

2012 OML Legislative Overview

It was another busy year at the State Capitol for the Oklahoma Municipal League (OML). The 2012 Legislative Session began with House and Senate members filing more than 2,000 bills and joint resolutions for the legislative session. The number did not include those issues that were carried over from the previous year. All together we worked, tracked and monitored nearly 700 bills with potential municipal impact.

Some of the hot topics this session were pension reform, water, proposed state agency fee increases, ambulance district funding, protection of municipal sales tax, and many other issues that are driven by the legislators' constituents.

We were pleased to report that cities and towns have saved nearly \$7 million in unfunded mandates, largely in part to OML's efforts in working with the Governor's office and appropriations chairmen to stop the costly Department of Environmental Quality public water supply fees totaling \$1.8 million as well as the Pension Increase bills totaling \$5 million. We will be working during the interim to come up with plans to provide the legislators before next session.

Bills of Municipal Interest that did NOT Pass

There were several other issues introduced that would have impacted your ability to control what happened in your municipality. OML was very successful in stopping many pieces of legislation that would have adversely impacted your budgets, limited "local control" and made it more difficult for you to do your every day job for your community.

Listed below are just a few of these issues.

Disabled Parking. HB 2562 by Rep. Wesselhoft amended 11 O.S. Section 14-111 by requiring courts of record to send 20% of each physically disabled parking fine or deferral fee to DPS. For courts-not-of-record the fine or deferral fee is increased to a maximum of \$500 and 20% of each fine or deferral fee must be sent to DPS. The bill failed on the House floor by a vote of 35-57.

Prohibits Local Control/Employment Discrimination. HB 2245 by Rep. Reynolds limited municipal authority over the enactment of non-discrimination ordinances for municipal employees. No ordinance could be more restrictive than the laws for state employees in 74 O.S. Section 954. Any existing or future order, ordinance or regulation which conflicts with this provision is null and void. The bill failed in the House Judiciary Committee by a vote of 5-6.

Fireworks. HB 3047 by Rep. Ritze and Sen. Brinkley provided that any municipality with a population of two hundred thousand (200,000) persons or less that sells permits for public display or public discharge of fireworks shall not prohibit the sale of fireworks within the city, town, or municipal limits. The bill was never heard on the House floor.

District Road Fund Act/County Sales Tax. HB 2272 created the District Road Fund Act in Title 19 and authorizes an additional sales tax levy not to exceed 2% "upon the gross proceeds or gross receipts derived from all sales or services in the district upon which a consumer's sales tax is levied by the state. The purpose of the new sales tax is for use within the district to construct, maintain, and improve county roads. In addition, the bill authorizes a road assessment levy not to exceed \$50 per year, upon each real-property owner in the district. The bill contains details on this new dip into sales tax for counties. After visiting with Rep. Cox and

the constituent he prepared the bill for, new language was never developed and the bill was laid over and never brought back up.

Water/Eminent Domain. HB 2924 by Rep. Armes and Sen. Marlatt amended 11 O.S. Section 37-117 to restrict municipal use of eminent domain for water rights for a ten year term. If condemnation of surface rights is necessary, the taking shall consist only of an easement for access, well sites, pipelines, and other appurtenances necessary for the acquisition of water. At the end of the term the municipality must remove any appurtenances above or below the condemned property within two years from the end of the term. This bill is a Farm Bureau request bill. The House author took the title off the bill which slowed it down. After visiting with the Senate author of the bill and the Chairman of the Senate Energy Committee the bill did not receive a hearing and therefore, missed the deadline to keep the bill alive.

Election Date Restriction. HB 2201 by Rep. Trebilcock restricted special election dates by removing the second Tuesday of January, June and October in odd number years and the second Tuesday in January in even numbered years. This bill was never heard in the House Rules Committee and therefore missed the deadline.

Local Tax Rate Election Amendments Act. HB 2806 by Rep. Sean Roberts created the Local Tax Rate Election Amendments Act of 2012. The Committee Substitute required an election held concerning the imposition of an ad valorem tax, sales tax by a county, any tax authorized to be levied by a municipality or any tax levy by a political subdivision of the state to be held on the date of a general election, a primary election or a school board election. It allows a petition of at least 10 percent of the registered voters who voted in the last election conducted by the local taxing jurisdiction to request an election date other than an authorized date. The bill was laid over in the Senate Rules Committee and therefore missed the deadline to stay alive.

