The certificate of indebtedness authorized by this
 20 subsection shall continue in force for ten (10) years from the date of
 21 recording and shall automatically expire after the ten-year period has run.

22 (B) Actions on the lien on the certificate of indebtedness
 23 shall be commenced within ten (10) years after the date of recording of the
 24 certificate, ~~and not afterward.~~

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

28 ~~(f) The provisions of subsections~~ Subsections (d) and (e) of this
 29 section ~~shall be~~ are effective only when the levying city adopts and the
 30 voters approve an ordinance ~~which~~ under § 26-75-602 that specifically
 31 provides that ~~these provisions shall be utilized by~~ the commission shall
 32 utilize subsections (d) and (e) of this section in enforcing the tax levied
 33 under § 26-75-602.

34
 35 SECTION 3. Arkansas Code § 26-75-701(b), concerning the sales tax
 36 authorized on hotels and restaurants, is amended to read as follows:

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

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

11 (3) The adjoining city ~~shall have no~~ does not have authority
 12 over the petitioning tourist attraction except as provided in this section.

13 (4) As used in this section, "tourist attraction" means:

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

22
 23 SECTION 4. Arkansas Code § 26-75-702 is amended to read as follows:
 24 26-75-702. Election required.

25 (a)(1) The If a governing body of a city enacts an ordinance levying a
 26 tax under § 26-75-701, the governing body of a city levying the tax
 27 authorized in this subchapter shall submit the question of levying ~~such a~~ the
 28 tax to the electors of the city, if petitions signed by not less than five
 29 hundred (500) qualified electors of the city requesting an election are filed
 30 with the governing body of the city within thirty (30) days after the
 31 adoption of the ordinance levying the tax at the next primary or general
 32 election.

33 (2) If the next primary or general election is less than
 34 seventy-five (75) days from the date the ordinance is enacted under this
 35 subsection, the election on the question of the levying of the tax shall be
 36 delayed until the following primary or general election, whichever occurs

1 first.

2 (b) A tax levied under § 26-75-701 shall be levied upon approval of a
3 majority of the qualified electors voting on the question of the levying of
4 the tax at the primary or general election.

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6 SECTION 5. DO NOT CODIFY. Applicability.

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

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