EHB 2067

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED
House Bill No. 2067
As Amended

ENGROSSED HOUSE BILL NO. 2067 - By: McNiel, Denney, Hickman, Sears, Cannaday, Sullivan and Armes of the House and Lamb, Mazzei, Gumm and Ivester of the Senate.

[community economic development - Oklahoma Community Economic Development Pooled Finance Act - Community Economic Development Pooled Finance Revolving Fund - amending 68 O.S., Section 2705 - municipal tax levies - amending 68 O.S., Section 1370 - county sales tax levy - amending 74 O.S., Section 1004 - Interlocal Cooperation Act – codification – severability - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.1 of Title 62, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Community Economic Development Pooled Finance Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.2 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Legislature finds investments for the purpose of economic development of the State of Oklahoma, including but not limited to authorized economic development projects for the purpose of

(Bold face denotes Committee Amendments)

attracting private investment and job creation, public infrastructure to aid development such as roads, bridges, water treatment, water storage and water delivery facilities, surface water management assets, sanitary sewer facilities and related assets, and other assets owned or maintained by the counties, cities and towns of the state are essential to a safe and productive environment for the residents of the state and visitors to the state. The Legislature further finds that existing fiscal resources at the local government level are not always sufficient to maintain the highest possible standards of safety or quality and that it is an essential function of state government to ensure that critical infrastructure is constructed, maintained and repaired in conformity with such highest possible standards. The Legislature finds that encouraging local governments to cooperate to develop regional infrastructure and economic development projects will most economically and efficiently serve the needs of the state's citizens. The Legislature finds that the methods of public finance provided for in the Oklahoma Community Economic Development Pooled Finance Act are in furtherance of an essential public and state governmental function.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.3 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Authority" means the Oklahoma Development Finance Authority;

2. "Bonds" means any form of obligation issued by the Oklahoma Development Finance Authority pursuant to this act;

3. "Business entity" means a corporation, limited liability company, general partnership, limited partnership, or such other entity conducting a lawful activity which is organized pursuant to the laws of the state or which is authorized to do business in the state if organized under the law of another jurisdiction;

4. "Community Economic Development Pooled Finance Revolving Fund" means the fund created pursuant to Section 15 of this act;

5. "Conduit issuer" means the Oklahoma Development Finance Authority acting for the benefit of either a business entity or local government entity pursuant to the provisions of this act;

6. "Credit Enhancement Reserve Fund" means that fund created pursuant to Section 5063.3 of Title 74 of the Oklahoma Statutes;

7. "Debt" means bonds, notes, or other evidence of indebtedness issued by the Oklahoma Development Finance Authority;

8. "Department" means the Oklahoma Department of Commerce;

9. "Economic Development Pool" means proceeds of obligations sold by the Authority to provide resources for eligible local

government entities to finance an eligible economic development project;

10. "Eligible local government entity" means:

a. a city,

b. a town,

c. a county,

d. any combination of cities, towns, or counties, or

e. a public trust with a beneficiary or beneficiary which is a city, town, county or some combination of such entities as authorized by Section 176 of Title 60 of the Oklahoma Statutes;

11. "For-profit business" means any lawful activity conducted by a business entity with the goal or expectation of selling goods, services or other property at a price greater than the actual costs incurred by the business;

12. "Infrastructure" means:

a. county roads,

b. county bridges,

c. municipal streets,

d. municipal bridges,

e. water treatment facilities,

f. solid waste management facilities,

g. water treatment and distribution systems, or

h. any asset or project identified by the eligible local government entities necessary for essential government functions if the asset is owned by a local government entity or entities;

13. "Infrastructure Pool" means proceeds of obligations sold by the Authority to provide resources for eligible local government entities to provide financing for infrastructure;

14. "Pooled financing" means an agreement, pursuant to the provisions of this act or pursuant to the Interlocal Cooperation Act, among two or more eligible local governmental entities to use proceeds from a tax levy or other authorized source of revenue to make payments of principal, interest, and other related costs in connection with an obligation issued by the Oklahoma Development Finance Authority for the benefit of the entities entering into such agreement according to the terms of the agreement and according to the requirements of any ballot submitted to the voters of the respective eligible local governmental entities. Pooled financing does not mean or include the use of any ad valorem tax revenues derived from a levy imposed pursuant to Section 26 of Article X of the Oklahoma Constitution; and

