

1 ENGROSSED SENATE
2 BILL NO. 861

By: Barrington, Corn, Gumm,
Mazzei and Rabon of the
Senate

3
4 and

Blackwell of the House
5
6
7

8 [revenue and taxation - providing for apportionment
9 of sales tax - exempting items of footwear and
10 clothing - effective date -

11 emergency]
12

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

14 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1353, as
15 last amended by Section 17, Chapter 44, 2nd Extraordinary Session,
16 O.S.L. 2006 (68 O.S. Supp. 2006, Section 1353), is amended to read
17 as follows:

18 Section 1353. A. It is hereby declared to be the purpose of
19 the Oklahoma Sales Tax Code to provide funds for the financing of
20 the program provided for by the Oklahoma Social Security Act and to
21 provide revenues for the support of the functions of the state
22 government of Oklahoma, and for this purpose it is hereby expressly
23 provided that, revenues derived pursuant to the provisions of the
24 Oklahoma Sales Tax Code shall be apportioned as follows:

1 1. The following amounts shall be paid to the State Treasurer
2 to be placed to the credit of the General Revenue Fund to be paid
3 out pursuant to direct appropriation by the Legislature:

4	Fiscal Year	Amount
5	FY 2003 and FY 2004	86.04%
6	FY 2005	85.83%
7	FY 2006	85.54%
8	FY 2007	85.04%
9	FY 2008 and each fiscal	
10	year thereafter	83.61%

11 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
12 hundredths percent (10.42%), shall be paid to the State Treasurer to
13 be placed to the credit of the Education Reform Revolving Fund of
14 the State Department of Education and for FY 2006 and each fiscal
15 year thereafter, ten and forty-six one hundredths percent (10.46%)
16 shall be paid to the State Treasurer to be placed to the credit of
17 the Education Reform Revolving Fund of the State Department of
18 Education;

19 3. The following amounts shall be paid to the State Treasurer
20 to be placed to the credit of the Teachers' Retirement System
21 Dedicated Revenue Revolving Fund:

22	Fiscal Year	Amount
23	FY 2003 and FY 2004	3.54%
24	FY 2005	3.75%

1	FY 2006	4.0%
2	FY 2007	4.5%
3	FY 2008 and each fiscal	
4	year thereafter	5.0%

5 4. For the fiscal year beginning July 1, 2007, and for each
6 fiscal year thereafter, ninety-three one hundredths percent (0.93%)
7 shall be paid to the State Treasurer to be further apportioned as
8 follows:

- 9 a. thirty-six percent (36%) shall be placed to the credit
- 10 of the Oklahoma Tourism Promotion Revolving Fund, and
- 11 b. sixty-four percent (64%) shall be placed to the credit
- 12 of the Oklahoma Tourism Capital Improvement Revolving
- 13 Fund.

14 B. Provided, for the fiscal year beginning July 1, 2007, and
15 every fiscal year thereafter, an amount of revenue shall be
16 apportioned to each municipality or county which levies a sales tax
17 subject to the provisions of Section 4 of this act and subsection F
18 of Section 2701 of this title equal to the amount of sales tax
19 revenue of such municipality or county exempted by the provisions of
20 Section 4 of this act and subsection F of Section 2701 of this
21 title. The Oklahoma Tax Commission shall promulgate and adopt rules
22 necessary to implement the provisions of this subsection.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1357.10 of Title 68, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The sale of an article of clothing or footwear designed to
5 be worn on or about the human body shall be exempt from the tax
6 imposed by Section 1354 of Title 68 of the Oklahoma Statutes if:

7 1. The sales price of the article is less than One Hundred
8 Dollars (\$100.00); and

9 2. The sale takes place during a period beginning at 12:01 a.m.
10 on the first Friday in August and ending at 12 midnight on the
11 following Sunday, covering a period of three (3) days.

12 B. Subsection A of this section shall not apply to:

13 1. Any special clothing or footwear that is primarily designed
14 for athletic activity or protective use and that is not normally
15 worn except when used for athletic activity or protective use for
16 which it is designed;

17 2. Accessories, including jewelry, handbags, luggage,
18 umbrellas, wallets, watches, and similar items carried on or about
19 the human body, without regard to whether worn on the body in a
20 manner characteristic of clothing; and

21 3. The rental of clothing or footwear.

22 C. The Oklahoma Tax Commission shall promulgate any necessary
23 rules to implement the provisions of this section.

1 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1370, as
2 last amended by Section 1, Chapter 317, O.S.L. 2004 (68 O.S. Supp.
3 2006, Section 1370), is amended to read as follows:

4 Section 1370. A. Any county of this state may levy a sales tax
5 of not to exceed two percent (2%) upon the gross proceeds or gross
6 receipts derived from all sales or services in the county upon which
7 a consumer's sales tax is levied by this state. Before a sales tax
8 may be levied by the county, the imposition of the tax shall first
9 be approved by a majority of the registered voters of the county
10 voting thereon at a special election called by the board of county
11 commissioners or by initiative petition signed by not less than five
12 percent (5%) of the registered voters of the county who were
13 registered at the time of the last general election. However, if a
14 majority of the registered voters of a county voting fail to approve
15 such a tax, the board of county commissioners shall not call another
16 special election for such purpose for six (6) months. Any sales tax
17 approved by the registered voters of a county shall be applicable
18 only when the point of sale is within the territorial limits of such
19 county. Any sales tax levied or any change in the rate of a sales
20 tax levied pursuant to the provisions of this section shall become
21 effective on the first day of the calendar quarter following
22 approval by the voters of the county unless another effective date,
23 which shall also be on the first day of a calendar quarter, is
24

1 specified in the ordinance or resolution levying the sales tax or
2 changing the rate of sales tax.

