

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SUBCOMMITTEE  
RECOMMENDATION

FOR

HOUSE BILL NO. 1404

By: Humphrey

SUBCOMMITTEE RECOMMENDATION

An Act relating to local government funding options; authorizing county to call for an election regarding the tax of rock, gravel, granite, sand and limestone upon severance; providing exception for materials extracted on private property by natural persons; providing exception for limestone extracted for agricultural purposes; requiring voter approval before levying of tax; specifying time period before subsequent special election can be called under certain circumstances; providing effective date for tax levy or change in tax rate; requiring designation of purpose for tax and specifying purposes; specifying disposition of funds; providing for 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, charges, assessments or related costs; providing for codification; and providing an effective date.

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

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

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

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

14 C. No severance tax shall be applicable to limestone extracted  
15 for agricultural purposes.

16 D. Before a severance tax may be levied by the county, the  
17 imposition of the tax shall first be approved by a majority of the  
18 registered voters of the county voting thereon at a special election  
19 called by the board of county commissioners or by an initiative  
20 petition signed by not less than five percent (5%) of the registered  
21 voters of the county who were registered at the time of the last  
22 general election. The question submitted shall be limited to the  
23 purposes described by subsection G of this section. However, if a  
24 majority of the registered voters of a county voting fail to approve

1 such a tax, the board of county commissioners shall not call another  
2 special election for such purpose for one (1) year.

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

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

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

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

5       I. The Oklahoma Tax Commission shall give notice to all  
6 relevant taxpayers of a rate change at least sixty (60) days prior  
7 to the effective date of the rate change. Failure to give notice as  
8 required by this section shall delay the effective date of the rate  
9 change to the first day of the next calendar quarter. The board of  
10 county commissioners of a county levying a tax pursuant to the  
11 provisions of this section and the Tax Commission are authorized to  
12 enter into a contract whereby the Tax Commission shall have  
13 authority to assess, collect and enforce the tax and any penalties  
14 or interest thereon levied by the county and to remit the same to  
15 the county. Such authority shall apply to any tax levied pursuant  
16 to this section and penalty or interest liability existing at the  
17 time of contracting. Upon contracting, the Tax Commission shall  
18 have the power of enforcement of the tax, penalties or interest that  
19 are vested in the county. The contract shall provide for the  
20 assessment, collection and enforcement of the tax, penalties or  
21 interest in the same manner as the administration, collection or  
22 enforcement of the state gross production tax by the Tax Commission.  
23 For providing such assistance, the Tax Commission shall charge the  
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1 county a fee of one-half of one percent (1/2 of 1%) of the gross  
2 collection proceeds.

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

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

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

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