STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1429 By: Turner

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 1353, as amended by Section 540, Chapter 304, O.S.L. 2012, 1370 and 2701 (68 O.S. Supp. 2012, Section 1353), which relates to sales tax; providing for certain apportionment of sales taxes to certain municipalities and counties under specified circumstances; exempting qualifying firearms, ammunition and hunting supplies from state sales tax under specified conditions; requiring Oklahoma Tax Commission to promulgate rules; clarifying status of certain exemptions; exempting qualifying firearms, ammunition and hunting supplies from the imposition of county sales tax under specified conditions; clarifying status of certain fund; exempting qualifying firearms, ammunition and hunting supplies from the imposition of local sales tax under specified conditions; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 1353, as amended by Section 540, Chapter 304, O.S.L. 2012 (68 O.S. Supp. 2012, 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, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, shall be apportioned as follows:

1. a. 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:

Fiscal Year	Amount
FY 2003 and FY 2004	86.04%
FY 2005	85.83%
FY 2006	85.54%
FY 2007	85.04%
FY 2008 and each fiscal year thereafter	83.61%

b. in the event that additional monies are necessary pursuant to paragraph 6 of this subsection, such additional monies shall be deducted in the proportion determined by the State Board of Equalization pursuant

to paragraph 3 of Section 2355.1B of this title from the monies apportioned to the General Revenue Fund;

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

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

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 and each fiscal year thereafter	5.0%

4. For the fiscal year beginning July 1, 2010, and for each fiscal year thereafter, eighty-seven one-hundredths percent (0.87%) shall be paid to the State Treasurer to be further apportioned as follows:

a. thirty-six percent (36%) shall be placed to the credit of the Oklahoma Tourism Promotion Revolving Fund, and

b. sixty-four percent (64%) shall be placed to the credit of the Oklahoma Tourism Capital Improvement Revolving Fund; ~~and~~

5. For the fiscal year beginning July 1, 2010, and for each fiscal year thereafter, six one-hundredths percent (0.06%) shall be placed to the credit of the Oklahoma Historical Society Capital Improvement and Operations Revolving Fund~~.~~; and

6. During the first fiscal year after the State Board of Equalization has made a determination as provided in Section 2355.1B of this title, regarding a baseline amount of revenue apportioned pursuant to paragraph 3 of this subsection, and for each fiscal year thereafter, in no event shall monies apportioned pursuant to paragraph 3 of this subsection, paragraph 3 of Section 1403 of this title and subparagraph c of paragraph 1 of Section 2352 of this title be less than such baseline amount.

B. Provided, for the fiscal year beginning July 1, 2007, and every fiscal year thereafter, an amount of revenue shall be apportioned to each municipality or county which levies a sales tax subject to the provisions of Section 1357.10 of this title and subsection F of Section 2701 of this title equal to the amount of sales tax revenue of such municipality or county exempted by the provisions of Section 1357.10 of this title and subsection F of

Section 2701 of this title. The Oklahoma Tax Commission shall promulgate and adopt rules necessary to implement the provisions of this subsection.

C. Provided, for the fiscal year beginning July 1, 2013, and every fiscal year thereafter, an amount of revenue shall be apportioned to each municipality or county which levies a sales tax subject to the provisions of Section 2 of this act and subsection G of Section 2701 of this title equal to the amount of sales tax revenue of such municipality or county exempted by the provisions of Section 2 of this act and subsection G of Section 2701 of this title. The Oklahoma Tax Commission shall promulgate and adopt rules necessary to implement the provisions of this subsection.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 68 of Title 1357.11, unless there is created a duplication in numbering, reads as follows:

A. The sale of qualifying firearms, ammunition and hunting supplies shall be exempt from the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes if the sale takes place during the first consecutive Friday through Sunday of September. The annual Oklahoma Second Amendment Sales Tax Holiday begins at 12:01 a.m. on that Friday and ends at 12 midnight on the following Sunday.

