

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1308

By: Representative L. Fite
By: Senator Hill

For An Act To Be Entitled

AN ACT TO AMEND THE LAW TO PROVIDE FOR CHANGES RELATED TO ARKANSAS CONSTITUTION, AMENDMENT 101; TO ALLOW FOR REVENUES FROM THE SALES AND USE TAX LEVIED UNDER ARKANSAS CONSTITUTION, AMENDMENT 101, TO BE USED FOR BONDS FOR SURFACE TRANSPORTATION PROJECTS; TO AMEND THE LAW REGARDING THE DEDUCTION, TRANSFER, DISTRIBUTION, AND REFUND OF REVENUES FROM THE SALES AND USE TAX LEVIED UNDER ARKANSAS CONSTITUTION, AMENDMENT 101; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW TO PROVIDE FOR CHANGES RELATED TO ARKANSAS CONSTITUTION, AMENDMENT 101; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 14-164-341 is amended to read as follows:
14-164-341. Bonds for surface transportation projects.

(a) The governing body of a municipality or county may pledge by ordinance all or a specified portion of the municipality's or county's share of collections of the following ~~temporary one-half percent (1/2%) sales and use tax levied under Arkansas Constitution, Amendment 91,~~ to retire bonds issued for a surface transportation project:



(1) The temporary one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 91; or

(2) The one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 101.

(b)(1) An ordinance pledging revenues under subsection (a) of this section is not effective unless the issuance of the bonds is approved by a majority of the electors of the municipality or county voting on the question at an election that is held substantially in the manner provided under § 14-164-309.

(2) The ballot form in an election to issue bonds secured by the pledge of revenues under subsection (a) of this section shall contain a statement describing the extent to which the municipality's or county's share of collections of the temporary one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 91, or the one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 101, may be pledged to the retirement of the bonds issued for the surface transportation project if the bonds are approved by the voters of the municipality or county.

(c) Bonds issued under this section that are secured by collections of the temporary one-half (½%) sales and use tax levied under Arkansas Constitution, Amendment 91, shall not have a final maturity date later than July 1, 2023.

(d) A certified copy of the ordinance authorizing the issuance of bonds under this section shall be filed with the Secretary of the Department of Finance and Administration and the Treasurer of State as soon as practicable after the approval of the issuance of the bonds by the voters.

(e)(1) If a municipality or county has filed an ordinance with the Treasurer of State under subsection (d) of this section and the municipality's or county's share of collections of the temporary one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 91, or the one-half percent (½%) sales and use tax levied under Arkansas Constitution, Amendment 101, is to be distributed to the municipality or county from the Municipal Aid Fund or the County Aid Fund, the Treasurer of State shall separately identify the amount of funds to be distributed to the municipality or county under Arkansas Constitution, Amendment 91, or Arkansas Constitution, Amendment 101.

(2) If a municipality or county has filed an ordinance with the Treasurer of State under subsection (d) of this section, the municipality or county may elect to have the funds identified by the Treasurer of State under subdivision (e)(1) of this section distributed to the bank or other depository designated in the ordinance.

(3)(A) If a municipality or county elects to have funds distributed to a bank or other depository under subdivision (e)(2) of this section, the amount identified by the Treasurer of State under subdivision (e)(1) of this section shall be distributed to the bank or other depository designated in the ordinance rather than being distributed to the municipality or county.

(B) The distribution under subdivision (e)(3)(A) of this section shall continue until the municipality or county files a signed statement with the Treasurer of State to the effect that the bonds to which the funds identified under subdivision (e)(1) of this section are pledged have been fully paid and are no longer outstanding.

SECTION 2. Arkansas Code § 19-5-207 is amended to read as follows:
19-5-207. Certain sales and use taxes not subject to deduction, transfer, or distribution.

The sales and use taxes levied under Arkansas Constitution, Amendment 91, § 3, and Arkansas Constitution, Amendment 101, § 2, are not subject to deduction, transfer, or distribution to the Constitutional Officers Fund or the State Central Services Fund under §§ 19-5-202, 19-5-203, and 19-5-205.

SECTION 3. Arkansas Code § 26-52-447(c), concerning the sales tax exemption for the partial replacement and repair of certain machinery and equipment, is amended to read as follows:

(c) The excise tax of one-eighth of one percent ($\frac{1}{8}$ of 1%) levied in Arkansas Constitution, Amendment 75, ~~and~~ the temporary excise tax of one-half percent (0.5%) levied in Arkansas Constitution, Amendment 91, and the excise tax of one-half percent (0.5%) levied in Arkansas Constitution, Amendment 101, are not subject to refund under this section.

SECTION 4. Arkansas Code § 26-53-149(c), concerning the use tax exemption for the partial replacement and repair of certain machinery and

equipment, is amended to read as follows:

(c) The excise tax of one-eighth of one percent (0.125%) levied in Arkansas Constitution, Amendment 75, ~~and~~ the temporary excise tax of one-half percent (0.5%) levied in Arkansas Constitution, Amendment 91, and the excise tax of one-half percent (0.5%) levied in Arkansas Constitution, Amendment 101, are not subject to refund under this section.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that, with the expiration of the temporary one-half percent (0.5%) sales and use tax levied under Arkansas Constitution, Amendment 91, there will be a shortage of moneys at the municipal and county level to fund contracts for surface transportation projects for which there is an immediate need in this state; that municipalities and counties can obtain funding for surface transportation projects by issuing bonds; that municipalities and counties have had the authority, with voter approval, to issue bonds payable from their share of the collections of the temporary one-half percent (0.5%) sales and use tax levied under Arkansas Constitution, Amendment 91; that the stated intent of Arkansas Constitution, Amendment 101, is "that the sales and use tax levied under Arkansas Constitution, Amendment 91, continue after the retirement of the bonds authorized in Arkansas Constitution, Amendment 91, to provide special revenue for use of maintaining, repairing, and improving the state's system of highways, county roads, and city streets"; and that this act is immediately necessary because municipalities and counties need to have the authority, with voter approval, to issue bonds payable from their share of collections of the one-half percent (0.5%) sales and use tax levied under Arkansas Constitution, Amendment 101, to continue to finance surface transportation projects. 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. **APPROVED: 2/24/23**