

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 996

By: Rogers

AS INTRODUCED

An Act relating to municipal taxation; amending 68 O.S. 2021, Section 2702, which relates to contractual agreements to assess, collect, and enforce taxes and penalties; providing contracts with certain auditors shall not be subject to certain limitation; clarifying statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2702, is amended to read as follows:

Section 2702. A. The governing body of any incorporated city or town and the Oklahoma Tax Commission shall enter into contractual agreements whereby the Tax Commission shall have authority to assess, to collect and to enforce any taxes or, penalties or interest thereon, levied by such incorporated city or town, and remit the same to ~~such~~ the municipality. ~~Said~~ The assessment, collection, and enforcement authority shall apply to any taxes, penalty or interest liability existing at the time of contracting. Upon contracting, the Tax Commission shall have all the powers of

1 enforcement in regard to ~~such~~ the taxes, penalties and interest as  
2 are granted to or vested in the contracting municipality. Such  
3 agreement shall provide for the assessment, collection, enforcement,  
4 and prosecution of such municipal tax, penalties, and interest, in  
5 the same manner as and in accordance with the administration,  
6 collection, enforcement, and prosecution by the Tax Commission of  
7 any similar state tax except as provided by agreement. Such  
8 agreement shall authorize the Tax Commission to retain an amount not  
9 to exceed one-half of one percent (0.5%) as a retention fee of  
10 municipal tax collected for services rendered in connection with  
11 such collections; provided, if a municipality files an action  
12 resulting in collection of delinquent state and municipal taxes, the  
13 Tax Commission shall remit one-half (1/2) of the retention fee  
14 applied to the amount of such taxes to the municipality to be  
15 apportioned as are other sales tax revenue. All funds retained by  
16 the Tax Commission for the collection services to municipalities  
17 shall be deposited in the Oklahoma Tax Commission Revolving Fund in  
18 the State Treasury. The municipality shall agree to refrain from  
19 any assessment, collection, or enforcement of the municipal tax  
20 except as specified in an agreement made pursuant to subsections A,  
21 C, D, and E of this section.

22 B. The Tax Commission shall place all sales taxes, including  
23 penalties and interest, collected on behalf of a municipality  
24 pursuant to the provisions of this section and all use taxes,

1 including penalties and interest, collected on behalf of a  
2 municipality pursuant to the provisions of Section 1411 of this  
3 title in the Sales Tax Remitting Account as provided in Section 1373  
4 of this title.

5 C. Notwithstanding the provisions of subsection E of this  
6 section, the Tax Commission and the governing body of any  
7 incorporated city or town may enter into contractual agreements  
8 whereby the municipality would be authorized to implement or augment  
9 the enforcement, collection, and prosecution of the municipal tax in  
10 those contracting municipalities and to provide for the satisfaction  
11 of refunds or credits to taxpayers. Such agreements shall and are  
12 hereby authorized to provide that the municipality and the Tax  
13 Commission may exchange necessary information to effectively carry  
14 out the terms of such agreements. The municipality, its officers  
15 and employees shall preserve the confidentiality of such information  
16 in the same manner and be subject to the same penalties as provided  
17 by Section 205 of this title, provided that the municipal prosecutor  
18 and other municipal enforcement personnel may receive all  
19 information necessary to implement or augment the enforcement and  
20 prosecution of municipal sales tax ordinances.

21 D. Provided further that, upon the request of any incorporated  
22 city or town, the Tax Commission shall enter into contractual  
23 agreements with such municipality whereby the municipality would be  
24 authorized to implement or augment the enforcement, either directly

1 or through contract with private auditors or audit firms, of the  
2 municipal tax. Any person performing an audit shall first be  
3 approved by the Tax Commission and, once approved, shall be  
4 appointed as an agent of the Tax Commission for purposes of the  
5 audit. Contracts with a private auditor or audit firm shall ~~not~~ be  
6 subject to the limitations of Section 262 of this title and shall  
7 and are hereby authorized to provide that the municipality, private  
8 auditors or audit firms and the Tax Commission may exchange  
9 necessary information to effectively carry out the terms of such  
10 agreements. The municipality, its officers and employees and  
11 private auditors or audit firms may receive all information  
12 necessary to perform audits and shall preserve the confidentiality  
13 of such information in the same manner and be subject to the same  
14 penalties as provided by Section 205 of this title. Municipalities  
15 conducting audits directly or by contracting for private auditors or  
16 audit firms pursuant to this subsection shall furnish to the Tax  
17 Commission the audit results and all relevant supporting  
18 documentation. Further, such municipalities shall provide for the  
19 payment of private auditors or audit firms by deduction from the tax  
20 assessment resulting from the audit conducted by said private  
21 auditors or audit firms unless a municipality contracts with the  
22 auditor or audit firm for another method of payment. Any municipal  
23 sales tax funds recovered as a result of the services provided under  
24 this subsection will not be included in calculating the retention