B. As used in this section:

1. “Ammunition” means any projectile with a fuse, propelling charges or primers which is fired from a firearm or gun, which may be legally sold or purchased in Oklahoma;

2. “Firearm” means a shotgun, rifle, pistol, revolver, or other handgun, which may be legally sold or purchased in Oklahoma; and

3. “Hunting supplies” means tangible personal property used for and designed for hunting. Hunting supplies include:

a. archery items used for hunting such as bows, crossbows, arrows, quivers and shafts,

b. off-road vehicles such as all-terrain vehicles designed and intended primarily for hunting. The exemption does not apply to golf carts, go-carts, dirt bikes, mini-bikes, motorcycles, tractors, motor vehicles which may be legally driven on the streets and highways of Oklahoma, or heavy equipment such as cranes, forklifts, backhoes and bulldozers,

c. vessels such as airboats and pirogues designed and intended for hunting,

d. accessories designed to be used for hunting,

e. animal feed that is manufactured and marketed as being for consumption primarily by game which can be legally hunted. This does not include food for animals kept as pets,

f. apparel such as safety gear, camouflage clothing, jackets, hats, gloves, mittens, face masks and thermal underwear manufactured and marketed as being primarily for wear or use while hunting,

g. hunting shoes or boots designed and used for hunting,

h. bags to carry game or hunting gear,

i. float tubes only if purchased to be used for hunting,

j. binoculars only if purchased to be used for hunting,

k. tools that are manufactured and marketed as being primarily for use in hunting,

l. firearm and archery cases,

m. firearm and archery accessories,

n. range finders,

o. knives that are manufactured and marketed as being primarily for use in hunting. This excludes the purchase of knives by an individual to be used for household, business or other recreational use,

p. decoys,

q. tree stands,

r. blinds,

s. chairs to be used for hunting. This excludes purchases by an individual of chairs or other furniture for household, business or other recreational use,

t. optics such as rifle scopes and impact resistant glasses for shooting,

u. hearing protection gear and enhancements,

v. holsters,

w. belts that are manufactured and marketed as being primarily for use in hunting,

x. slings, and

y. miscellaneous gear that is manufactured and marketed as being primarily for use in hunting. This includes other hunting-related gear or supplies not previously listed. This excludes the purchase of toy guns and vessels or off-road vehicles utilized as children's toys.

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

SECTION 3. AMENDATORY 68 O.S. 2011, 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 1357.10 of this title <u>and Section 2 of this act</u>, 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~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes shall be no longer than allowed pursuant to the Oklahoma Community Economic Development Pooled Finance Act.

I. Except for the levies imposed pursuant to Section ~~14~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes, 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~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes, 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~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes 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 4. AMENDATORY 68 O.S. 2011, Section 2701, is amended to read as follows:

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

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

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

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

4. Cooperatives and communications companies are hereby authorized to pass on to their subscribers in the incorporated city

or town involved, the amount of any special municipal fee, charge or tax hereafter assessed or levied on or collected from such cooperatives or communications companies;

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

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

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

B. A sales tax authorized in subsection A of this section may be levied for limited purposes specified in the ordinance levying the tax. Such ordinance shall be submitted to the voters for approval as provided in Section 2705 of this title. 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 city or town unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance levying the sales tax or changing the rate of sales tax. Such ordinance shall describe with specificity the projects or expenditures for which the limited-purpose tax levy would be made. The municipal governing body shall create a limited-purpose fund and

deposit therein any revenue generated by any tax levied pursuant to this subsection. Money in the fund shall be accumulated from year to year. The fund shall be placed in an insured interest-bearing account and the interest which accrues on the fund shall be retained in the fund. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the limited-purpose tax fund shall be expended only as accumulated and only for the purposes specifically described in the taxing ordinance as approved by the voters.

C. 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.

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

E. If the proceeds of any sales tax levied by a municipality pursuant to subsection B of this section are being used by the municipality for the purpose of retiring indebtedness incurred by the municipality or by a public trust of which the municipality is a beneficiary for the specific purpose for which the sales tax was 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 municipality. The provisions of this subsection shall apply to all sales tax levies imposed by a municipality and being used by the municipality for the purposes set forth in this subsection prior to or after July 1, 1995.

F. The sale of an article of clothing or footwear designed to be worn on or about the human body shall be exempt from the sales tax imposed by any incorporated city or town, in accordance with and to the extent set forth in Section ~~3~~ 1357.10 of this ~~act~~ title.

G. The sale of qualifying firearms, ammunition and hunting supplies shall be exempt from the tax imposed by any incorporated city or town, in accordance with and to the extent set forth in Section 2 of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1378 of Title 68, unless there is created a duplication in numbering, reads as follows:

The sales tax imposed by any county or authority authorized by law to levy a sales tax shall not be imposed upon the sale of qualifying firearms, ammunition and hunting supplies in accordance with and to the extent set forth in Section 2 of this act.

SECTION 6. This act shall become effective July 1, 2013.

SECTION 7. 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.

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