

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1743**

**Amendment Number: H1**

**Bill Subtitle: TO AMEND THE LAW CONCERNING THE ALLOCATION OF REVENUE WITHIN A COUNTY COMPOSED OF DUAL JUDICIAL DISTRICTS.**

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### **Basic Change :**

#### **Sponsor: Representative Capp**

Engrossment 03/09/17 --- House Amendment 1 --- Amends the bill to add an emergency clause to reflect that the Act would be effective upon signature of the Governor.

Original Bill ---The bill amends laws concerning the allocation of local sales tax revenue in a county composed of dual judicial districts. In the case of *Mississippi County, Arkansas vs. City of Osceola, Arkansas*, 2017 Ark. 71 (March 2, 2017), the Arkansas Supreme Court in its decision found that the provisions of Act 81 of 1901 would control the distribution of a proposed county-wide sales tax. Mississippi County is a county in Arkansas with dual judicial districts, *i.e.*, the Osceola District and the Chickasawba District, as created by Act 81 of 1901. Act 81 of 1901 provided that all revenue accruing to the county from the sale of forfeited state and county lands, liquor and ferry license, and from all other sources whatever, shall be used for the exclusive benefit of the district in which such revenue shall arise. The Court found that adoption of the countywide sales tax with proceeds to be used for bond payments related to the construction of property located in only one judicial district of the County would violate this provision of Act 81 of 1901 as residents from both judicial districts would be subject to the tax. Although Arkansas code provisions authorizing the levy of sales and use tax in Arkansas cities and counties were adopted subsequent to Act 81 of 1901, it was determined that Act 81 was controlling in the matter before the Court.

The bill amends the language in Act 81 of 1901 that provides for the Mississippi County tax distribution by judicial district that conflicts with Arkansas laws for city and county sales taxes. The bill also amends code provisions for the other Arkansas counties with dual judicial districts of: Clay County; Craighead County; Franklin County; Prairie County; Yell County; and Logan County. All of the referenced counties currently have county wide sales and use tax levies.

The bill also amends § 14-14-114 regarding allocation of county revenues to provide that revenues received by a county that contains within its boundary a circuit court composed of more than one (1) judicial district that was created by an uncodified act shall be allocated as determined by the quorum court and shall not be divided by the judicial district in which the revenues were collected.

### **Revenue Impact :**

No impact of state revenues. Existing county sales and use taxes would continue to be collected and reported in the same manner as currently practice.

### **Taxpayer Impact :**

Sellers collecting county sales and use taxes will continue to determine which county's sales tax to collect and report. The tax will be reported on a monthly basis in the existing method for all Arkansas in-state sellers and for all out-of-state sellers shipping merchandise to Arkansas customers.

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### **Resources Required :**

No resources will be required with adoption of the bill. Significant resource requirements would exist if county sales taxes by judicial district are required. DFA's rates and boundary tables would require redevelopment to include all physical addresses in the referenced counties by judicial district in order for sellers both in-state and out-of-state to collect and identify into which district the sales transaction occurred. The Geographic Information Office does not have the required detailed address information by judicial district in order to develop a new table at this time. Development would take significant time and unknown costs. Out-of-state sellers and in-state sellers shipping or delivering merchandise use the tables in order to collect the proper local sales and use taxes.

### **Time Required :**

None with adoption of the Act.

### **Procedural Changes :**

None with the adoption of the Act.

### **Other Comments :**

The bill will continue current methods and procedures for the collection of county sales taxes in Arkansas.

### **Legal Analysis :**

House amendment #1 to HB1743 adds an emergency clause to the bill making its provisions effective immediately upon passage and approval. This amendment will ensure that county revenues, including county sales and use tax revenues, collected in a county having multiple judicial districts created by an uncodified act will be divided as determined by the quorum court and not by the judicial district in which the revenues were collected. This amendment is necessary for DFA to administer county sales and use taxes because it is presently not possible to collect and identify local sales and use tax collections to particular judicial districts within a county. This amendment provides that any new revenues collected after passage of this act will be distributed to judicial districts as determined by the quorum court of the county.