Eliminating Local Control on Planning and Zoning. HB 2531 by Rep. Stiles amended 11 O.S. Section 13-109 by declaring void any provision of a municipal charter that grants the municipality general powers of planning and zoning. The municipality shall comply with the planning and zoning requirement in Title 11. An initiative or referendum petition on municipal planning and zoning shall be signed by at least 25% of the total number of affected property owners. 11 O.S. Section 43-101 is amended by removing the police power language that states the purpose for municipal regulations on height, number of stories and size of buildings is for "promoting health, safety, morals, or the general welfare of the community." The bill then restricts the ability of municipal regulations on these matters if they are "substantially related to an important reason or end", builds police power language back in and then places conditions. After OML worked the committee members of the House General Government Committee, the bill did not have enough votes to pass the Committee. The author presented the bill and then moved to lay it over in Committee.

Registration of Residential Real Property. SB 1867 by Sen. Newberry prohibited any political subdivision from enacting any ordinance, rule or regulation to require the registration of residential real property. Such registration is declared to be a statewide concern. In addition, all municipalities are prohibited from assessing or charging any fee to own residential real property or for the lease, rental, occupancy or non-occupancy, lease purchase etc. of the residential real property located within the municipality. Any ordinance enacted prior to the effective date of the bill is null and void. The bill failed on the Senate floor by a vote of 10-31.

Buy America First Act. HB 2528 by Rep. Brown reduced municipal sales tax collection by increasing the amount the vendor may retain for complying with sales tax requirements for

goods certified as being made or manufactured in the U.S. The amount of retainage will be 3% of the sales tax collected instead of current law's 1%. This results in a net loss for the municipality, county and state of 2% of the sales tax. In addition, the bill removes the maximum deduction allowed the vendor which under current law is limited to \$2,500 per month per sales tax permit. Finally, the bill creates a new "Buy America First Revolving Fund" consisting of all money received from increased sales tax revenues attributable to the provisions of 68 O.S. Section 1367.1. The fund will provide assistance to small businesses that produce goods identified as "Made in America". After working the committee members of the House Appropriations and Budget Subcommittee on Revenue and Taxation, the bill failed in committee by a vote of 4-7.

Open Records. HB 2761 by Rep. Stiles would have subjected private entities that received at least 27.5 percent of their revenue from public funds subject to the Open Records Act. This bill would have required the Oklahoma Municipal League, the State Chamber of Commerce, and other similar organizations, to suddenly be subject to the records act. The bill failed in the House Government and Modernization Committee by a vote of 3-6.

Municipal Tax Exempt Bonds. OML opposed Sections 7 and 8 in **HB 3061** by Speaker Steele and President Pro Tempore Bingman that would have eliminated the interest exemptions on municipal bonds at the same rate as the income tax reduction, and also to guarantee the current tax exempt status to maturity on bonds already sold. The OML Board voted to oppose the exemption and ask that these sections be removed to support the exemption on municipal bonds. We sent a letter to Sen. Mazzei, Governor Fallin asking them to remove these sections. Sen. Mazzei sent a letter to OML and informed us he would remove those sections from the bill and they were. ✓

Groundwater Severance Restriction Act. HB 2915 by Rep. Richardson and Sen. Justice and **SB 1325** by Sen. Crain and Rep. Richardson created the Groundwater Severance Restriction Act to restrict the permanent severing of groundwater to capture and transfer for use in a commercial water operation or system. While no rights may be severed from the surface estate they may be leased for a definite term as indicated in both bills. The bill defines "commercial water operation" and provides various details. These bills would have severely limited municipalities' access to water for public water supply. We visited with the chairman of Senate Energy and requested that HB 2915 not receive a hearing. It did not and therefore, failed deadline. After losing that bill Rep. Richardson amended SB 1325 to put the HB 2915 language into his bill. The bill made it out of House Agriculture, Environment and Wildlife Committee with the title on by a vote of 12-5. However, when the bill was brought up on the House floor, the bill failed on a vote of 35-54.

Regional Water Planning Councils. HB 2914 by Rep. Richardson and Sen. Justice as well as **SB 1327** Sen. Crain and Rep. Richardson were not heard in the Senate. These bills created the Regional Water Planning Act dividing the state into nine regions with each region having 15 members. Six members are selected by the Governor, Speaker of the House and Senate Pro Tempore. Six members are selected by the Board of County Commissioners and conservation districts from any special-purpose districts including irrigation districts, conservancy districts, regional water or rural water districts, etc.

Thank you again for all your contacts with legislators and the Governor this year. Because of YOU, we were able to accomplish many of our goals for Oklahoma's cities and towns.