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Champions For Effective Local Government

**Oklahoma Municipal League**

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*Oklahoma Municipal League*

**LEGISLATIVE BULLETIN**

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**E-FAIRNESS PASSED WITH BI-PARTISAN SUPPORT**

E-Fairness crossed the finish line with bipartisan support!!! Rep. Chad Caldwell (R-Enid) presented [HB 2531](#) late yesterday afternoon. After several questions and a lot of debate, the Retail Protection Act passed the House by a vote of 70-18. Please thank those who [voted](#) to support the local communities and local businesses.

The bill expands the definition of "nexus". It allows online retailers to voluntarily enter into a contract by May 1, 2017 to start collecting and remitting the sales and use tax. It requires notification to the individuals who purchased items online that they are to report their use tax on their income tax. Currently, there are 1200 online retailers that voluntarily collect the sales tax. Two hundred of the 500 largest online retailers already collect the tax. The bill will now be considered by Governor Mary Fallin.

**BUDGET BATTLES INSIDE THE CAPITOL**



As the American Ninja Warriors are battling outside, the budget battles are heating up inside. Legislators are trying to find a way to fill the \$1.3 billion hole. Budget bills were dropped on Tuesday that had everyone scurrying around the rotunda trying to protect their interest. Some of the proposals include: [SB 1577](#) by Pro Tempore Brian Bingman (R-Sapulpa) and Speaker Jeff Hickman (R-Fairview) eliminating the rebate of gross production taxes for marginal wells, costing the oil and gas industry approximately \$132 million. The bill passed the Senate yesterday by a vote of 37-6. It now heads to the House of Representatives.

[HB 3207](#) by Rep. Earl Sears (R-Bartlesville) and Sen. Clark Jolley (R-Edmond) requires the Grand River Dam Authority (GRDA) to transfer no less than \$9.5 million of its revenue for this fiscal year ending June 30, 2016. Discussions are also floating around to take 2% from the Oklahoma Municipal Power Authority (OMPA). This bill was laid over in the House Joint Committee on Appropriations and Budget (JCAB) yesterday. GRDA has until Monday to show figures to the Appropriation chairmen and how this will impact their agency.

[SB 1606](#) eliminates the "double deduction." The bill increases taxable income for tax years beginning on or after Jan. 1, 2016, by the amount of state and local sales or income taxes deducted under 26 U.S.C., Section 164 of the Internal Revenue Code. It requires that taxable income on the state return be increased only by the amount actually deducted after any such limitations are applied if the amount of state and local taxes deducted on the federal return is limited.

[HB 3205](#) by Rep. Earl Sears (R-Bartlesville) and Sen. Clark Jolley (R-Edmond) amends 68 O.S. Section 227 by authorizing a taxpayer to claim a refund for erroneously paid sales tax and use tax "within two (2) years from the date of payment". The Oklahoma Tax Commission (OTC) may accept an amended sale or use tax report or return as a verified claim for refund if they established a liability less than the original report or return previously filed.

[HB 3208](#) by Rep. Earl Sears (R-Bartlesville) and Sen. Clark Jolley (R-Edmond) levies a \$5 fee on every vehicle registered from July 1, 2016, to June 30, 2017, in addition to all other vehicle registration fees. The bill requires the first \$5.5 million collected from vehicle registrations in FY2017 to be deposited in the Oklahoma Tax Commission Revolving Fund and the first \$2.0 million collected from vehicle registrations in FY2018 to be deposited in the Oklahoma Tax Commission Revolving Fund. The bill calls for a general reissue of license plates to begin Jan. 1, 2017. The bill changes the title of the "Administrator of the Oklahoma Tax Commission" to the "Executive Director of the Oklahoma Tax Commission."

**Tax Credit/Affordable Housing Projects:** [SB 1580](#) by Sen. Clark Jolley (R-Edmond) and Rep. Earl Sears (R-Bartlesville) limits claims for the income tax credit for investment in qualified affordable housing projects to \$2 million for projects placed in service before July 1, 2016; \$1.5 million for projects placed in service on or after July 1, 2016, and before Jan. 1, 2017; and \$3 million for projects placed in service during any allocation year which begins on or after Jan. 1, 2017. The bill failed the House JCAB by a vote of 8-16.