3 B. The Oklahoma Tax Commission shall give notice to all vendors
4 of a rate change at least sixty (60) days prior to the effective
5 date of the rate change. Provided, for purchases from printed
6 catalogs wherein the purchaser computed the tax based upon local tax
7 rates published in the catalog, the rate change shall not be
8 effective until the first day of a calendar quarter after a minimum
9 of one hundred twenty (120) days' notice to vendors. Failure to
10 give notice as required by this section shall delay the effective
11 date of the rate change to the first day of the next calendar
12 quarter.

13 C. Initiative petitions calling for a special election
14 concerning county sales tax proposals shall be in accordance with
15 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma
16 Statutes. Petitions shall be submitted to the office of county
17 clerk for approval as to form prior to circulation. Following
18 approval, the petitioner shall have ninety (90) days to secure the
19 required signatures. After securing the requisite number of
20 signatures, the petitioner shall submit the petition and signatures
21 to the county clerk. Following the verification of signatures, the
22 county clerk shall present the petition to the board of county
23 commissioners. The special election shall be held within sixty (60)
24 days of receiving the petition. The ballot title presented to the

1 voters at the special election shall be identical to the ballot as
2 presented in the initiative petition.

3 D. ~~All~~ Subject to the provisions of Section 2 of this act, all
4 items that are exempt from the state sales tax shall be exempt from
5 any sales tax levied by a county.

6 E. Any sales tax which may be levied by a county shall be
7 designated for a particular purpose. Such purposes may include, but
8 are not limited to, projects owned by the state, any agency or
9 instrumentality thereof, the county and/or any political subdivision
10 located in whole or in part within such county, regional
11 development, economic development, common education, general
12 operations, capital improvements, county roads, weather modification
13 or any other purpose deemed, by a majority vote of the county
14 commissioners or as stated by initiative petition, to be necessary
15 to promote safety, security and the general well-being of the
16 people. The county shall identify the purpose of the sales tax when
17 it is presented to the voters pursuant to the provisions of
18 subsection A of this section. Except as otherwise provided in this
19 section, the proceeds of any sales tax levied by a county shall be
20 deposited in the general revenue or sales tax revolving fund of the
21 county and shall be used only for the purpose for which such sales
22 tax was designated. If the proceeds of any sales tax levied by a
23 county pursuant to this section are pledged for the purpose of
24 retiring indebtedness incurred for the specific purpose for which

1 the sales tax is imposed, the sales tax shall not be repealed until
2 such time as the indebtedness is retired. However, in no event
3 shall the life of the tax be extended beyond the duration approved
4 by the voters of the county.

5 F. 1. Notwithstanding any other provisions of law, any county
6 that has approved a sales tax for the construction, support or
7 operation of a county hospital may continue to collect such tax if
8 such hospital is subsequently sold. Such collection shall only
9 continue if the county remains indebted for the past construction,
10 support or operation of such hospital. The collection may continue
11 only until the debt is repaid or for the stated term of the sales
12 tax, whichever period is shorter.

13 2. If the construction, support or operation of a hospital is
14 funded through the levy of a county sales tax pursuant to this
15 section and such hospital is subsequently sold, the county levying
16 the tax may dissolve the governing board of such hospital following
17 the sale. Upon the sale of the hospital and dissolution of any
18 governing board, the county is relieved of any future liability for
19 the operation of such hospital.

20 G. Proceeds from any sales tax levied that is designated to be
21 used solely by the sheriff for the operation of the office of
22 sheriff shall be placed in the special revenue account of the
23 sheriff.

24

1 H. The life of the tax could be limited or unlimited in
2 duration. The county shall identify the duration of the tax when it
3 is presented to the voters pursuant to the provisions of subsections
4 A and C of this section.

