

SB 861

THE STATE SENATE
Monday, February 26, 2007

Senate Bill No. 861
As Amended

SENATE BILL NO. 861 - By: BARRINGTON, CORN, GUMM and MAZZEI of the Senate and BLACKWELL of the House.

[revenue and taxation - providing for apportionment of sales tax - exempting items of footwear and clothing - effective date - emergency]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1353, as last amended by Section 17, Chapter 44, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2006, Section 1353), is amended to read as follows:

Section 1353. A. It is hereby declared to be the purpose of the Oklahoma Sales Tax Code to provide funds for the financing of the program provided for by the Oklahoma Social Security Act and to provide revenues for the support of the functions of the state government of Oklahoma, and for this purpose it is hereby expressly provided that, revenues derived pursuant to the provisions of the Oklahoma Sales Tax Code shall be apportioned as follows:

1. The following amounts shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature:

1	Fiscal Year	Amount
2	FY 2003 and FY 2004	86.04%
3	FY 2005	85.83%
4	FY 2006	85.54%
5	FY 2007	85.04%
6	FY 2008 and each fiscal	
7	year thereafter	83.61%

8 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
9 hundredths percent (10.42%), shall be paid to the State Treasurer to
10 be placed to the credit of the Education Reform Revolving Fund of
11 the State Department of Education and for FY 2006 and each fiscal
12 year thereafter, ten and forty-six one hundredths percent (10.46%)
13 shall be paid to the State Treasurer to be placed to the credit of
14 the Education Reform Revolving Fund of the State Department of
15 Education;

16 3. The following amounts shall be paid to the State Treasurer
17 to be placed to the credit of the Teachers' Retirement System
18 Dedicated Revenue Revolving Fund:

19	Fiscal Year	Amount
20	FY 2003 and FY 2004	3.54%
21	FY 2005	3.75%
22	FY 2006	4.0%
23	FY 2007	4.5%

1 FY 2008 and each fiscal

2 year thereafter 5.0%

3 4. For the fiscal year beginning July 1, 2007, and for each
4 fiscal year thereafter, ninety-three one hundredths percent (0.93%)
5 shall be paid to the State Treasurer to be further apportioned as
6 follows:

- 7 a. thirty-six percent (36%) shall be placed to the credit
8 of the Oklahoma Tourism Promotion Revolving Fund, and
9 b. sixty-four percent (64%) shall be placed to the credit
10 of the Oklahoma Tourism Capital Improvement Revolving
11 Fund.

12
13 B. Provided, for the fiscal year beginning July 1, 2007, and
14 every fiscal year thereafter, an amount of revenue shall be
15 apportioned to each municipality or county which levies a sales tax
16 subject to the provisions of Section 4 of this act and subsection F
17 of Section 2701 of this title equal to the amount of sales tax
18 revenue of such municipality or county exempted by the provisions of
19 Section 4 of this act and subsection F of Section 2701 of this
20 title. The Oklahoma Tax Commission shall promulgate and adopt rules
21 necessary to implement the provisions of this subsection.

22 C. Notwithstanding the provisions of subsection B of this
23 section, if the total amount of sales taxes remitted to a

1 municipality or county for the month of August, pursuant to Section
2 1374 of this title, is greater than the amount remitted for the
3 month of August of the preceding year, no revenue shall be
4 apportioned to such municipality or county pursuant to subsection B
5 of this section.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1357.10 of Title 68, unless
8 there is created a duplication in numbering, reads as follows:

9 A. The sale of an article of clothing or footwear designed to
10 be worn on or about the human body shall be exempt from the tax
11 imposed by Section 1354 of Title 68 of the Oklahoma Statutes if:

12 1. The sales price of the article is less than One Hundred
13 Dollars (\$100.00); and

14 2. The sale takes place during a period beginning at 12:01 a.m.
15 on the first Friday in August and ending at 12 midnight on the
16 following Sunday, covering a period of three (3) days.

17 B. Subsection A of this section shall not apply to:

18 1. Any special clothing or footwear that is primarily designed
19 for athletic activity or protective use and that is not normally
20 worn except when used for athletic activity or protective use for
21 which it is designed;

22 2. Accessories, including jewelry, handbags, luggage,
23 umbrellas, wallets, watches, and similar items carried on or about

1 the human body, without regard to whether worn on the body in a
2 manner characteristic of clothing; and

3 3. The rental of clothing or footwear.

