

LEGISLATIVE WRAP-UP 2009 -- THE YEAR OF HOLDING STEADY

This year's session could best be described as "What Could Have Been." The session started out as an extraordinary assault on municipalities on both the regulatory and fiscal fronts.

Your response to OML's alerts on these issues staved off the brunt of this attack. We anticipate that it will continue as budgetary woes and the looming effects of the next census play out in election year politics in the 2010 session.

The damaging bills ranged from such issues as annexation bills (HB 1071 & HB 1473), eminent domain (HB 1331, HB 1469, SB 565, SB 587, SB 558, SB 739), threat to impact fees (SB 805), land use restrictions (HB 2151 & SB 452), removal of sales tax on groceries (SB 318), expansion of the sales tax holiday (HB 1297 & SB 723), rural water issues (HB 1484 & SB 347) and the removal of REAP funding.

On the positive side of the ledger, many measures requested or supported by municipalities were enacted. These include new options to enhance collection of municipal revenues (HB 1800); grant funds from DEQ for engineering services (SB 551); securing OWRB program funds for grants and loans to public water systems (HB 1489); improving local operational flexibility (HB 1753) and local financing through pooled investment (HB 2067). A significant water bill (HB 1483) passed to secure water supplies for Oklahomans and diminish the thrust of the Tarrant County lawsuit.

MAIN FEATURE: THE BUDGET. The shortfall in the state's budget made this session especially challenging for preserving municipal interests. Although there was not much done on transportation funding, it is noteworthy that transportation was one of only four key areas that did not experience budget cuts. OML will continue to seek more funding for cities and towns for transportation as one of our top priorities.

State agencies were asked to reduce their budgets by 7 to 9%. These cuts place several agency programs assisting cities and towns at risk of reduced funding.

Budget concerns also imperiled municipal REAP and disaster relief funding. Each of these vital city and town issues were undecided until the final hours of the legislative session. Due to a great outcry from OML, OARC and – most importantly – YOU, the REAP program funding was restored.

Many legislators also agreed that the state should keep its promise to local governments to share the burden of disaster costs. At the end of the day, legislative leaders and the Governor decided to pay \$15 million in disaster aid from the governor's discretionary fund budget.

DISASTER FUNDING GOING FORWARD: While hard-fought, year-to-year success is great, until there is a reliable, dedicated source of state revenue we repeatedly run the risk of losing funding due to budget shortfalls or changing state priorities. This year we organized a comprehensive private and public education effort on the precarious posture of disaster funding. Through discussions with leaders from both political parties, editorials and your vital discussion back home with your local legislator, we have gained support for our initiative. However, ***we must continue to make our case.***

One way to do this is to support the efforts of Rep. Blackwell and Rep. Dorman to investigate the issue. Even though their bipartisan request for an interim study on a permanent funding source was denied by house leaders, they plan to proceed with the project. To coordinate our efforts, they are being invited to speak at OML's Annual Conference in Tulsa in September.

BY THE NUMBERS:

2800+ bills were filed in the 2009 session. OML read all of them and tracked 339 of these measures.

480 bills were enacted, including 64 tracked by OML.

Of the bills supported by OML, the Governor vetoed 1 bill and signed 64 bills. None of the other vetoed bills were tracked by OML.

BAD BILLS SUCCESSFULLY HANDLED

Here is a list of some bills that could have had a negative impact on cities and towns. After extensive lobbying by OML and our municipal officials via information provided in our weekly OML Legislative Bulletins and GRIPs as needed, these issues were either defeated or modified extensively in favor of cities and towns.

AGRICULTURAL ACTIVITY

HB 1473 as introduced would have exempted agricultural land, annexed at any time in the past or future, from municipal land use ordinances if they were annexed in parcels of 10 acres or more. This would have adversely impacted every city and town that has ever annexed. After successfully reaching consensus among interested OML members, the bill was amended to say that land of 40 acres or more that was continuously used for agricultural purposes is exempt from municipal land use ordinances. Effective 11/1/09.

HB 2151, as introduced, preempted the regulation and enforcement of care and handling of livestock to the complete exclusion of any order, ordinance or regulation by any municipality, or other political subdivision. Local legislation in violation of the law would have been void and unenforceable. After meetings with representatives of the Farm Bureau, which had requested the legislation, the bill was amended to clarify that municipal ordinances and regulations pertaining to human health and safety are not preempted by Department of Agriculture rules. Effective 5/12/09.

ANNEXATION

HB 1711 would have removed current law's three-sided annexation authorization. The bill never made it to the House floor for a vote.

SB 517 would have required cities and towns to send a written notice to all the property owners, residential and business, after an annexation was approved. Knowing the financial impact this would have had on cities and towns, we were successful in amending the bill. As amended the only new municipal duty is to send the annexation map and ordinance to the Oklahoma Tax Commission. The Tax Commission then has the legal duty to send any affected business owner the applicable sales tax rate. Effective 11/1/09.

ASSESSMENT DISTRICTS

HB 1424 was amended late in the session to dramatically reduce the potential economic development funding for assessment districts by exempting state, county and non-profit corporations. We were successful in getting this amendment removed from the bill. Effective 11/1/09.