15. "Private activity bonds" means those obligations the interest income from which may be exempt from federal income tax

pursuant to the provisions of the Internal Revenue Code of 1986, as amended.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.4 of Title 62, unless there is created a duplication in numbering, reads as follows:

Unless otherwise provided by the terms, definitions or other provisions of the Oklahoma Community Economic Development Pooled Finance Act, the powers, rights, duties and limitations applicable to the Oklahoma Development Finance Authority pursuant to the provisions of the Oklahoma Development Finance Authority Act shall be applicable to the Authority and transactions conducted pursuant to the Oklahoma Community Economic Development Pooled Finance Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.5 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. To the extent that the provisions of the Credit Enhancement Reserve Fund Act are consistent with the provisions of the Oklahoma Community Economic Development Pooled Finance Act, the provisions of the Credit Enhancement Reserve Fund Act shall be applicable to a pooled financing.

B. The Credit Enhancement Reserve Fund shall not be utilized in support of any pooled financing obligations issued pursuant to this act prior to the full use of any revenues committed to the repayment of any such obligations pursuant to an agreement or agreements among the participating local government entities for the repayment of principal, interest and other costs of the pooled financing.

C. Agreements entered into pursuant to this act may provide for one or more of the participating local government entities to make deposits in the Community Economic Development Pooled Finance Revolving Fund in excess of the amount originally provided for in any agreement authorized by this act in order to compensate for the payments otherwise required to be made by any other participating local government entity which is a party to the same agreement.

D. If any participating local government entity does not make deposits in the Community Economic Development Pooled Finance Revolving Fund as originally required by an agreement authorized by this act, such local government entity shall be required to compensate the other participating local government entity or entities pursuant to the terms of the agreement for the amounts paid on its behalf, including interest.

E. Any local government entity that does not make deposits in the Community Economic Development Pooled Finance Revolving Fund according to the terms of an agreement authorized by this act shall be prohibited from participation in any other pooled financing otherwise authorized by this act for a period of five (5) years from the date of the first date upon which a required deposit to the

Community Economic Development Pooled Finance Revolving Fund is not made or for a period of five (5) years from the first date upon which a payment is made on a timely basis, but for less than the amount required pursuant to the terms of an agreement authorized pursuant to this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.6 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. No bonds or other obligations issued by the Authority pursuant to the provisions of the Oklahoma Community Economic Development Pooled Finance Act shall be considered or deemed to be general obligations of the State of Oklahoma. Such bonds or other obligations shall be special and limited obligations the repayment of which shall be derived exclusively from the revenues accruing to the credit of the Community Economic Development Pooled Finance Revolving Fund created pursuant to Section 15 of this act.

B. The obligations issued by the Authority pursuant to this act shall have a maximum maturity of twenty-five (25) years.

C. The average coupon rate for any obligations issued by the Authority pursuant to this act shall not exceed fourteen percent (14%) per annum.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.7 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Authority shall be authorized to act as a conduit issuer for the benefit of two or more eligible local government entities for an authorized infrastructure project using the Infrastructure Pool.

B. The Authority shall be authorized to issue its obligations in order to provide net proceeds on a pooled basis not to exceed One Hundred Million Dollars ($100,000,000.00) for the Infrastructure Pool.

C. The proceeds from the Infrastructure Pool shall be for the purpose of providing financing for two or more eligible local government entities for an authorized infrastructure project **located in this state** involving a pooled financing.

D. Sixty-five percent (65%) of the net proceeds from the Infrastructure Pool shall be used by the Authority for the benefit of eligible local government entities the population of which, according to the most recent Federal Decennial Census, does not exceed:

1. Three hundred thousand (300,000) persons for any participating municipality; or

2. Two hundred thousand (200,000) persons for any participating county.

E. Thirty-five percent (35%) of the net proceeds from the Infrastructure Pool may be used by the Authority for the benefit of any and all eligible local government entities regardless of population.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.8 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Authority shall be authorized to act as a conduit issuer for the benefit of two or more eligible local government entities or for the benefit of a business entity for an authorized economic development project using the Economic Development Pool.

B. The Authority shall be authorized to issue its obligations in order to provide net proceeds on a pooled basis not to exceed One Hundred Million Dollars ($100,000,000.00) for the Economic Development Pool.

