

OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT FIRST REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: February 22, 2021

BILL NUMBER: SB 463 STATUS AND DATE OF BILL: Introduced 01/19/2021

AUTHORS: House n/a Senate Hall

TAX TYPE (S): Motor Vehicle SUBJECT: Other

PROPOSAL: Amendatory

The measure proposes amendment to Section 1140 of Title 47 to provide that motor license agents shall only be subject to removal by Oklahoma Tax Commission for cause¹. The measure also states that no motor license agent is to be removed for exercising his or her right of free speech as guaranteed by Section 22 of Article 2 of the Oklahoma Constitution or the First Amendment of the United States Constitution.

EFFECTIVE DATE: November 1, 2021

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 22: None

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 22: {See attached}

Feb. 22, 2021
DATE

Pick Miller
DIVISION DIRECTOR

msm

2/22/2021
DATE

Huan Gong
HUAN GONG, ECONOMIST

2/22/21
DATE

[Signature]
FOR THE COMMISSION

The estimated revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

¹ For purposes of Section 1140 of Title 47 "for cause" is defined as:

1. Repeated violations of written rules, regulations and statutes pertaining to motor license agents after written warning by the OTC and an opportunity to correct such violations;
2. Failure of the motor license agent to promptly remit funds owed to the OTC upon written demand;
3. Being charged with a felony crime involving dishonesty or moral turpitude;
4. Failure to file state and federal income tax returns;
5. Any act of official misconduct as set forth in Section 93 of Title 51.

The measure proposes amendment to Section 1140 of Title 47 to provide that motor license agents shall only be subject to removal by Oklahoma Tax Commission for cause². The measure also states that no motor license agent is to be removed for exercising his or her right of free speech as guaranteed by Section 22 of Article 2 of the Oklahoma Constitution or the First Amendment of the United States Constitution.

The measure outlines the motor license agent removal processes and procedures regarding notice, hearing and decision to be followed by the Tax Commission in the event that it determines by a vote of the majority of the Commissioners that sufficient grounds exist to remove a motor license agent from his/her position. It outlines the judicial review afforded the motor license agent upon receipt of an unfavorable determination from the Tax Commission and provides for award to the motor license agent of court costs, witness fees, and reasonable attorney fees should the district court determine that the action of the Commission regarding removal of the motor license agent was frivolous.

The measure will have no impact on motor vehicle revenues

Administrative Costs:

Administrative costs for the implementation of SB 463 (Introduced), which relate to the process of removal, including the MLA's right to judicial review of the Tax Commission decision are outlined herein. Additional personnel will be required for the preparation of the hearing before the Tax Commission in which the MLA can present evidence, call witnesses and present testimony. Significant costs will also accrue in proceedings for review instituted by filing a petition in the district court of *any county in which the MLA seeking review decides* and any other actions related to appellate proceedings up to and including review by the Oklahoma Supreme Court, and thereafter any potential adverse ruling costs.

Based upon the potential of five (5) MLAs being removed in accordance with the definition set out in SB 463 (Introduced) "for cause" the estimated costs are as follows:

1. Employment of (2) additional Auditor II positions in the Motor Vehicle Division– Total compensation of **\$59,400**.
2. Employment of (2) additional attorneys in the Office of General Counsel – Total compensation of **\$85,580**.
3. Travel and misc. costs of **\$5,000**.
4. In the event the district court review determines that the removal proceeding was frivolous, the potential court costs, witness fees and reasonable attorney fees could be **\$250,000** (\$50,000 for each of the 5 removals for cause).
5. Since the process from beginning to end under the terms of this proposed legislation could potentially cover a time span of two (2) years (Tax Commission written notice of for cause termination through final decision of an appellate court), any adverse ruling to the Tax Commission termination could come at an estimated cost of **\$2,029,200** (\$202,920 average fee earned per agent* x 2 years for each of the 5 removals for cause).

Total administrative cost estimated at **\$2,429,180**.

*MLA fees paid out for 2020 totaled \$53,368,030 divided by 263 agents statewide = \$202,920 average fees earned per agent.

² For purposes of Section 1140 of Title 47 "for cause" is defined as:

1. Repeated violations of written rules, regulations and statutes pertaining to motor license agents after written warning by the OTC and an opportunity to correct such violations;
2. Failure of the motor license agent to promptly remit funds owed to the OTC upon written demand;
3. Being charged with a felony crime involving dishonesty or moral turpitude;
4. Failure to file state and federal income tax returns;
5. Any act of official misconduct as set forth in Section 93 of Title 51.