### **9-1-1 PASSED GCCA**

[HB 3126](#) by Rep. Josh Cockroft (R-Tecumseh) and Sen. Jason Smalley (R-Stroud) creates the Oklahoma 9-1-1 Management Authority Act with rule making authority given to the Oklahoma Department of Emergency Management. The bill specifies the Authority's organization, duties and limitations. A monthly fee of 75 cents is created on each wireless telephone connection and other communication device or service connection with the ability to dial 9-1-1 for emergency calls, services that are enabled by Voice over Internet Protocol (VoIP) or Internet Protocol (IP) and prepaid wireless retail transactions. Funds shall be used by public agencies only for services, equipment and operations related to 9-1-1 emergency telephone systems. The definition of "public agency" is expanded to also include "public district, public trust, sub-state planning district, public authority or tribal authority located within this state". It repeals 63 O.S. Sections 2821, 2841, 2842, 2843, 2843.1, 2843.2, 2844, 2847, 2851, 2852 and 2853.

Rep. Cockroft presented the bill yesterday to the House General Conference Committee on Appropriations ([GCCA](#)). By 4:00 p.m., the bill had the majority of signatures needed to be signed out of the House GCCA. It is now up to the Senate conferees to sign the bill. Please contact the Senate conferees to do the same.

They are as follows: [Senators](#) Smalley, Fields, Floyd, Griffin, Mazzei, and Marlatt.

### **GOVERNOR ISSUES EXECUTIVE ORDER WITH MASSAGE THERAPY ACT**

Governor Mary Fallin issued an executive order today as she signed [SB 687](#) by Sen. Anthony Sykes (R-Moore) and Rep. David Derby (R-Owasso) creating the Massage Therapy Practice Act.

The bill prohibits a person who is not a licensed massage therapist from: using the title of massage therapist; represent himself or herself to be a massage therapist; use any other title, words, abbreviations, letters, figures, signs or devices that indicate the person is a massage therapist; utilize the terms "massage", "massage therapy" or "massage therapist" when advertising or printing promotional material. The bill adds a scope of practice for individuals practicing massage therapy under this Act. It also grants the State Board of Cosmetology and Barbering the authority to adopt and promulgate rules necessary to implement the Massage Therapy Practice Act. It authorizes the Board to perform investigations and establishes an Advisory Board of Massage Therapy to assist the board. The bill also establishes steps and fees for licensure. The bill also establishes disciplinary action against individuals who violate the provisions of the Act.

The bill also allows the Massage Therapy Practice Act to supersede all ordinances or regulations regulating massage therapists in any city, county or political subdivision. The bill does not affect the regulations of a city, county or a political subdivision relating to zoning requirements or occupational license fees pertaining to health care professions.

OML and some cities addressed concerns that the new Act that supersedes all ordinances and regulations would harm law enforcement's ability to target human trafficking and prostitution. The executive order reads as follows: "The plain language of this provision, however, as well the basic tenets of statutory construction, mean that ordinances targeting crimes like prostitution and human trafficking but only incidentally affecting massage therapy are still operative and should be enforced, where appropriate." The bill goes into effect 90 days after Sine Die.

### **BILLS SIGNED BY THE GOVERNOR**

**Law Enforcement/GRDA Reserve Officers:** [HB 1717](#) by Rep. Doug Cox (R-Grove) and Sen. Wayne Shaw (R-Grove) authorizes the Grand River Dam Authority to

utilize CLEET-certified volunteer reserve officers. The bill went into effect on May 9, 2016.

**Law Enforcement/Firearms:** [HB 2348](#) by Rep. Dustin Roberts (R-Durant) and Sen. Frank Simpson (R-Ardmore) modifies the duties of the Oklahoma Army and Air National Guard Adjutant General. The bill exempts Army and Air National Guard personnel from certain provisions relating to unlawful carry in certain places. The bill allows the Adjutant General to delegate authority when absent from the state. The bill allows for the execution of agreements with the federal government for reimbursement to the Military Department state-owned vehicles and equipment in support of youth programs. It authorizes the Adjutant General to execute agreements with the deferral government for reimbursement to the Oklahoma Military Department for the use and operation of Oklahoma Military Department state-owned vehicles and equipment in support of the federally reimbursable programs through cooperative agreements with the National Guard Bureau. The bill also exempts the Military Department from the provisions of the Oklahoma Surplus property Act. The bill takes effect November 1, 2016.

**Pensions/Retirement Freedom Act:** [HB 2264](#) by Rep. Randy McDaniel (R-Edmond) and Sen. Jason Smalley (R-Stroud) modifies the time period of employee contribution rate selections in the Retirement Freedom Act from once per year to once per month for any contribution that is more than the 4.5 percent rate. The bill takes effect November 1, 2016.

**Roofing Contraction Registration Act:** [SB 1083](#) by Sen. Dan Newberry (R-Tulsa) and Rep. Jon Echols (R-OKC) modifies the use of the affidavit of exemption relating to workers' compensation insurance under the Roofing Contractor Registration Act. The bill requires the exemption to be used only for residential construction projects, while all commercial projects are required to cover all individuals performing work to be covered by workers' compensation insurance as employees of the person registered under the Roofing Contractor registration Act. The bill allows any day laborer with proof of workers' compensation insurance under a temporary labor agency to provide an affidavit from the agency. The bill prohibits any homeowner from being held liable for injury or death to any person who performs work under a contract with a person required by law to be registered under the Roofing Contractor Registration Act. The bill takes effect on November 1, 2016.

