

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3218

By: Lindley

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 1991, Section 34-104, as amended by Section 1, Chapter 45, O.S.L. 1995 (11 O.S. Supp. 1997, Section 34-104), which relates to disposition of personal property or money or legal tender by chief of police; deleting requirement of police chief to include serial number of money or legal tender in certain application; amending 11 O.S. 1991, Section 35-107, which relates to public utility deposits; removing requirement to mail certain notice if deposit due is less than certain amount; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 34-104, as amended by Section 1, Chapter 45, O.S.L. 1995 (11 O.S. Supp. 1997, Section 34-104), is amended to read as follows:

Section 34-104. A. Any chief of police is authorized to dispose of personal property or money or legal tender as provided in this section or the charter of the municipality, which has come into ~~his~~ the possession of the chief of police in any manner if:

1. The owner of the personal property or money or legal tender is unknown or has not claimed the property;

2. The property or money or legal tender has been in the custody of the chief of police for at least six (6) months; and

3. The property or money or legal tender or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.

B. The chief of police shall file an application in the district court in which the situs of government of the municipality is located requesting the authority of ~~said~~ the court to conduct a sale of such personal property which has a fair market value of more than its face value. ~~Said~~ The chief of police shall attach to ~~his~~ the application a list describing such property including any identifying numbers and marks, the date ~~said~~ the property came into ~~his~~ the possession of the chief of police, and the name of the owner and the person in last possession, if different and ~~his~~ the address of such person, if known. The court shall set ~~said~~ the application for hearing not less than ten (10) days nor more than twenty (20) days after filing of ~~said~~ the application.

C. In any instance where ~~said~~ the property has an actual or apparent value of more than Twenty-five Dollars (\$25.00), at least ten (10) days prior to the date of ~~said~~ the hearing, notice of ~~said~~ the hearing shall be sent by certified mail to each owner at ~~his~~ the address as listed in ~~said~~ the application. If the owner of any property with an actual or apparent value exceeding Five Hundred Dollars (\$500.00) is unable to be served notice by ~~said~~ certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is in custody. ~~Said~~ The notice shall contain a brief description of the property of ~~said~~ the owner and the place and date of the hearing. ~~Said~~ The notice shall be posted at the assigned place for the posting of

municipal notices, and at two other public places in the municipality.

D. If no owner appears and establishes ownership to ~~said~~ the property at the hearing, the court shall enter an order authorizing the chief of police to donate ~~said~~ the property having value of less than Five Hundred Dollars (\$500.00) to a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes for use by needy families or to sell ~~said~~ the personal property for cash to the highest bidder, after at least five (5) days' notice of ~~said~~ the sale has been published. The chief of police shall make a return of ~~said~~ the donation or sale and the order of the court confirming said donation or sale shall vest title to ~~said~~ the property in the recipient or purchaser. After payment of court costs and other expenses, the remainder of money received from the sale of ~~said~~ the personal property shall be deposited in the municipal general fund.

E. All money or legal tender which has come into the possession of the chief of police pursuant to the circumstances provided for in subsection A of this section shall be transferred by the chief of police to the municipal clerk for deposit in the municipal general fund. Prior to any such transfer, the chief of police shall file an application in the district court requesting the court to enter an order authorizing ~~him~~ the chief of police to transfer ~~said~~ the money for deposit in the municipal general fund. The application shall describe the money or legal tender, ~~any serial numbers,~~ the date the same came into ~~his~~ the possession of the chief of police, and the name of the owner and ~~his~~ the address of the owner, if known. Upon filing the application which may be joined with an application as described in subsection B of this section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of ~~said~~ the hearing shall be given as provided for in subsection C of this section. The notice shall state that upon failure of anyone to appear to prove ownership

to ~~said~~ the money or legal tender, the court shall order the same to be deposited in the municipal general fund. The notice may be combined with a notice to sell personal property as provided for in subsection B of this section. If no one appears to claim and prove ownership to ~~said~~ the money or legal tender at the hearing, the court shall order the same to be transferred to the municipal general fund as provided in this subsection.

F. The provisions of this section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law. By order of the trial court, any such property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in such order.

G. The municipality is hereby authorized to establish a procedure for the registration of "lost and found" property. Such procedure shall give the finder of any property the option of relinquishing any future claim to found property at the time its possession is surrendered to the police or other agent of the municipality, or of retaining possession of the property after registering its description and the finders identity with the police department or other agent of the municipality. Only property in which the finder relinquishes any future claim to its ownership will be stored in municipal police property rooms.

H. The municipality may provide by ordinance that a percentage of the money or legal tender deposited in the municipal general fund as provided in subsection D or E of this section may be paid as a finders fee for services rendered to any person who found the unclaimed personal property or money or legal tender and delivered it to, or registered it with, the chief of police or other agent of the municipality.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 35-107, is amended to read as follows:

Section 35-107. Money in the municipal treasury which has been acquired as a utility deposit from a customer of a municipal utility shall be refunded or credited to the customer upon termination of the utility service and payment of all charges due and connected with the service, or at an earlier date as may be allowed by the municipality. If the deposit has not been claimed by or refunded to a customer within one (1) year following termination of the utility service to the customer, the municipality shall send written notice to the customer at ~~his~~ the last-known address of the customer stating that the deposit will be paid over to the municipality unless it is claimed by the customer within ninety (90) days of the date the notice is mailed by the municipality. However, the notice by mail shall not be required if the balance of the deposit due to the customer is Ten Dollars (\$10.00) or less. The municipality shall publish in a newspaper of local circulation a list of names and last-known addresses of customers stating the deposit will be paid over to the municipality if not claimed within ninety (90) days. If the money is not claimed or refunded within the ninety (90) days, the amount of the deposit shall be paid into the fund of the municipal utility for which the deposit was collected, or into the general fund as may be determined by the governing body. No municipal utility customer shall have a right to any claim or refund on the deposit after written notice or publication and expiration of the ninety-day period in accordance with this section.

SECTION 3. This act shall become effective November 1, 1998.

46-2-8600

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