C. The proceeds from the Economic Development Pool shall be for the purpose of providing financing for an eligible local government entity or entities or for the benefit of a business entity for an authorized economic development project **located in this state**.

D. Sixty-five percent (65%) of the net proceeds from the Economic Development Pool shall be used by the Authority for the benefit of eligible local government entities the population of which, according to the most recent Federal Decennial Census, does not exceed:

1. Three hundred thousand (300,000) persons for any participating municipality; or

2. Two hundred thousand (200,000) persons for any participating county.

E. Thirty-five percent (35%) of the net proceeds from the Economic Development Pool may be used by the Authority for the benefit of any and all eligible local government entities regardless of population.

F. Obligations issued pursuant to the provisions of this section may be issued on a tax-exempt basis if the applicable provisions of federal law governing private activity bonds allow such issuance. Otherwise, the obligations issued pursuant to the provisions of this section shall be issued on a taxable basis.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.9 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. With respect to an eligible project financed through the Infrastructure Pool, local government entities shall be required to be financially responsible for the repayment of the debt issued by the Oklahoma Development Finance Authority.

B. With respect to obligations incurred by the Authority for an authorized infrastructure project, local government entities shall make payments to the Oklahoma Development Finance Authority for principal, interest, required reserve amounts, and any other amount required in order to make the obligations issued by the Authority marketable.

C. Repayment by local government entities pursuant to the provisions of this section shall consist of authorized revenue sources including, but not limited to, taxes levied by the local government entities or which are available for use by such entities pursuant to the provisions of Section 1370 of Title 68 of the Oklahoma Statutes, Section 2701 et seq. of Title 68 of the Oklahoma Statutes and the provisions of Sections 13 and 14 of this act.

D. The Authority shall use the monies in the Community Economic Development Pooled Finance Revolving Fund created by Section 15 of this act in order to make payments of principal, interest and other costs.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.10 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall promulgate rules for purposes of establishing criteria for the funding of authorized infrastructure projects from the proceeds of obligations issued by the Authority for the Infrastructure Pool.

B. The criteria shall be similar to the criteria used by the federal government in administering the Community Development Block Grant program.

C. A combination of eligible local government entities shall apply to the Department for approval of a pooled financing for an infrastructure project on such forms as the Department may prescribe for such purpose.

D. The Department shall compile and maintain a prioritized list of infrastructure projects eligible for pooled financing through the Oklahoma Development Finance Authority.

E. The Oklahoma Development Finance Authority shall use the prioritized list provided by the Department in order to provide financing to the eligible local government entities.

F. The Authority shall, within the limit on available bond proceeds in the Infrastructure Pool, provide proceeds in accordance with the scoring system used by the Department.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.11 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall establish a scoring system in order to evaluate economic development projects to be financed from the proceeds of obligations issued by the Authority for the Economic Development Pool.

B. The scoring system shall include, but shall not be limited to, analysis of:

1. Capital investment by a for-profit business entity;

2. New direct jobs, as such term is defined by Section 3603 of Title 68 of the Oklahoma Statutes, to be created by a for-profit business entity or entities;

3. Salary and wage payments to persons employed in new direct jobs; and

4. Likelihood of additional business location decisions resulting from the activity of the for-profit business entity or entities that would benefit from use of the Economic Development Pool.

C. An eligible local government entity or a combination of eligible local government entities may apply to the Department for approval of a pooled financing for an economic development project on such forms as the Department may prescribe for such purpose.

D. The Department shall compile and maintain a prioritized list of projects eligible for pooled financing through the Oklahoma Development Finance Authority from the Economic Development Pool.

E. The Oklahoma Development Finance Authority shall use the prioritized list provided by the Department in order to provide financing to the eligible local government entities.

F. The Authority shall, within the limit on available bond proceeds in the Economic Development Pool, provide proceeds in accordance with the scoring system used by the Department.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.12 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. Any for-profit business entity that receives proceeds from the issuance of any obligations by the Authority from the Economic Development Pool may be required by the applicable local government entity to enter into such agreements as may be required between the entity, the local government entity, the Authority and the Oklahoma Tax Commission to provide for the segregation of withholding taxes attributable to new direct jobs created or existing payroll retained by the for-profit business entity in connection with the asset or assets acquired, constructed or improved with such proceeds.

