

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 440

By: Simpson

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5
6 AS INTRODUCED

7 An Act relating to local government funding options;
8 authorizing county to call for an election regarding
9 the tax of rock, gravel, granite, sand and limestone
10 upon severance; providing exception for materials
11 extracted on private property by natural persons;
12 providing exception for limestone extracted for
13 agricultural purposes; requiring voter approval
14 before levying of tax; specifying time period before
15 subsequent special election can be called under
16 certain circumstances; providing effective date for
17 tax levy or change in tax rate; requiring designation
18 of purpose for tax and specifying purposes;
19 specifying disposition of funds; providing for
20 duration of tax; requiring Oklahoma Tax Commission to
21 provide certain notice; modifying effective date of
22 rate change under specified circumstances;
23 authorizing certain contract between county and Tax
24 Commission and providing contract criteria;
25 authorizing Tax Commission to charge specified fee;
26 requiring initiative petitions be in compliance with
27 specified statutes; mandating specified procedures;
28 setting time period during which election shall be
29 held; providing for certain credit based on sales tax
30 treatment; providing for apportionment of revenues to
31 municipalities under certain circumstances;
32 prohibiting counties from imposing certain fees,
33 charges, assessments or related costs; providing for
34 codification; and providing an effective date.

35 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1001.5 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Any county of this state is hereby authorized to levy a tax
5 upon the severance of rock, gravel, granite, sand, limestone or any
6 other natural materials mined for purposes of producing aggregate
7 within the territorial limits of the county by any lawfully
8 recognized for-profit business entity in an amount specified in the
9 special election called as provided herein.

10 B. No severance tax shall be applicable to aggregates extracted
11 by an individual person or persons from real property owned by such
12 person or persons and not sold for profit.

13 C. No severance tax shall be applicable to limestone extracted
14 for agricultural purposes.

15 D. Before a severance tax may be levied by the county, the
16 imposition of the tax shall first be approved by a majority of the
17 registered voters of the county voting thereon at a special election
18 called by the board of county commissioners or by an initiative
19 petition signed by not less than five percent (5%) of the registered
20 voters of the county who were registered at the time of the last
21 general election. The question submitted shall be limited to the
22 purposes described by subsection G of this section. However, if a
23 majority of the registered voters of a county voting fail to approve
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1 such a tax, the board of county commissioners shall not call another
2 special election for such purpose for one (1) year.

3 E. Any tax levied or any change in the rate of a tax levied
4 pursuant to the provisions of this section shall become effective on
5 the first day of the calendar quarter following approval by the
6 voters of the county unless another effective date, which shall also
7 be on the first day of a calendar quarter, is specified in the
8 ordinance or resolution levying the tax or changing the rate of the
9 tax. The county may approve a severance tax up to ten cents (\$0.10)
10 per ton on the production of rock, gravel, granite, sand and
11 limestone.

12 F. Any severance tax which may be levied by a county shall be
13 designated for a specific or general purpose by a majority vote of
14 the board of county commissioners or as stated by initiative
15 petition. The county shall identify the purpose of the severance
16 tax when it is presented to the voters pursuant to the provisions of
17 subsection A of this section.

18 G. Except as provided by Section 2 of this act, the proceeds of
19 any severance tax levied by a county shall be deposited in the
20 county general fund and shall be used for any roads and bridges but
21 shall not be used for salaries or other forms of employee
22 compensation and may only be used for construction or improvement of
23 roads and bridges.

1 H. The life of a tax levied pursuant to the provisions of this
2 section may be limited or unlimited in duration. The county shall
3 identify the duration of the tax when it is presented to the voters
4 pursuant to the provisions of subsection A of this section.

5 I. The Oklahoma Tax Commission shall give notice to all
6 relevant taxpayers of a rate change at least sixty (60) days prior
7 to the effective date of the rate change. Failure to give notice as
8 required by this section shall delay the effective date of the rate
9 change to the first day of the next calendar quarter. The board of
10 county commissioners of a county levying a tax pursuant to the
11 provisions of this section and the Tax Commission are authorized to
12 enter into a contract whereby the Tax Commission shall have
13 authority to assess, collect and enforce the tax and any penalties
14 or interest thereon levied by the county and to remit the same to
15 the county. Such authority shall apply to any tax levied pursuant
16 to this section and penalty or interest liability existing at the
17 time of contracting. Upon contracting, the Tax Commission shall
18 have the power of enforcement of the tax, penalties or interest that
19 are vested in the county. The contract shall provide for the
20 assessment, collection and enforcement of the tax, penalties or
21 interest in the same manner as the administration, collection or
22 enforcement of the state gross production tax by the Tax Commission.
23 For providing such assistance, the Tax Commission shall charge the
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1 county a fee of one-half of one percent (1/2 of 1%) of the gross
2 collection proceeds.

3 J. Initiative petitions calling for a special election
4 concerning county severance tax proposals shall be in accordance
5 with Sections 2, 3, 6, 18 and 24 of Title 34 of the Oklahoma
6 Statutes. Petitions shall be submitted to the office of the county
7 clerk for approval as to form prior to circulation. Following
8 approval, the petitioner shall have ninety (90) days to secure the
9 required signatures. After securing the requisite number of
10 signatures, the petitioner shall submit the petition and signatures
11 to the county clerk. Following the verification of signatures, the
12 county clerk shall present the petition to the board of county
13 commissioners. The special election shall be held within sixty (60)
14 days of the board of county commissioners receiving the petition
15 from the county clerk.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1001.6 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 A. All materials sold where an appropriate county sales tax was
20 charged, collected and remitted to the county where the materials
21 were severed shall receive a credit against the severance tax in the
22 same amount of the sales tax portion that was remitted to the county
23 of origin.

1 B. All materials sold to a tax-exempt entity where no sales tax
2 is collected shall be subject to the severance tax.

3 C. If the mining or extracting of aggregates takes place within
4 the incorporated area of a municipality, fifty percent (50%) of the
5 revenue derived from the mining or extracting of aggregates which
6 occurs within such incorporated municipal area from a severance tax
7 levy imposed by a county pursuant to Section 1 of this act shall be
8 apportioned to the general revenue fund of the municipality and
9 fifty percent (50%) of the revenue shall be apportioned to the
10 county as provided by subsection F of Section 1 of this act.

11 D. No county that receives revenue from a severance tax levy on
12 aggregates as authorized by this act shall impose any fee, charge,
13 assessment or other cost for the privilege of engaging in the mining
14 or extraction of aggregates.

15 SECTION 3. This act shall become effective November 1, 2019.

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