

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1581

By: Martin (Scott)

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 2702, as last amended by Section
9 16, Chapter 412, O.S.L. 2010 (68 O.S. Supp. 2010,
10 Section 2702), which relates to collection of certain
11 municipal taxes; providing for authority of
12 municipalities to enter into certain contracts with
13 the Oklahoma Tax Commission; providing an effective
14 date; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2702, as
16 last amended by Section 16, Chapter 412, O.S.L. 2010 (68 O.S. Supp.
17 2010, Section 2702), is amended to read as follows:

18 Section 2702. A. The governing body of any incorporated city
19 or town and the Oklahoma Tax Commission ~~shall~~ are authorized and
20 empowered to enter into contractual agreements whereby the Oklahoma
21 Tax Commission shall have authority to assess, to collect and to
22 enforce any taxes or, penalties or interest thereon, levied by such
23 incorporated city or town, and remit the same to such municipality.
24 Said assessment, collection, and enforcement authority shall apply

1 to any taxes, penalty or interest liability existing at the time of
2 contracting. Upon contracting, the Oklahoma Tax Commission shall
3 have all the powers of enforcement in regard to such taxes,
4 penalties and interest as are granted to or vested in the
5 contracting municipality. Such agreement shall provide for the
6 assessment, collection, enforcement, and prosecution of such
7 municipal tax, penalties and interest, in the same manner as and in
8 accordance with the administration, collection, enforcement, and
9 prosecution by the Oklahoma Tax Commission of any similar state tax
10 except as provided by agreement. The municipality shall agree to
11 refrain from any assessment, collection, or enforcement of the
12 municipal tax except as specified in the agreement. Such agreement
13 shall authorize the Oklahoma Tax Commission to retain an amount not
14 to exceed one and three-fourths percent (1 3/4%) as a retention fee
15 of municipal tax collected for services rendered in connection with
16 such collections; provided, if a municipality files an action
17 resulting in collection of delinquent state and municipal taxes, the
18 Tax Commission shall remit one-half (1/2) of the retention fee
19 applied to the amount of such taxes to the municipality to be
20 apportioned as are other sales tax revenue. All funds retained by
21 the Oklahoma Tax Commission for the collection services to
22 municipalities shall be deposited in the Oklahoma Tax Commission
23 Revolving Fund in the State Treasury.

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1 B. The Oklahoma Tax Commission shall place all sales taxes,
2 including penalties and interest, collected on behalf of a
3 municipality pursuant to the provisions of this section and all use
4 taxes, including penalties and interest, collected on behalf of a
5 municipality pursuant to the provisions of Section 1411 of this
6 title in the Sales Tax Remitting Account as provided in Section 1373
7 of this title.

8 C. Provided that the Oklahoma Tax Commission and the governing
9 body of any incorporated city or town may enter into contractual
10 agreements whereby the municipality would be authorized to implement
11 or augment the enforcement, collection and prosecution of the
12 municipal tax in those contracting municipalities and to provide for
13 the satisfaction of refunds or credits to taxpayers. Such
14 agreements shall and are hereby authorized to provide that the
15 municipality and the Oklahoma Tax Commission may exchange necessary
16 information to effectively carry out the terms of such agreements.
17 The municipality, its officers and employees shall preserve the
18 confidentiality of such information in the same manner and be
19 subject to the same penalties as provided by Section 205 of this
20 title, provided that the municipal prosecutor and other municipal
21 enforcement personnel may receive all information necessary to
22 implement or augment the enforcement and prosecution of municipal
23 sales tax ordinances.

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1 D. Provided further that, upon the request of any incorporated
2 city or town, the Oklahoma Tax Commission shall enter into
3 contractual agreements with such municipality whereby the
4 municipality would be authorized to implement or augment the
5 enforcement, either directly or through contract with private
6 auditors or audit firms, of the municipal tax. Any person
7 performing an audit shall first be approved by the Oklahoma Tax
8 Commission and, once approved, shall be appointed as an agent of the
9 Oklahoma Tax Commission for purposes of the audit. Contracts with a
10 private auditor or audit firm shall not be subject to the
11 limitations of Section 262 of this title and shall and are hereby
12 authorized to provide that the municipality, private auditors or
13 audit firms and the Oklahoma Tax Commission may exchange necessary
14 information to effectively carry out the terms of such agreements.
15 The municipality, its officers and employees and private auditors or
16 audit firms may receive all information necessary to perform audits
17 and shall preserve the confidentiality of such information in the
18 same manner and be subject to the same penalties as provided by
19 Section 205 of this title. Municipalities conducting audits
20 directly or by contracting for private auditors or audit firms
21 pursuant to this subsection shall furnish to the Oklahoma Tax
22 Commission the audit results and all relevant supporting
23 documentation. Further, such municipalities shall provide for the
24 payment of private auditors or audit firms by deduction from the tax

1 assessment resulting from the audit conducted by said private
2 auditors or audit firms unless a municipality contracts with the
3 auditor or audit firm for another method of payment. Any municipal
4 sales tax funds recovered as a result of the services provided under
5 this subsection will not be included in calculating the retention
6 fee retained by the Oklahoma Tax Commission pursuant to subsection A
7 of this section. The contracts authorized by subsection A of this
8 section shall provide that the Oklahoma Tax Commission shall not
9 have any obligations thereunder to any municipality that does not
10 participate in an audit conducted under this subsection.

11 E. Any sum or sums collected or required to be collected
12 pursuant to a municipal sales tax levy shall be deemed to be held in
13 trust for the municipality, and, as trustee, the collecting vendor
14 shall have a fiduciary duty to the municipality in regards to such
15 sums and shall be subject to the trust laws of this state.

16 SECTION 2. This act shall become effective July 1, 2011.

17 SECTION 3. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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