

ENROLLED HOUSE  
BILL NO. 1120

By: Widener of the House

and

Easley of the Senate

An Act relating to cities and towns; amending 11 O.S. 1991, Section 17-204, which relates to municipal budgets; modifying terms; amending 11 O.S. 1991, Section 27-109, which relates to municipal clerks; adding to and clarifying authority of court clerks; providing designation of clerk of municipal court; amending 11 O.S. 1991, Section 27-118, as last amended by Section 1, Chapter 49, O.S.L. 1994 (11 O.S. Supp. 1994, Section 27-118), which relates to bail bonds; clarifying language relating to bail bondsman and conditions of bonds; amending 11 O.S. 1991, Section 28-106, as amended by Section 1, Chapter 285, O.S.L. 1992 (11 O.S. Supp. 1994, Section 28-106), which relates to records of municipal court; authorizing clerk to cause certain costs, fines and forfeitures to be collected and received or paid; providing for proceeds of meter deposit funds; requiring deposit into certain fund; providing for certain refunds; amending 11 O.S. 1991, Section 35-201, which relates to the procedure for selling or leasing municipal-owned public utilities; defining term; providing for codification of certain section enacted in 1994; providing for noncodification; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 17-204, is amended to read as follows:

Section 17-204. As used in this act:

1. "Account" means an entity for recording specific revenues or expenditures, or for grouping related or similar classes of revenues and expenditures and recording them within a fund or department;

2. "Appropriation" means an authorization and allocation of ~~money to be expended~~ revenues by the municipal governing body to provide money for a purpose the budget;

3. "Budget" means a plan of financial operations for a fiscal year, including an estimate of proposed expenditures for given purposes and the proposed means for financing them;

4. "Budget summary" means a tabular listing of revenues by source and expenditures by fund and by department within each fund for the budget year;

5. "Budget year" means the fiscal year for which a budget is prepared or being prepared;

6. "Chief executive officer" means the mayor of an aldermanic city or a strong-mayor-council city, the mayor of a town, or the city manager or chief administrative officer as it may be defined by applicable law, charter or ordinance;

7. "Current year" means the year in which the budget is prepared and adopted, or the fiscal year immediately preceding the budget year;

8. "Deficit" means the excess of the liabilities, reserves, contributions and encumbrances of a fund over its assets as reflected by its book of account;

9. "Department" means a functional unit within a fund which carries on a specific activity, such as a fire department or a police department within a general fund;

10. "Estimated revenue" means the amount of revenues estimated to be received during the budget year in each fund for which a budget is prepared. Revenue includes any appropriated fund balance in the budget of revenues for a fund for the budget year;

11. "Fiscal year" means the annual period for reporting fiscal operations which begins and ends on dates as the Legislature provides;

12. "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts to record cash and other financial resources, together with all liabilities, which are segregated for the purpose of carrying on specific activities or attaining certain objectives;

13. "Fund balance" means the excess of the assets of a fund over its liabilities, reserves, contributions and encumbrances, as reflected by its books of account;

14. "Governing body" means the city council of a city, the board of trustees of a town, or the legislative body of a municipality as it may be defined by applicable law or charter provision;

15. "Immediate prior fiscal year" means the year preceding the current year;

16. "Levy" means to impose ad valorem taxes or the total amount of ad valorem taxes for a purpose or entity;

17. "Operating reserve" means that portion of the fund balance which has not been appropriated in a budget year; and

18. "Municipality" means any incorporated city or town.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 27-109, is amended to read as follows:

Section 27-109. The municipal clerk of any municipality where a municipal court is established, or a ~~deputy designated by him, or the chief municipal court officer, who is independent of the municipal police or judicial department, as established by the municipality~~ deputy shall be the clerk of the municipal court unless the governing body establishes or authorizes a position of chief municipal court officer to serve as court clerk.