4 C. The Oklahoma Tax Commission shall promulgate any necessary
5 rules to implement the provisions of this section.

6 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1370, as
7 last amended by Section 1, Chapter 317, O.S.L. 2004 (68 O.S. Supp.
8 2006, Section 1370), is amended to read as follows:

9 Section 1370. A. Any county of this state may levy a sales tax
10 of not to exceed two percent (2%) upon the gross proceeds or gross
11 receipts derived from all sales or services in the county upon which
12 a consumer's sales tax is levied by this state. Before a sales tax
13 may be levied by the county, the imposition of the tax shall first
14 be approved by a majority of the registered voters of the county
15 voting thereon at a special election called by the board of county
16 commissioners or by initiative petition signed by not less than five
17 percent (5%) of the registered voters of the county who were
18 registered at the time of the last general election. However, if a
19 majority of the registered voters of a county voting fail to approve
20 such a tax, the board of county commissioners shall not call another
21 special election for such purpose for six (6) months. Any sales tax
22 approved by the registered voters of a county shall be applicable
23 only when the point of sale is within the territorial limits of such

1 county. Any sales tax levied or any change in the rate of a sales
2 tax levied pursuant to the provisions of this section shall become
3 effective on the first day of the calendar quarter following
4 approval by the voters of the county unless another effective date,
5 which shall also be on the first day of a calendar quarter, is
6 specified in the ordinance or resolution levying the sales tax or
7 changing the rate of sales tax.

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

18 C. Initiative petitions calling for a special election
19 concerning county sales tax proposals shall be in accordance with
20 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma
21 Statutes. Petitions shall be submitted to the office of county
22 clerk for approval as to form prior to circulation. Following
23 approval, the petitioner shall have ninety (90) days to secure the

1 required signatures. After securing the requisite number of
2 signatures, the petitioner shall submit the petition and signatures
3 to the county clerk. Following the verification of signatures, the
4 county clerk shall present the petition to the board of county
5 commissioners. The special election shall be held within sixty (60)
6 days of receiving the petition. The ballot title presented to the
7 voters at the special election shall be identical to the ballot as
8 presented in the initiative petition.

9 D. ~~All~~ Subject to the provisions of Section 2 of this act, all
10 items that are exempt from the state sales tax shall be exempt from
11 any sales tax levied by a county.

12 E. Any sales tax which may be levied by a county shall be
13 designated for a particular purpose. Such purposes may include, but
14 are not limited to, projects owned by the state, any agency or
15 instrumentality thereof, the county and/or any political subdivision
16 located in whole or in part within such county, regional
17 development, economic development, common education, general
18 operations, capital improvements, county roads, weather modification
19 or any other purpose deemed, by a majority vote of the county
20 commissioners or as stated by initiative petition, to be necessary
21 to promote safety, security and the general well-being of the
22 people. The county shall identify the purpose of the sales tax when
23 it is presented to the voters pursuant to the provisions of

1 subsection A of this section. Except as otherwise provided in this
2 section, the proceeds of any sales tax levied by a county shall be
3 deposited in the general revenue or sales tax revolving fund of the
4 county and shall be used only for the purpose for which such sales
5 tax was designated. If the proceeds of any sales tax levied by a
6 county pursuant to this section are pledged for the purpose of
7 retiring indebtedness incurred for the specific purpose for which
8 the sales tax is imposed, the sales tax shall not be repealed until
9 such time as the indebtedness is retired. However, in no event
10 shall the life of the tax be extended beyond the duration approved
11 by the voters of the county.

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

20 2. If the construction, support or operation of a hospital is
21 funded through the levy of a county sales tax pursuant to this
22 section and such hospital is subsequently sold, the county levying
23 the tax may dissolve the governing board of such hospital following

1 the sale. Upon the sale of the hospital and dissolution of any
2 governing board, the county is relieved of any future liability for
3 the operation of such hospital.

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

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

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

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1377 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 The sales tax imposed by any county or authority authorized by
5 law to levy a sales tax shall not be imposed upon the sale of an
6 article of clothing or footwear designed to be worn on or about the
7 human body in accordance with and to the extent set forth in Section
8 2 of this act.