IMPACT FEES

SB 805 was an attempt by the Home Builders Association to impose detailed state regulation of municipal impact fees. After reaching consensus with representatives from Broken Arrow, Edmond, Guthrie, Jenks, Midwest City, Norman, Oklahoma City and Tulsa, meetings were held with the Home Builders and the Senate author, Senator Aldridge. When it was clear agreement on a bill was impossible, we prevailed and the bill was not heard in the House. Our original proposal of an interim study was adopted. Study Number 2009H-004 by Rep. Liebmann.

MUNICIPAL OPERATIONS

SB 306 as introduced required municipalities, before issuance of a residential building permit, to verify proof that the contractor has general liability insurance and verify proof that the contractor has workers' compensation insurance. Some OML members opposed the bill due to concern about legal liability and compliance costs. Late in the session, amendments agreed to by OML members were successfully placed in the bill, which clarified the liability issues and narrowed the applicability of the requirement. A model ordinance drafted by the City of Edmond has been placed on the OML website. Effective date 11-01-09.

SB 449 & HB 2156 were two costly bills which would have mandated firefighter training and procedures pursuant to standards set by a national organization. The City of Stillwater estimated one of the bills would cost an initial \$300,000 annually and \$250,000 on an ongoing basis thereafter. Neither bill made it through the legislative process.

SB 510 & HB 1656 mandated municipalities to annually inspect fire hydrants. The City of Tulsa estimated that the bills as introduced would cost \$400,000 each year. Neither bill made it into law.

SB 1153 created fears among local governments that it would mandate a costly uniform radio system to achieve interoperability for public safety communications. The bill was amended to clarify that it applied only to state agencies. Effective date 11-01-09.

HB 1327, SB 872 & SB 767 greatly reduced available dates for municipal elections to as few as 3 per year. None of these bills were passed. Similar bills have been introduced in recent legislative sessions.

HB 2013 was a surprise conference committee bill that prohibited a municipal accident response fee for the response or investigation of a motor vehicle accident by law enforcement or other first responder. After municipal opposition resulted in its defeat on the house floor, the authors amended it to only apply to law enforcement response. One municipality estimated that a firefighter response to a hazardous spill could easily result in a responder fee of \$20,000. Effective date 7-1-09.

REGULATORY AUTHORITY

HB 1644 was an attempt at state regulation to include municipalities in the Oklahoma Underground Facilities Damage Prevention Act. It would have required 48-hour reporting of damage to a one-call notification call center. It set a \$1,000 maximum fine for first time unintentional violation and a \$5,000 maximum fine for an intentional violation and directed the Oklahoma Corporation Commission to oversee such actions. As a result of our success at stopping this bill, an interim study will be held on this issue. See Joint Interim Study Numbers 2009H-011 by Rep. Rousselot and 2009S-011 by Sen. Garrison.

REVENUES

SB 1166: This 9-1-1 bill was amended on the House floor to reduce the wireless fee from its current \$.50 per month to a mere \$.15. The author, Senator Clark Jolley, assured OML staff that he would not advance the bill in that form. The amendment was extracted from the final version. Effective date 5-22-09.

RURAL WATER DISTRICTS

HB 1484 and **SB 347** repealed current law's statutory process for a voluntary municipal buyout of a rural water district. Without the referenced statutes, we would undoubtedly face litigation over the issue of whether the rural water district has authority to sell its assets. As with many of these vital legislative issues, there were a number of meetings on this issue with legislators and municipal representatives from Broken Arrow, Edmond, Guthrie, Owasso, Ponca City and others. Again, when agreement could not be reached with our political opponents, the harmful bills did not advance.

SALES TAX

SB 318 was a strong attempt, kept alive until the final days of session, to reduce the sales tax on groceries over a 7-year period. As many cities are feeling the downturn of the economy, the threat of removing sales tax on groceries and expanding the sales tax holidays was even more frightening. OML has for years and will continue to educate the legislators on the revenue sources for municipalities and the overdependence on sales tax. However, this is a legislative proposal that we do not think will go away. Your citizens must be made aware of how cities and towns are funded and where those funds are used.

SB 723 and **HB 1297** were attempts to expand the sales tax holiday to various school supplies. This is another issue that returns each year to the State Capitol and is kept alive until the end of session. Neither bill passed.

HJR 1036 provided for a redistribution of municipal sales tax revenue from larger municipalities to smaller communities. Although it did not pass this year, it is the third year for this bill and it is likely to be pursued in future legislative sessions.

GOOD BILLS SUCCESSFULLY PASSED

MUNICIPAL OPERATIONS

HB 1753 benefits OML members in two significant areas. It increases municipal flexibility in hiring a city manager by relaxing current law's residency requirements. It allows city managers to reside within the boundaries of the city, the school district or within 10 miles of the city or school district. The bill also streamlines competitive bidding requirements by allowing change orders to be approved administratively. The change order is limited to 10% or \$40,000, whichever is less. In addition, the change must be reported by the chief administrative officer or his/her designee to the governing body. The bill goes into effect on November 1, 2009.