1 fee retained by the Tax Commission pursuant to subsection A of this  
2 section. The contracts authorized by subsection A of this section  
3 shall provide that the Tax Commission shall not have any obligations  
4 thereunder to any municipality that does not participate in an audit  
5 conducted under this subsection.

6 E. 1. Pursuant to the provisions of this subsection, upon the  
7 request of any municipality, the Tax Commission shall enter into a  
8 contractual agreement with the municipality whereby the municipality  
9 would be authorized to engage in compliance activities, either  
10 directly or through contract with private persons or entities, to  
11 augment the collection of the municipal tax by the Tax Commission.  
12 The sole responsibility for the administration of any and all such  
13 compliance activities shall remain with the Tax Commission to ensure  
14 that sellers and purchasers shall only be required to register, file  
15 returns, and remit state and local taxes to one single authority,  
16 and that no enforcement activities are duplicated.

17 2. Any contractual agreement entered into pursuant to paragraph  
18 1 of this subsection and any person or entity who will be performing  
19 compliance activities shall first be approved by the Tax Commission  
20 in its sole discretion. Once approved, the private person or entity  
21 shall be appointed as an agent of the Tax Commission for purposes of  
22 such compliance activities. Any agreements entered into pursuant to  
23 paragraph 1 of this subsection shall provide that the municipality,  
24 private persons or entities appointed as an agent and the Tax

1 Commission may exchange necessary information to effectively carry  
2 out the terms of the agreements. The municipality, its officers and  
3 employees and any private person or entity appointed as an agent of  
4 the Tax Commission may receive all information necessary for  
5 compliance activities and shall preserve the confidentiality of the  
6 information in the same manner and be subject to the same penalties  
7 as provided by Section 205 of this title. Municipalities conducting  
8 compliance activities directly or by contracting with private  
9 persons or entities pursuant to this subsection shall furnish to the  
10 Tax Commission the compliance results and all relevant supporting  
11 documentation and the Tax Commission shall take such information and  
12 issue proposed assessments or conduct other such administrative  
13 action as is necessary.

14 3. There is hereby created in the State Treasury a revolving  
15 fund for the Oklahoma Tax Commission to be known as the "Tax  
16 Commission Compliance Fund". The fund shall be a continuing fund,  
17 not subject to fiscal year limitations, and notwithstanding any  
18 other provisions of law, shall consist of the first three-fourths of  
19 one percent ( $3/4$  of 1%) of enhanced collections of state sales and  
20 use taxes collected pursuant to an agreement entered into pursuant  
21 to paragraph 1 of this subsection. All monies accruing to the  
22 credit of the fund are hereby appropriated and may be budgeted and  
23 expended by the Oklahoma Tax Commission for the purpose of  
24 reimbursing a municipality for enhanced collections of state sales

1 taxes pursuant to an agreement entered into pursuant to paragraph 1  
2 of this subsection. Expenditures from the fund shall be made upon  
3 warrants issued by the State Treasurer against claims filed as  
4 prescribed by law with the Director of the Office of Management and  
5 Enterprise Services for approval and payment.

6 4. The Director of the Office of Management and Enterprise  
7 Services shall form an Implementation Working Group composed of  
8 representatives of municipalities and of the Tax Commission and  
9 shall adopt a plan to implement this subsection by September 30,  
10 2011. The plan shall ensure that the Tax Commission shall maintain  
11 a central point of collection and centralized administration and  
12 enforcement and further shall be consistent with all applicable  
13 state laws.

14 F. 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.

19 SECTION 2. This act shall become effective November 1, 2023.  
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