5 I. There are hereby created one or more county sales tax
6 revolving funds in each county which levies a sales tax under this
7 section if any or all of the proceeds of such tax are not to be
8 deposited in the general revenue fund of the county or comply with
9 the provisions of subsection G of this section. Each such revolving
10 fund shall be designated for a particular purpose and shall consist
11 of all monies generated by such sales tax which are designated for
12 such purpose. Monies in such funds shall only be expended for the
13 purposes specifically designated as required by this section. A
14 county sales tax revolving fund shall be a continuing fund not
15 subject to fiscal year limitations.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1377 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 The sales tax imposed by any county or authority authorized by
20 law to levy a sales tax shall not be imposed upon the sale of an
21 article of clothing or footwear designed to be worn on or about the
22 human body in accordance with and to the extent set forth in Section
23 2 of this act.
24

1 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2701, as
2 amended by Section 30, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2006,
3 Section 2701), is amended to read as follows:

4 Section 2701. A. Any incorporated city or town in this state
5 is hereby authorized to assess, levy, and collect taxes for general
6 and special purposes of municipal government as the Legislature may
7 levy and collect for purposes of state government, subject to the
8 provisions of subsection F of this section, except ad valorem
9 property taxes. Provided:

10 1. Taxes shall be uniform upon the same class subjects, and any
11 tax, charge, or fee levied upon or measured by income or receipts
12 from the sale of products or services shall be uniform upon all
13 classes of taxpayers;

14 2. Motor vehicles may be taxed by the city or town only when
15 such vehicles are primarily used or located in such city or town for
16 a period of time longer than six (6) months of a taxable year;

17 3. The provisions of this section shall not be construed to
18 authorize imposition of any tax upon persons, firms, or corporations
19 exempted from other taxation under the provisions of Sections 348.1,
20 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of
21 payment of taxes imposed under such sections;

22 4. Cooperatives and communications companies are hereby
23 authorized to pass on to their subscribers in the incorporated city
24 or town involved, the amount of any special municipal fee, charge or

1 tax hereafter assessed or levied on or collected from such
2 cooperatives or communications companies;

3 5. No earnings, payroll or income taxes may be levied on
4 nonresidents of the cities or towns levying such tax;

5 6. The governing body of any city or town shall be prohibited
6 from proposing taxing ordinances more often than three times in any
7 calendar year, or twice in any six-month period; and

8 7. Any revenues derived from a tax authorized by this
9 subsection not dedicated to a limited purpose shall be deposited in
10 the municipal general fund.

11 B. A sales tax authorized in subsection A of this section may
12 be levied for limited purposes specified in the ordinance levying
13 the tax. Such ordinance shall be submitted to the voters for
14 approval as provided in Section 2705 of this title. Any sales tax
15 levied or any change in the rate of a sales tax levied pursuant to
16 the provisions of this section shall become effective on the first
17 day of the calendar quarter following approval by the voters of the
18 city or town unless another effective date, which shall also be on
19 the first day of a calendar quarter, is specified in the ordinance
20 levying the sales tax or changing the rate of sales tax. Such
21 ordinance shall describe with specificity the projects or
22 expenditures for which the limited-purpose tax levy would be made.
23 The municipal governing body shall create a limited-purpose fund and
24 deposit therein any revenue generated by any tax levied pursuant to

1 this subsection. Money in the fund shall be accumulated from year
2 to year. The fund shall be placed in an insured interest-bearing
3 account and the interest which accrues on the fund shall be retained
4 in the fund. The fund shall be nonfiscal and shall not be
5 considered in computing any levy when the municipality makes its
6 estimate to the excise board for needed appropriations. Money in
7 the limited-purpose tax fund shall be expended only as accumulated
8 and only for the purposes specifically described in the taxing
9 ordinance as approved by the voters.

10 C. The Oklahoma Tax Commission shall give notice to all vendors
11 of a rate change at least sixty (60) days prior to the effective
12 date of the rate change. Provided, for purchases from printed
13 catalogs wherein the purchaser computed the tax based upon local tax
14 rates published in the catalog, the rate change shall not be
15 effective until the first day of a calendar quarter after a minimum
16 of one hundred twenty (120) days' notice to vendors. Failure to
17 give notice as required by this section shall delay the effective
18 date of the rate change to the first day of the next calendar
19 quarter.

20 D. The change in the boundary of a municipality shall be
21 effective, for sales and use tax purposes only, on the first day of
22 a calendar quarter after a minimum of sixty (60) days' notice to
23 vendors.

24

1 E. If the proceeds of any sales tax levied by a municipality
2 pursuant to subsection B of this section are being used by the
3 municipality for the purpose of retiring indebtedness incurred by
4 the municipality or by a public trust of which the municipality is a
5 beneficiary for the specific purpose for which the sales tax was
6 imposed, the sales tax shall not be repealed until such time as the
7 indebtedness is retired. However, in no event shall the life of the
8 tax be extended beyond the duration approved by the voters of the
9 municipality. The provisions of this subsection shall apply to all
10 sales tax levies imposed by a municipality and being used by the
11 municipality for the purposes set forth in this subsection prior to
12 or after July 1, 1995.

13 F. The sale of an article of clothing or footwear designed to
14 be worn on or about the human body shall be exempt from the sales
15 tax imposed by any incorporated city or town, in accordance with and
16 to the extent set forth in Section 2 of this act.

17 SECTION 6. This act shall become effective July 1, 2007.

18 SECTION 7. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.
22
23
24

1 Passed the Senate the 13th day of March, 2007.

2
3 Presiding Officer of the Senate
4

5 Passed the House of Representatives the ____ day of _____,
6 2007.

7
8 Presiding Officer of the House
9 of Representatives
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24