B. The amount of withholding taxes subject to the provisions of this section shall, together with other revenue sources or commitments and undertakings by the for-profit business entity or third parties, be sufficient to make payment of any required principal, interest, adequate reserves or other authorized costs for the borrowing by the Authority.

C. The Authority shall have such power of approval regarding the amount and duration of withholding tax segregation pursuant to the provisions of this section in order to ensure payment of its obligations and to promote the marketability of such obligations.

D. The Authority shall obtain information from the for-profit business entity as may be required in order to determine the necessary amount of segregated withholding taxes attributable to new direct jobs or existing payroll.

E. The Oklahoma Tax Commission shall determine with respect to the withholding taxes attributable to the income of employees engaged in new direct jobs or existing jobs for a for-profit business entity participating in a pooled financing pursuant to the Oklahoma Community Economic Development Pooled Finance Act the amount of such withholding taxes required to be deposited to the credit of the Community Economic Development Pooled Finance Revolving Fund.

F. The Oklahoma Tax Commission shall make a deposit in the Community Economic Development Pooled Finance Revolving Fund in accordance with any applicable agreement entered into by a for-profit business entity participating in a pooled financing pursuant to the Oklahoma Community Economic Development Pooled Finance Act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.13 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Authority" means the Oklahoma Development Finance Authority;

2. "Eligible local government entity" means:

a. a city,

b. a town,

c. a county,

d. any combination of cities, towns, or counties, or

e. a public trust with a beneficiary or beneficiary which is a city, town, county or some combination of such entities as authorized by Section 176 of Title 60 of the Oklahoma Statutes;

3. "Existing levy" means a tax or other revenue-raising mechanism approved by the voters of a county, city or town prior to the effective date of this act;

4. "Municipality" means an incorporated city or town; and

5. "Pooled financing" means the use of municipal revenues, derived from a levy imposed pursuant to the authority of Section 2701 of Title 68 of the Oklahoma Statutes, available to one or more municipalities or county revenues, derived from a levy imposed

pursuant to the authority of Section 1370 of Title 68 of the Oklahoma Statutes, based upon the local government entity participating in a pooled financing.

B. Subject to the requirements of Section 2701 of Title 68 of the Oklahoma Statutes, one or more municipalities may submit to the respective voters of each such municipality the question of whether to impose a tax not previously imposed, authorized by Section 2701 of Title 68 of the Oklahoma Statutes, in order to provide revenues to repay indebtedness incurred by the Authority for the purposes authorized by the Oklahoma Community Economic Development Pooled Finance Act. The provisions of this subsection shall be applicable to any one or more municipalities participating in a pooled financing, regardless of whether any other municipality, subject to voter approval, will be imposing a tax levy to be used for the purposes of this act for the first time or whether any one or more of such municipalities, subject to voter approval, will be modifying the purposes of an existing tax levy to allow revenues to be used for the purposes of this act.

C. Subject to the requirements of Section 2701 of Title 68 of the Oklahoma Statutes, one or more municipalities may submit to the respective voters of each such municipality the question of whether to modify an existing tax levy, previously approved by the voters of such municipality, in order to allow the use of some part or all of the proceeds from the existing tax levy in order to provide revenues to repay indebtedness incurred by the Authority for the purposes authorized by this act. The provisions of this subsection shall be applicable to any one or more municipalities participating in a pooled financing, regardless of whether any other municipality, subject to voter approval, will be imposing a tax levy to be used for the purposes of this act for the first time or whether any one or more of such municipalities, subject to voter approval, will be modifying the purposes of an existing tax levy to allow revenues to be used for the purposes of this act.

D. Municipalities may submit questions authorized by this section regardless of whether the municipalities are contiguous or adjacent to one another.

E. A municipality that submits a question for the imposition of a dedicated tax levy pursuant to the provisions of this section shall specify the type of tax levy and the rate of the levy in the question submitted which shall be clearly identified by the wording of the ballot.

F. A municipality may impose a different tax levy or the same type of tax levy at a different rate than any other municipality or municipalities or a different tax levy or at a different tax rate than any other county or counties submitting a pooled financing question for voter approval.

G. The duration of the tax levy shall be identical in all questions submitted for voter approval and shall not exceed twenty-five (25) years.

