

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 HOUSE BILL NO. 1404

By: Humphrey and McCall of the
House

6 and

7 Bullard of the Senate

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to local government funding options;
11 authorizing county to call for an election regarding
12 the tax of rock, gravel, granite, sand and limestone
13 upon severance; providing exception for materials
14 extracted on private property by natural persons;
15 providing exception for limestone extracted for
16 agricultural purposes; providing exemption for sand
17 extracted for use in hydraulic fracturing operations;
18 requiring voter approval before levying of tax;
19 specifying time period before subsequent special
20 election can be called under certain circumstances;
21 providing effective date for tax levy or change in
22 tax rate; requiring designation of purpose for tax
23 and specifying purposes; specifying disposition of
24 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

1 related costs; providing for codification; and
2 providing an effective date.

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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:

15 1. Aggregates extracted by an individual person or persons from
16 real property owned by such person or persons and not sold for
17 profit; or

18 2. Limestone extracted for agricultural purposes.

19 C. Sales of sand for use in hydraulic fracturing operations
20 shall be exempt from any severance tax levied pursuant to this
21 section.

22 D. Before a severance tax may be levied by the county, the
23 imposition of the tax shall first be approved by a majority of the
24 registered voters of the county voting thereon at a special election

1 called by the board of county commissioners or by an initiative
2 petition signed by not less than five percent (5%) of the registered
3 voters of the county who were registered at the time of the last
4 general election. The question submitted shall be limited to the
5 purposes described by subsection G of this section. However, if a
6 majority of the registered voters of a county voting fail to approve
7 such a tax, the board of county commissioners shall not call another
8 special election for such purpose for one (1) year.

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

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

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1 G. Except as provided by Section 2 of this act, the proceeds of
2 any severance tax levied by a county shall be deposited in the
3 county general fund and shall be used for any roads and bridges but
4 shall not be used for salaries or other forms of employee
5 compensation and may only be used for construction or improvement of
6 roads and bridges.

7 H. The life of a tax levied pursuant to the provisions of this
8 section may be limited or unlimited in duration. The county shall
9 identify the duration of the tax when it is presented to the voters
10 pursuant to the provisions of subsection A of this section.

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

1 are vested in the county. The contract shall provide for the
2 assessment, collection and enforcement of the tax, penalties or
3 interest in the same manner as the administration, collection or
4 enforcement of the state gross production tax by the Tax Commission.
5 For providing such assistance, the Tax Commission shall charge the
6 county a fee of one-half of one percent (1/2 of 1%) of the gross
7 collection proceeds.

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

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

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1 A. All purchasers of materials sold where an appropriate county
2 sales tax was charged, collected and remitted to the county where
3 the materials were severed shall receive a credit against the
4 severance tax in the same amount of the sales tax portion that was
5 remitted to the county of origin.

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

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

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

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