

1 STATE OF OKLAHOMA

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

3 SENATE BILL 883

By: Crain

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6 AS INTRODUCED

7 An Act relating to sales tax; amending 68 O.S. 2001,
8 Section 1371, as amended by Section 15, Chapter 412,
9 O.S.L. 2010, which relates to collection of county
10 sales taxes; modifying requirement to enter into
11 certain contracts; and 68 O.S. 2001, Section 2702, as
last amended by Section 16, Chapter 412, O.S.L. 2010
(68 O.S. Supp. 2010, Sections 1371 and 2702), which
relates to collection of municipal taxes; modifying
requirement to enter certain contracts.

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14 SUBJECT: Sales tax

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

16 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1371, as
17 amended by Section 15, Chapter 412, O.S.L. 2010 (68 O.S. Supp. 2010,
18 Section 1371), is amended to read as follows:

19 Section 1371. Any sales tax levied by a county pursuant to the
20 provisions of Section 1370 of this title shall be paid by the
21 consumer to the vendor. The board of county commissioners and the
22 Oklahoma Tax Commission ~~shall~~ are authorized to enter into a
23 contract whereby the Tax Commission shall have authority to assess,
24 collect, and enforce the sales tax, and any penalties or interest

1 thereon, levied by such county, and to remit the same to the county.
2 Such assessment, collection, and enforcement authority shall apply
3 to any sales tax, and any penalty or interest liability existing at
4 the time of contracting. Upon contracting, the Tax Commission shall
5 have the power of enforcement of the sales tax, and any penalties or
6 interest that are vested in the county. The contract shall provide
7 for the assessment, collection, and enforcement of the sales tax,
8 and the penalties or interest, in the same manner as the
9 administration, collection, and enforcement of the state sales tax
10 by the Tax Commission. For providing such collection assistance,
11 the Tax Commission shall charge the county a fee of one percent (1%)
12 of the gross collection proceeds.

13 The Tax Commission shall place all sales taxes, including
14 penalties and interest, collected on behalf of a county pursuant to
15 the provisions of this section in the Sales Tax Remitting Account as
16 provided in Section 1373 of this title. As used in this section and
17 Sections 1372, 1373 and 1374 of this title, "sales tax" includes any
18 tax imposed pursuant to the provisions of Section ~~±~~ 1370.9 of this
19 ~~act~~ title.

20 SECTION 2. AMENDATORY 68 O.S. 2001, Section 2702, as
21 last amended by Section 16, Chapter 412, O.S.L. 2010 (68 O.S. Supp.
22 2010, Section 2702), is amended to read as follows:

23 Section 2702. A. The governing body of any incorporated city
24 or town and the Oklahoma Tax Commission ~~shall~~ are authorized to

1 enter into contractual agreements whereby the Oklahoma Tax
2 Commission shall have authority to assess, to collect and to enforce
3 any taxes or, penalties or interest thereon, levied by such
4 incorporated city or town, and remit the same to such municipality.
5 Said assessment, collection, and enforcement authority shall apply
6 to any taxes, penalty or interest liability existing at the time of
7 contracting. Upon contracting, the Oklahoma Tax Commission shall
8 have all the powers of enforcement in regard to such taxes,
9 penalties and interest as are granted to or vested in the
10 contracting municipality. Such agreement shall provide for the
11 assessment, collection, enforcement, and prosecution of such
12 municipal tax, penalties and interest, in the same manner as and in
13 accordance with the administration, collection, enforcement, and
14 prosecution by the Oklahoma Tax Commission of any similar state tax
15 except as provided by agreement. The municipality shall agree to
16 refrain from any assessment, collection, or enforcement of the
17 municipal tax except as specified in the agreement. Such agreement
18 shall authorize the Oklahoma Tax Commission to retain an amount not
19 to exceed one and three-fourths percent (1 3/4%) as a retention fee
20 of municipal tax collected for services rendered in connection with
21 such collections; provided, if a municipality files an action
22 resulting in collection of delinquent state and municipal taxes, the
23 Tax Commission shall remit one-half (1/2) of the retention fee
24 applied to the amount of such taxes to the municipality to be

1 apporportioned as are other sales tax revenue. All funds retained by
2 the Oklahoma Tax Commission for the collection services to
3 municipalities shall be deposited in the Oklahoma Tax Commission
4 Revolving Fund in the State Treasury.

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

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

1 enforcement personnel may receive all information necessary to
2 implement or augment the enforcement and prosecution of municipal
3 sales tax ordinances.

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

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

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

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