ENROLLED SENATE
BILL NO. 1342

By: Gumm of the Senate

and

Roan of the House

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 1370, as last amended by Section 75 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature and 1370.8, which relate to the Oklahoma Sales Tax Code; authorizing continued collection of sales tax by a county under specified conditions and for a specified term; providing for dissolution of certain governing board by county under specified circumstances; authorizing continued collection of sales tax by a county or hospital authority under specified conditions; providing for dissolution of certain governing board by county or hospital authority under specified circumstances; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1370, as last amended by Section 75 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 1370. A. Any county of this state may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by the board of county commissioners or by initiative petition signed by not less than five percent (5%) of the registered voters of the county who were registered at the time of the last general election. However, if a majority of the registered voters of a county voting fail to approve such a tax, the board of county commissioners shall not call another special election for such purpose for six (6) months. Any sales tax approved by the registered voters of a county shall be applicable only when the point of sale is within the territorial limits of such county. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the county unless another effective date,

which shall also be on the first day of a calendar quarter, is specified in the ordinance or resolution levying the sales tax or changing the rate of sales tax.

B. The Oklahoma Tax Commission shall give notice to all vendors of a rate change at least sixty (60) days prior to the effective date of the rate change. Provided, for purchases from printed catalogs wherein the purchaser computed the tax based upon local tax rates published in the catalog, the rate change shall not be effective until the first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice to vendors. Failure to give notice as required by this section shall delay the effective date of the rate change to the first day of the next calendar quarter.

C. Initiative petitions calling for a special election concerning county sales tax proposals shall be in accordance with Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma Statutes. Petitions shall be submitted to the office of county clerk for approval as to form prior to circulation. Following approval, the petitioner shall have ninety (90) days to secure the required signatures. After securing the requisite number of signatures, the petitioner shall submit the petition and signatures to the county clerk. Following the verification of signatures, the county clerk shall present the petition to the board of county commissioners. The special election shall be held within sixty (60) days of receiving the petition. The ballot title presented to the voters at the special election shall be identical to the ballot as presented in the initiative petition.

D. All items that are exempt from the state sales tax shall be exempt from any sales tax levied by a county.

E. Any sales tax which may be levied by a county shall be designated for a particular purpose. Such purposes may include, but are not limited to, projects owned by the state, any agency or instrumentality thereof, the county and/or any political subdivision located in whole or in part within such county, regional development, economic development, common education, general operations, capital improvements, county roads, weather modification or any other purpose deemed, by a majority vote of the county commissioners or as stated by initiative petition, to be necessary to promote safety, security and the general well being of the people. The county shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of subsection A of this section. Except as otherwise provided in this section, the proceeds of any sales tax levied by a county shall be deposited in the general revenue or sales tax revolving fund of the county and shall be used only for the purpose for which such sales tax was designated. If the proceeds of any sales tax levied by a county pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the sales tax is imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the county.

F. 1. Notwithstanding any other provisions of law, any county that has approved a sales tax for the support and operation of a county hospital may continue to collect such tax if such hospital is subsequently sold. Such collection shall only continue if the county remains indebted for the support and operation of such hospital. The collection may continue only until the debt is repaid or for the stated term of the sales tax, whichever period is shorter.

2. If the construction, support or operation of a hospital is funded through the levy of a county sales tax pursuant to this section and such hospital is subsequently sold, the county levying the tax may dissolve the governing board of such hospital at the time of sale. When the sale of the hospital and dissolution of any governing board is final, the county is thereby relieved of any liability for the operation of such hospital.

G. Proceeds from any sales tax levied that is designated to be used solely by the sheriff for the operation of the office of sheriff shall be placed in the special revenue account of the sheriff.

~~G.~~ H. The life of the tax could be limited or unlimited in duration. The county shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of subsections A and C of this section.

~~H.~~ I. There are hereby created one or more county sales tax revolving funds in each county which levies a sales tax under this section if any or all of the proceeds of such tax are not to be deposited in the general revenue fund of the county or comply with the provisions of subsection ~~F~~ G of this section. Each such revolving fund shall be designated for a particular purpose and shall consist of all monies generated by such sales tax which are designated for such purpose. Monies in such funds shall only be expended for the purposes specifically designated as required by this section. A county sales tax revolving fund shall be a continuing fund, not subject to fiscal year limitations.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1370.8, is amended to read as follows:

Section 1370.8 A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a hospital authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing hospitals or related medical facilities located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any hospital authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

C. All items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this section.

D. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing and constructing hospitals or related medical facilities within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

E. The authority shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of this section.

F. An authority created pursuant to the provisions of subsection A of this section may utilize the provisions of the Local Development Act~~, Section 850 et seq. of Title 62 of the Oklahoma Statutes,~~ as it relates to the financing of such hospitals or related medical facilities.

G. An authority created pursuant to the provisions of subsection A of this section shall be dissolved:

1. At such time as the planning, financing and constructing of the hospitals or related medical facilities within the boundaries of the authority is completed; and

2. At such time as the revenue collected from any taxes levied by the authority is sufficient for payment of any and all expenses incurred by the authority in the planning, financing and constructing of a hospital or related medical facility.

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is

retired. Notwithstanding any other provisions of law, any county or hospital authority that has approved a sales tax for the support and operation of a county hospital may continue to collect such tax if such hospital is subsequently sold. Such collection shall only continue if the county or hospital authority remains indebted for the support and operation of such hospital and only until the debt is repaid or for the stated term of the tax, whichever period is shorter. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing and constructing of hospitals or related medical facilities, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

J. If the construction, support, or operation of a hospital is funded through the levy of a sales tax by a county or hospital authority pursuant to this section and such hospital is subsequently sold, the county or hospital authority levying the tax may dissolve the governing board of such hospital at the time of the sale. When the sale of the hospital and dissolution of any governing board is final, the county or hospital authority is thereby relieved of any liability for the operation of such hospital.

SECTION 3. 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 Senate the 8th day of April, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 7th day of April, 2004.

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Presiding Officer of the House
of Representatives