## **BILLS SENT TO THE GOVERNOR**

**Law Enforcement/Juvenile Facility:** [SB 1424](#) by Sen. Kim David (R-Porter) and Rep. Pat Ownbey (R-Ardmore) amends 10 O.S. Section 404.1. Among the changes in the bill, it requires a national criminal history "record searches including rap back notification" and "through direct request by" any operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility and the like.

**Sale of State Historical Property:** [SB 1573](#) by Sen. Clark Jolley (R-Edmond) and Rep. Sears (R-Bartlesville) authorizes the Oklahoma Historical Society to transfer ownership of historic properties, both real and tangible, to appropriate organizations or groups who agree to maintain the properties and who pay fair market value for such property. The Society shall first offer the property for sale to the original donor. If the donor cannot be identified, the property may be offered for sale to an appropriate not-for-profit organization or a federally recognized Indian tribe. The bill contains requirements, limitations and details.

## **BILLS ON THE MOVE**

**Administrative Rules:** [CCR HB 2254](#) by Rep. George Faught (R-Muskogee) and Sen. Dan Newberry (R-Tulsa) removes the use of the omnibus resolution to approve rules promulgated under the Administrative Procedures Act. The bill returns the rule approval procedure to requiring a joint resolution to approve any rule that contains a fee increase or is a rule which derives its authority from Title 59. The bill also changes the date of submission of agency rules from April 1 to February 1, starting in 2018. It was presented to the House Conference Committee on Administrative Rules. Senate conferees have been named. Senate conferees are as follows: Senators Newberry, Dahm, Holt, Bice, Marlatt, Floyd, and Matthews.

**Law Enforcement/Drug Court Fee:** [HB 3119](#) by Rep. Scott Martin (R-Norman) and Sen. Wayne Shaw (R-Grove) amends 22 O.S. Sections 471.6 and 471.9. The judge is authorized, once the offender has successfully completed the drug court program, to waive, in his discretion, all or part of the costs and fees if, in the opinion of the drug court judge, continued payment of the costs and fees by the offender would create a financial hardship for the offender. The bill was presented in the House General Conference Committee on Appropriations. It is awaiting signatures by the Representatives before going to the Senate.

**OTC/Enforcement:** [SB 1579](#) by Sen. Clark Jolley (R-Edmond) and Rep. Earl Sears (R-Bartlesville) directs the Oklahoma Tax Commission to enhance agency efforts to discover and reduce fraud and abuse of sales and use tax exemptions and the non-filing and underreporting of sales and use taxes due and owing. The bill requires the efforts include enhanced sales and use tax auditing with technology systems designed to identify underreporting of sales and use taxes and the electronic reporting of information of exempt sales by vendors.

The bill directs the commission to increase its audit staff to conduct audits of individual, corporate and partnership income tax returns. It allows the commission to utilize its increased staff to audit and issue proposed assessments against non-filing and underreporting taxpayers detected through the use of enhanced technology. It also directs the commission to enhance agency efforts to ensure the proper reporting and collection of gross production taxes, including the use of enhanced technology to ensure that all production is accurately reported and the auditing of claims for refunds or rebates to verify the accuracy of the claims filed. The bill is waiting to be heard in House JCAB.

**Water/Beneficial Uses:** [HB 2446](#) by Rep. Terry O'Donnell (R-Catoosa) and Sen. Dan Newberry (R-Tulsa) declares the protection of the beneficial uses of provided bodies of water in Oklahoma to be a compelling state interest subject to legislative authority and the regulatory authority granted by the Legislature to any state agency assigned with the responsibility within its respective areas of jurisdiction as defined by Oklahoma Statutes. The bill lists said beneficial uses for bodies of water in the state. The bill passed the House yesterday by a vote of 80-1. After the enrollment process, it will go to the Governor's desk.

**Water/Oil and Gas:** [SB 1414](#) by Sen. Bryce Marlatt (R-Woodward) and Rep. Kevin Calvey (R-OKC) creates the Oil and Gas Water Recycling and Reuse Act impacting waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback water, produced water or other fluid that arises out of or is incidental to the drilling and production of oil or gas. The bill determines the ownership of treated waste. The House rejected the Senate amendments on Monday and sent it to conference. House conferees have yet to be named. Senate conferees are as follows: Senators Marlatt, Griffin, Fields, Loveless, Allen, Wyrick, and Bass.