SB 551 exempts DEQ from competitive bidding requirements for contracts for engineering services up to \$100,000 to assist qualifying small municipalities or rural water or sewer districts with engineering reports or plans and specifications needed for construction or repairs to achieve compliance with federal and state public water supply or wastewater laws and regulations. This bill goes into effect on August 26, 2009.

SB 1182 creates the Oklahoma Uniform Building Code Commission, within the Construction Industries Board, and establishes membership requirements. The bill authorizes the commission to review and recommend for adoption, either in whole or in part, to the Oklahoma Legislature, the building codes for residential and commercial construction to be used by all entities within this state. It allows municipalities and subdivisions to adopt and enforce standards more stringent to their specific communities.

The bill requires the Commission to collect a fee not to exceed \$5.00 for any new building or renewal permit. It also allows for any state agency, municipality or other political subdivision collecting and remitting fees to levy a fee up to fifty cents (\$.50) for every construction permit or renewal permit issued. The bill went into effect on June 2, 2009.

REVENUES

HB 1800 is a big winner for cities and towns. This bill started off as just a bill to increase court costs for municipal courts not of record. However, when the City of Tulsa's revenue bill was not slated for hearing on the House floor our legislative strategy to create an ominous municipal revenue bill was successful. To assist you, a more detailed discussion of this bill is on the OML website including steps to take for implementation.

As a summary, the bill allows cities and towns to recoup the *costs of collection* by charging the person who owes money to the city. This is authorized when the municipality contracts with a debt collection agency to collect the delinquent obligations - including *any* municipal unpaid fees, penalties and interest, and municipal court penalties, costs, fines and fees. The bill also increases from \$25 to \$30 the maximum court costs that municipal courts not of record are allowed to levy. Also, the bill allows municipal courts to file a claim with the Oklahoma Tax Commission to recover unpaid fines and costs from individuals who have filed state income tax returns. The bill

authorizes municipal court clerks of courts not of record to charge and collect fees as determined by the municipal governing body. The bill became law on May 22, 2009.

HB 2067 creates a pooled investment fund capitalized by up to \$200 million of taxable bond proceeds. This fund, the Oklahoma Community Economic Development Pooled Finance Act, will be used to invest in local development projects. This bill went into effect on July 1, 2009.

MEASURES OF NOTE

9-1-1: The House and Senate leaders have formed a “9-1-1 Task Force” which will study possible changes needed to Oklahoma’s emergency communication system as technology evolves. 9-1-1 services are facing a daunting crisis of escalating costs and diminishing revenues. Local governments will ask the State, which has made no monetary commitment to this vital service, to provide the funding and operational tools necessary to prevent Oklahoma’s systems from going dark as they go broke.

The Task Force will also consider implementation of **SB 1166**, which creates the Regional Emergency Nine-One-One Services Act to encourage formation of emergency communication districts in order to provide efficient delivery of emergency nine-one-one (9-1-1) service throughout the state. It is anticipated meetings of the Task Force will begin within the next few months.

TRANSPORTATION: SB 832 creates the Oklahoma Roads Task Force to study the effect of inflation on highway and bridge construction. OML will make the case that funding issues must be designed to account for the economics of building and maintaining our streets. This in turn requires a reliable and adequate funding source. The Speaker has established an interim study: 2009H-090.

WATER: A significant water bill, **HB 1483**, aims to secure water supplies for Oklahomans and diminish the thrust of the Tarrant County lawsuit. The new law establishes permit standards for transport of water out-of-state modeled on current out-of-basin requirements. Although such sales could occur, the statute includes a condition that the water will only be available if it cannot be put to use within Oklahoma under reasonable conditions. Three interim studies have been approved. See, 2009S-030 and 2009S-028 by Sen. Paddock; 2009H-165 by Rep. Jett.

A STEP FORWARD AND A STEP BACK

SB 490 was the heartbreaker of the 2009 session. Initiated by CTAG and supported by OML, representatives from the CTAG area as well as OML lobbyists worked hard to see this bill make it to the Governor’s desk. It was an attempt to increase the number of resident taxpayers needed to initiate a taxpayer’s lawsuit. Currently only 10 taxpayers need to sign petition in any size municipality to file a lawsuit. However, the road forward was not always smooth.

On February 24th, the bill failed in the Senate by a vote of 14-33. That afternoon, we utilized our statewide network asking you to contact your local senator and encourage them to support the bill. As a result of our collective efforts, the bill was reconsidered and passed. The bill went to conference committee and passed overwhelmingly in the Senate by a vote of 42-0. It had just enough votes in the House with a vote of 55-40 to make it to the Governor’s desk.

However, on May 22, Governor Henry vetoed the bill. In his veto message he stated that the bill would disenfranchise Oklahoma taxpayers' ability to seek legal redress when they feel their state or local government has acted improperly. He explained that taxpayer lawsuits provide an important check against public corruption, abuse and fraud. It was therefore his conclusion that by raising the threshold necessary to file a taxpayer lawsuit, SB 490 would take a backward step and make it more difficult for citizens to hold public officials accountable.