9 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2701, as
10 amended by Section 30, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2006,
11 Section 2701), is amended to read as follows:

12 Section 2701. A. Any incorporated city or town in this state
13 is hereby authorized to assess, levy, and collect taxes for general
14 and special purposes of municipal government as the Legislature may
15 levy and collect for purposes of state government, subject to the
16 provisions of subsection F of this section, except ad valorem
17 property taxes. Provided:

18 1. Taxes shall be uniform upon the same class subjects, and any
19 tax, charge, or fee levied upon or measured by income or receipts
20 from the sale of products or services shall be uniform upon all
21 classes of taxpayers;

1 2. Motor vehicles may be taxed by the city or town only when
2 such vehicles are primarily used or located in such city or town for
3 a period of time longer than six (6) months of a taxable year;

4 3. The provisions of this section shall not be construed to
5 authorize imposition of any tax upon persons, firms, or corporations
6 exempted from other taxation under the provisions of Sections 348.1,
7 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of
8 payment of taxes imposed under such sections;

9 4. Cooperatives and communications companies are hereby
10 authorized to pass on to their subscribers in the incorporated city
11 or town involved, the amount of any special municipal fee, charge or
12 tax hereafter assessed or levied on or collected from such
13 cooperatives or communications companies;

14 5. No earnings, payroll or income taxes may be levied on
15 nonresidents of the cities or towns levying such tax;

16 6. The governing body of any city or town shall be prohibited
17 from proposing taxing ordinances more often than three times in any
18 calendar year, or twice in any six-month period; and

19 7. Any revenues derived from a tax authorized by this
20 subsection not dedicated to a limited purpose shall be deposited in
21 the municipal general fund.

22 B. A sales tax authorized in subsection A of this section may
23 be levied for limited purposes specified in the ordinance levying

1 the tax. Such ordinance shall be submitted to the voters for
2 approval as provided in Section 2705 of this title. Any sales tax
3 levied or any change in the rate of a sales tax levied pursuant to
4 the provisions of this section shall become effective on the first
5 day of the calendar quarter following approval by the voters of the
6 city or town unless another effective date, which shall also be on
7 the first day of a calendar quarter, is specified in the ordinance
8 levying the sales tax or changing the rate of sales tax. Such
9 ordinance shall describe with specificity the projects or
10 expenditures for which the limited-purpose tax levy would be made.
11 The municipal governing body shall create a limited-purpose fund and
12 deposit therein any revenue generated by any tax levied pursuant to
13 this subsection. Money in the fund shall be accumulated from year
14 to year. The fund shall be placed in an insured interest-bearing
15 account and the interest which accrues on the fund shall be retained
16 in the fund. The fund shall be nonfiscal and shall not be
17 considered in computing any levy when the municipality makes its
18 estimate to the excise board for needed appropriations. Money in
19 the limited-purpose tax fund shall be expended only as accumulated
20 and only for the purposes specifically described in the taxing
21 ordinance as approved by the voters.

22 C. The Oklahoma Tax Commission shall give notice to all vendors
23 of a rate change at least sixty (60) days prior to the effective

1 date of the rate change. Provided, for purchases from printed
2 catalogs wherein the purchaser computed the tax based upon local tax
3 rates published in the catalog, the rate change shall not be
4 effective until the first day of a calendar quarter after a minimum
5 of one hundred twenty (120) days' notice to vendors. Failure to
6 give notice as required by this section shall delay the effective
7 date of the rate change to the first day of the next calendar
8 quarter.

9 D. The change in the boundary of a municipality shall be
10 effective, for sales and use tax purposes only, on the first day of
11 a calendar quarter after a minimum of sixty (60) days' notice to
12 vendors.

13 E. If the proceeds of any sales tax levied by a municipality
14 pursuant to subsection B of this section are being used by the
15 municipality for the purpose of retiring indebtedness incurred by
16 the municipality or by a public trust of which the municipality is a
17 beneficiary for the specific purpose for which the sales tax was
18 imposed, the sales tax shall not be repealed until such time as the
19 indebtedness is retired. However, in no event shall the life of the
20 tax be extended beyond the duration approved by the voters of the
21 municipality. The provisions of this subsection shall apply to all
22 sales tax levies imposed by a municipality and being used by the

1 municipality for the purposes set forth in this subsection prior to
2 or after July 1, 1995.

3 F. The sale of an article of clothing or footwear designed to
4 be worn on or about the human body shall be exempt from the sales
5 tax imposed by any incorporated city or town, in accordance with and
6 to the extent set forth in Section 2 of this act.

7 SECTION 6. This act shall become effective July 1, 2007.

8 SECTION 7. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-20-07 - DO PASS,
13 As Amended and Coauthored.