H. The ballot for a pooled financing pursuant to the provisions of this act shall clearly indicate:

1. That the revenues from the tax levy are to be used for the payment of principal, interest and other costs of borrowing authorized by the provisions of this act;

2. The maximum maturity of the obligations to be repaid; and

3. The projects or assets to be acquired, constructed, improved, maintained or otherwise used by the municipality as a result of the imposition of the levy.

I. Revenues derived from a tax levy imposed pursuant to the provisions of this section shall be paid by the municipality or municipalities to the Community Economic Development Pooled Finance Revolving Fund created pursuant to Section 15 of this act.

J. No tax levy imposed pursuant to the provisions of this section shall be repealed until such time as the obligations issued by the Authority are fully paid. In no event shall the duration of the levy be extended beyond the duration approved by the voters of the municipality or municipalities.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.14 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Authority" means the Oklahoma Development Finance Authority;

2. "Eligible local government entity" means:

a. a city,

b. a town,

c. a county,

d. any combination of cities, towns, or counties, or

e. a public trust with a beneficiary or beneficiary which is a city, town, county or some combination of such entities as authorized by Section 176 of Title 60 of the Oklahoma Statutes;

3. "Existing levy" means a tax or other revenue raising mechanism approved by the voters of a county, city or town prior to the effective date of this act;

4. "Municipality" means an incorporated city or town; and

5. "Pooled financing" means the use of municipal revenues, derived from a levy imposed pursuant to the authority of Section 2701 of Title 68 of the Oklahoma Statutes, available to one or more municipalities or county revenues, derived from a levy imposed

pursuant to the authority of Section 1370 of Title 68 of the Oklahoma Statutes, based upon the local government entity participating in a pooled financing.

B. Subject to the requirements of Section 1370 of Title 68 of the Oklahoma Statutes, one or more counties may submit to the respective voters of each such county the question of whether to impose a tax not previously imposed, authorized by Section 1370 of Title 68 of the Oklahoma Statutes, in order to provide revenues to repay indebtedness incurred by the Authority for the purposes authorized by the Oklahoma Community Economic Development Pooled Finance Act. The provisions of this subsection shall be applicable to any one or more counties participating in a pooled financing, regardless of whether any other county, subject to voter approval, will be imposing a tax levy to be used for the purposes of this act for the first time or whether any one or more of such counties, subject to voter approval, will be modifying the purposes of an existing tax levy to allow revenues to be used for the purposes of this act.

C. Subject to the requirements of Section 1370 of Title 68 of the Oklahoma Statutes, one or more counties may submit to the respective voters of each such county the question of whether to modify an existing tax levy, previously approved by the voters of such county, in order to allow the use of some part or all of the proceeds from the existing tax levy in order to provide revenues to repay indebtedness incurred by the Authority for the purposes authorized by this act. The provisions of this subsection shall be applicable to any one or more counties participating in a pooled financing, regardless of whether any other county, subject to voter approval, will be imposing a tax levy to be used for the purposes of this act for the first time or whether any one or more of such counties, subject to voter approval, will be modifying the purposes of an existing tax levy to allow revenues to be used for the purposes of this act.

D. Counties may submit questions authorized by this section regardless of whether the counties are contiguous or adjacent to one another.

E. A county that submits a question for the imposition of a dedicated tax levy or the modification of an existing tax levy pursuant to the provisions of this section shall specify the type of tax levy and the rate of the levy in the question submitted which shall be clearly identified by the wording of the ballot.

F. A county may impose a different tax levy or the same type of levy at a different rate than the other counties or a different levy or at a different rate than a participating municipality or municipalities submitting a pooled financing question to the respective voters of the participating jurisdictions.

G. The duration of the levy shall be identical in all questions submitted for voter approval and shall not exceed twenty-five (25) years.

H. The ballot for a pooled financing pursuant to the provisions of this act shall clearly indicate:

1. That the revenues from the tax levy are to be used for the payment of principal, interest and other costs of borrowing authorized by the provisions of this act;

2. The duration of the obligations to be repaid; and

3. The projects or assets to be acquired, constructed, improved, maintained or otherwise used by the county as a result of the imposition of the levy.