The court clerk shall have authority to carry out the duties of the position as required by law; provided, that the person who serves as court clerk may separately perform other duties for the municipality. The clerk of the court shall:

1. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;

2. Administer oaths required in judicial or other proceedings before the court;

3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;

4. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and

5. Receive and give receipt for and disburse or deliver to the municipal treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 27-118, as last amended by Section 1, Chapter 49, O.S.L. 1994 (11 O.S. Supp. 1994, Section 27-118), is amended to read as follows:

Section 27-118. A. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of a bond, given by a bail bondsman as defined in Section 1301 of Title 59 of the Oklahoma Statutes, either for hearing, arraignment, trial, or judgment, or upon any other occasion when ~~his or her~~ the presence of the defendant in court or before the judge may be lawfully required:

1. The court shall perform the procedures set forth in Section 1332 of Title 59 of the Oklahoma Statutes whereby the municipal court clerk shall issue the required notices; or

2. a. The municipal judge shall issue an order declaring the bond to be forfeited on the day the defendant failed to appear and stating the reasons therefor, and

b. Within five (5) days of the order of forfeiture, the municipal court clerk shall file a certified copy of the order with the district court in the county where the municipal government is located. The district court clerk shall treat the certified order of forfeiture as a foreign judgment and proceed in accordance with the provisions of Section 1332 of Title 59 of the Oklahoma Statutes. A surety shall have all remedies available under the provisions of Section 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes.

B. Court costs shall be collectible from the proceeds of a forfeited bond.

SECTION 4. AMENDATORY 11 O.S. 1991, Section 28-106, as amended by Section 1, Chapter 285, O.S.L. 1992 (11 O.S. Supp. 1994, Section 28-106), is amended to read as follows:

Section 28-106. The clerk of the municipal criminal court of record shall keep and preserve the records of all proceedings had in the court, shall keep a docket, and shall collect and receive or cause to be collected and received all fines, costs, bond forfeitures and other monies properly receivable by ~~him~~ the clerk and shall account for the same to the city governing body. The governing body may authorize the appropriate finance official of the city by ordinance to collect and receive all fines, costs, bond forfeitures and other monies properly received by the clerk. When the clerk collects and receives such monies, the clerk shall pay or cause to be paid all such sums of money to the appropriate finance official of the city as the governing body may prescribe. It shall be the duty of the clerk to certify and authenticate all transcripts, cases and other records of the court and the certificate of the clerk shall be prima facie proof of the correctness of the copy of the document or record authenticated.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 35-102.1 of Title 11, unless there is created a duplication in numbering, reads as follows:

The proceeds from any investments of meter deposit funds and any other earnings therefrom shall be considered to be profit derived from the investment and shall be placed in the fund from which the operation and maintenance expenses of the utility, for which the

meter deposits invested were collected, are paid. The investment of such funds by the municipality shall in no manner impair its obligation to any person, firm or corporation, to refund in full any or all deposits theretofore or thereafter made.

SECTION 6. AMENDATORY 11 O.S. 1991, Section 35-201, is amended to read as follows:

Section 35-201. The provisions of this section through Section 35-205 of this title relating to the procedure for selling or leasing municipally owned public utilities shall apply when the municipally owned public utility is to be sold or leased in its entirety and its fair market value exceeds Ten Thousand Dollars (\$10,000.00). The provisions of this section through Section 35-205 of this title shall not apply to any sale of property of a municipality to the state or any agency or county thereof or any sale or lease to a public trust of which the municipality is the sole beneficiary. Any municipality governed by charter, when authorized by said charter, may sell, convey, or lease any public utility owned by the municipality without conducting an election as provided for in Section 35-203 of this title. For purposes of this section through Section 35-205 of this title, "public utility" shall be interchangeable with "public utilities, works and ways" and shall include municipally owned parks, lakes and recreation areas.

SECTION 7. Section 2 of Enrolled Senate Bill No. 834 of the 2nd Session of the 44th Oklahoma Legislature shall be codified as Section 37-119a of Title 11 of the Oklahoma Statutes.

SECTION 8. NONCODIFICATION The provisions of Section 7 of this act shall not be codified in the Oklahoma Statutes.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 26th day of April, 1995.

Speaker of the House of  
Representatives

Passed the Senate the 1st day of May, 1995.

President of the Senate