

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1404

By: Humphrey of the House

and

Bullard of the Senate

7
8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to local government funding options;
12 authorizing county to call for an election regarding
13 the tax of rock, gravel, granite, sand and limestone
14 upon severance; providing exception for materials
15 extracted on private property by natural persons;
16 providing exception for limestone extracted for
17 agricultural purposes; requiring voter approval
18 before levying of tax; specifying time period before
19 subsequent special election can be called under
20 certain circumstances; providing effective date for
21 tax levy or change in tax rate; requiring designation
22 of purpose for tax and specifying purposes;
23 specifying disposition of funds; providing for
24 duration of tax; requiring Oklahoma Tax Commission to
 provide certain notice; modifying effective date of
 rate change under specified circumstances;
 authorizing certain contract between county and Tax
 Commission and providing contract criteria;
 authorizing Tax Commission to charge specified fee;
 requiring initiative petitions be in compliance with
 specified statutes; mandating specified procedures;
 setting time period during which election shall be
 held; providing for certain credit based on sales tax
 treatment; providing for apportionment of revenues to
 municipalities under certain circumstances;
 prohibiting counties from imposing certain fees,

1 charges, assessments or related costs; providing for
2 codification; and providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1001.5 of Title 68, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Any county of this state is hereby authorized to levy a tax
9 upon the severance of rock, gravel, granite, sand, limestone or any
10 other natural materials mined for purposes of producing aggregate
11 within the territorial limits of the county by any lawfully
12 recognized for-profit business entity in an amount specified in the
13 special election called as provided herein.

14 B. No severance tax shall be applicable to aggregates extracted
15 by an individual person or persons from real property owned by such
16 person or persons and not sold for profit.

17 C. No severance tax shall be applicable to limestone extracted
18 for agricultural purposes.

19 D. Before a severance tax may be levied by the county, the
20 imposition of the tax shall first be approved by a majority of the
21 registered voters of the county voting thereon at a special election
22 called by the board of county commissioners or by an initiative
23 petition signed by not less than five percent (5%) of the registered
24 voters of the county who were registered at the time of the last

1 general election. The question submitted shall be limited to the
2 purposes described by subsection G of this section. However, if a
3 majority of the registered voters of a county voting fail to approve
4 such a tax, the board of county commissioners shall not call another
5 special election for such purpose for one (1) year.

6 E. Any tax levied or any change in the rate of a tax levied
7 pursuant to the provisions of this section shall become effective on
8 the first day of the calendar quarter following approval by the
9 voters of the county unless another effective date, which shall also
10 be on the first day of a calendar quarter, is specified in the
11 ordinance or resolution levying the tax or changing the rate of the
12 tax. The county may approve a severance tax up to ten cents (\$0.10)
13 per ton on the production of rock, gravel, granite, sand and
14 limestone.

15 F. Any severance tax which may be levied by a county shall be
16 designated for a specific or general purpose by a majority vote of
17 the board of county commissioners or as stated by initiative
18 petition. The county shall identify the purpose of the severance
19 tax when it is presented to the voters pursuant to the provisions of
20 subsection A of this section.

21 G. Except as provided by Section 2 of this act, the proceeds of
22 any severance tax levied by a county shall be deposited in the
23 county general fund and shall be used for any roads and bridges but
24 shall not be used for salaries or other forms of employee

1 compensation and may only be used for construction or improvement of
2 roads and bridges.

3 H. The life of a tax levied pursuant to the provisions of this
4 section may be limited or unlimited in duration. The county shall
5 identify the duration of the tax when it is presented to the voters
6 pursuant to the provisions of subsection A of this section.

7 I. The Oklahoma Tax Commission shall give notice to all
8 relevant taxpayers of a rate change at least sixty (60) days prior
9 to the effective date of the rate change. Failure to give notice as
10 required by this section shall delay the effective date of the rate
11 change to the first day of the next calendar quarter. The board of
12 county commissioners of a county levying a tax pursuant to the
13 provisions of this section and the Tax Commission are authorized to
14 enter into a contract whereby the Tax Commission shall have
15 authority to assess, collect and enforce the tax and any penalties
16 or interest thereon levied by the county and to remit the same to
17 the county. Such authority shall apply to any tax levied pursuant
18 to this section and penalty or interest liability existing at the
19 time of contracting. Upon contracting, the Tax Commission shall
20 have the power of enforcement of the tax, penalties or interest that
21 are vested in the county. The contract shall provide for the
22 assessment, collection and enforcement of the tax, penalties or
23 interest in the same manner as the administration, collection or
24 enforcement of the state gross production tax by the Tax Commission.

1 For providing such assistance, the Tax Commission shall charge the
2 county a fee of one-half of one percent (1/2 of 1%) of the gross
3 collection proceeds.

4 J. Initiative petitions calling for a special election
5 concerning county severance tax proposals shall be in accordance
6 with Sections 2, 3, 6, 18 and 24 of Title 34 of the Oklahoma
7 Statutes. Petitions shall be submitted to the office of the county
8 clerk for approval as to form prior to circulation. Following
9 approval, the petitioner shall have ninety (90) days to secure the
10 required signatures. After securing the requisite number of
11 signatures, the petitioner shall submit the petition and signatures
12 to the county clerk. Following the verification of signatures, the
13 county clerk shall present the petition to the board of county
14 commissioners. The special election shall be held within sixty (60)
15 days of the board of county commissioners receiving the petition
16 from the county clerk.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1001.6 of Title 68, unless there
19 is created a duplication in numbering, reads as follows:

20 A. All materials sold where an appropriate county sales tax was
21 charged, collected and remitted to the county where the materials
22 were severed shall receive a credit against the severance tax in the
23 same amount of the sales tax portion that was remitted to the county
24 of origin.

1 B. All materials sold to a tax-exempt entity where no sales tax
2 is collected shall be subject to the severance tax.

3 C. If the mining or extracting of aggregates takes place within
4 the incorporated area of a municipality, fifty percent (50%) of the
5 revenue derived from the mining or extracting of aggregates which
6 occurs within such incorporated municipal area from a severance tax
7 levy imposed by a county pursuant to Section 1 of this act shall be
8 apportioned to the general revenue fund of the municipality and
9 fifty percent (50%) of the revenue shall be apportioned to the
10 county as provided by subsection F of Section 1 of this act.

11 D. No county that receives revenue from a severance tax levy on
12 aggregates as authorized by this act shall impose any fee, charge,
13 assessment or other cost for the privilege of engaging in the mining
14 or extraction of aggregates.

15 SECTION 3. This act shall become effective November 1, 2019.

16
17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
18 02/28/2019 - DO PASS, As Amended and Coauthored.
19
20
21
22
23
24