I. Revenues derived from a tax levy imposed pursuant to the provisions of this section shall be paid by the county to the Community Economic Development Pooled Finance Revolving Fund created pursuant to Section 15 of this act.

J. No tax levy imposed pursuant to the provisions of this section shall be repealed until such time as the indebtedness is fully repaid. In no event shall the duration of the levy be extended beyond the duration approved by the voters of the county.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 891.15 of Title 62, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Development Finance Authority to be designated the "Community Economic Development Pooled Finance Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Development Finance Authority from revenues derived from levies imposed by counties, cities, towns or combinations of such local governmental entities as provided by this act in addition to any withholding tax revenues as provided by Section 12 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Development Finance Authority for the purpose of paying principal, interest and other costs of borrowing by the Authority as authorized by this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 16. AMENDATORY 68 O.S. 2001, Section 2705, is amended to read as follows:

Section 2705. A. Any taxes which may be levied by an incorporated city or town as authorized by ~~this act~~ the provisions of Section 2701 et seq. of this title shall not become valid until the ordinance setting the rate of such tax shall have been approved by a majority vote of the registered voters of such incorporated city or town voting on such question at a general or special municipal election ~~and no~~.

B. In the case of a levy submitted for voter approval pursuant to Section 13 of this act, taxes levied by an incorporated city or town shall not become valid until the ordinance setting the rate of the levy shall have been approved by a majority vote of the registered voters of each such incorporated city or town voting on such question at a special municipal election. Elections conducted pursuant to questions submitted pursuant to Section 13 of this act shall be conducted on the same date or in a sequence that provides that the last vote required for approval by all participating counties or municipalities occurs not later than thirty (30) days after the date upon which the first vote occurs.

C. No ordinance shall be resubmitted for ratification within six (6) months following its defeat by the electors.

SECTION 17. AMENDATORY 68 O.S. 2001, Section 1370, as last amended by Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 1370), 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. Subject to the provisions of Section ~~3~~ 1357.10 of this ~~act~~ title, 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, including any authorized purpose pursuant to the Oklahoma Community Economic Development Pooled Finance Act. 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 and except as required by the Oklahoma Community Economic Development Pooled Finance Act, 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 construction, support or 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 past construction, support or 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 following the sale. Upon the sale of the hospital and dissolution of any governing board, the county is relieved of any future 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.

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. The maximum duration of a levy imposed pursuant to Section 14 of this act shall be no longer than allowed pursuant to the Oklahoma Community Economic Development Pooled Finance Act.

I. ~~There~~ Except for the levies imposed pursuant to Section 14 of this act, 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 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.

J. In the case of a levy submitted for voter approval pursuant to Section 14 of this act, taxes levied by a county shall not become valid until the ordinance or resolution setting the rate of the levy shall have been approved by a majority vote of the registered voters of each such county voting on such question at a special election. Elections conducted pursuant to questions submitted pursuant to Section 14 of this act shall be conducted on the same date or in a sequence that provides that the last vote required for approval by all participating counties or municipalities occurs not later than thirty (30) days after the date upon which the first vote occurs.

SECTION 18. AMENDATORY 74 O.S. 2001, Section 1004, is amended to read as follows:

Section 1004. A. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

B. Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this act.

Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

C. Any such agreement shall specify the following:

1. Its duration;

2. The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;

3. Its purpose or purposes;

4. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

5. The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and

6. Any other necessary and proper matters.

D. In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs 1, 3, 4, 5 and 6 set forth in subsection C of this section, contain the following:

1. Provisions for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented; and

2. The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

E. No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that, to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, the performance may be offered in satisfaction of the obligation or responsibility.

F. Every agreement made hereunder, except those agreements authorized by Section 601 of Title 69 of the Oklahoma Statutes which shall be approved by the district attorney, shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state<u>, including any agreements entered into pursuant to the provisions of the Oklahoma Community Economic Development Pooled Finance Act</u>. The Attorney General shall approve any agreement submitted to the Attorney General hereunder unless the Attorney General shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

G. Financing of joint projects by agreements shall be as provided by law, including any agreements entered into pursuant to the provisions of the Oklahoma Community Economic Development Pooled Finance Act.

SECTION 19. The provisions of this act are severable and if any part or provision shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

SECTION 20. This act shall become effective November 1, 2009.

COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-31-09 - DO PASS, As Amended and Coauthored.