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Champions For Effective Local Government

Oklahoma
Municipal
League

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Oklahoma Municipal League LEGISLATIVE BULLETIN

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HALF-WAY DONE

Good News Spring has sprung and the Legislature is half-way done.

As we always say, "Nothing is dead until Sine Die". This was evident this week when the House A&B/Revenue and Taxation Subcommittee passed **SB 805** by Sen. Aldridge and Rep. Hickman. The title is stricken on the bill. Impact fees put a part of the cost on those who benefit from the improvements. Impact fees are needed to support new growth in a community. A massive, overly directive state impact fee law such as SB 805, with a cumbersome level of minutia is not only non-productive but will hinder development within Oklahoma. Discussions are ongoing to work on a version that will still give cities and towns the authority to authorize impact fees for development.

SB 1328 aka Grocery Sales Tax Exemption and **SB 1850** expanding the Back-to-School Sales Tax Holiday were not heard this week in committee; however, as we all know strange and unexpected things can still happen mainly through the conference committee process. While we are cautiously optimistic, we need to remain vigilant and on the look out!

ACTION NEEDED!!

Farm Bureau Exemption. The Committee Substitute version of **HB 3160** by Rep. Osborn amends 11 O.S. Section 36-202 exempting property zoned for agricultural use from an assessment for improvement of any street, alley, lane or avenue, unless the property owner grants permission. This bill is on the Senate agenda for Monday.

The current law for street assessment districts is democratic and equitable. Adjacent land owners propose the district, public hearings are held, adjacent property owners pay for the improvements. Adjacent property owners all benefit from the district.

- Currently a majority of a group of owners of property within a municipality may by petition the municipality to form an assessment district to improve their roads and/or alleys.
- Current statutes provide for the procedure with safe guards and public hearings to vet the process.
- If the assessment district is approved the improvements are paid by an assessment on the owners in the area over a period of years.
- All owners of the adjacent properties benefit from the improvements.
- This legislation allows owners of property that is zoned agricultural to have a "totally free ride" unless they voluntarily agree to participate.
- If the majority of the property owners want the improvements, they will have to pay the cost of the road for the owners of the agricultural land.

OWRB Fee Increases. **HJR 1086** by Rep. Faught rejects the OWRB rule increasing fees for groundwater owners which would generate \$318,000. This week the House Administrative Rules and Agency Oversight Committee unanimously approved the bill – thus rejecting the \$50 groundwater permit fee for each landowners permit. OWRB

justified the fee in order to pay for the cost of groundwater regulation. However the funds would also be used to pay for new programs and prepare expensive water studies which have not been pursued for the past 35 years. This resolution is scheduled to be heard on the House floor Monday.

Municipal Funding Task Force. HB 2653 by Rep. Sullivan and Sen. Crain creates the nine-member Task Force on Municipal Finance to examine the laws governing municipal finance for all forms of municipal government. It states that the task force is exempt from the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. It requires the task force to submit a report to the House speaker, Senate president pro tempore and governor by Jan. 31, 2011. It states that the task force is to terminate effective Feb. 1, 2011. This bill is on the Senate agenda for Monday.

Spot Light Bills

Kennel Legislation. SB 1340 by Sen. Ellis and Rep. Pruet brings municipal animal shelters under the regulation of the Kennel Welfare Act. This comprehensive state regulation impacts indoor housing facilities standards, limits outdoor housing facilities, as well as where and how animals can be sold in municipal corporate limits, including limits on municipal permits.

HB 2745 by Rep. Denney and Sen. Anderson creates the Oklahoma Pet Quality Assurance and Protection Act. The bill defines a "person" as a municipality. If the person sells, gives away, or transfers a cumulative total of 35 or more dogs or cats in any calendar year may voluntarily obtain a Pet Quality Assurance license. The license is under the administration and rule-making of the Oklahoma Department of Agriculture, Food and Forestry. Animal control officers may continue to enforce cruelty laws and within 48 hours must report in writing to the Oklahoma Dept. of AG, Food and Forestry.

Handicapped Parking. HB 2567 This bill by Rep. Wesselhoft and Sen. Leftwich amends various sections of state law on special disabled parking privileges including making these sections of law mandatory on municipalities. The list of "physically disabled license plate" users is increased to include a disability sticker issued by the Department of Veterans Affairs and federal military bases and a physically disabled placard or license plate issued by another state. Current law's prohibition on state law

requiring "the creation of additional parking spaces" is deleted. Municipalities are required to follow the "current version of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) when designing and redesigning disabled parking spaces." The bill contains detailed mandates on "rigorous enforcement", an implementation deadline of October 1, 2010, new penalties for violations, creation of a "civilian volunteer disabled parking violation unit", additional enforcement powers for municipalities on public or private property where the public is invited and many more requirements. The fine for violation of these disabled parking requirements is increased from current law's range of \$150 to \$250 to \$500 under the bill. The money is split 80% to the municipality and 20% to DPS.

Floodplain Management. SB 1838 by Sen. Sykes and Rep. Morgan removes municipal and county authority under the Oklahoma Floodplain Management Act to adopt a reasonable fee not to exceed \$500. This bill was laid over in committee on Monday.

Collective Bargaining. HB 2554 by Rep. Steve Martin amends the Municipal Employee Collective Bargaining Act by deleting current law's provision that allows union certification absent a vote by the employees for or against the union. The bill has been reassigned to the Business and Labor Committee due to its membership of six republicans and four democrats. If the past is prelude, this labor bill will be a party-line vote. Senate had reason to believe the Governor would not sign the bill; therefore, the bill was not advanced.

Employment Discrimination. There is a new version of **SB 1961** by Sen. Jolley and Rep. Sullivan amends the discrimination statute at 25 O.S. Section 1101 to add Title I of the ADA, Equal Pay Act of 1963, Sections 102 and 103 of the Civil Rights Act of 1991 and the Genetic Information Nondiscrimination Act of 2008. The bill makes the Act the exclusive remedy within the state for the policies embodied in the Title 25 statute. Numerous definitions are amended as well as new law on standing in state court to allege violations of the Act.

Indian Housing. HB 2717 by Rep. McPeak has changed several times in its impact on those municipalities with tribal housing within their municipalities. The enrolled version allows all current state sponsored tribal housing authorities to become tribal authorities under the jurisdiction of the tribe. The property is exempt from property taxes if the tribe

enters interlocal cooperative agreements for payments in lieu of taxes in an amount that is not more than the amount authorized under the Native American Housing Assistance and Self-Determination Act and rules implementing the act.

Landfill Limitation. HB 1554 is a carry-over bill from the 2009 legislative session by Rep. Duncan which was opposed and stopped by municipalities last year. A committee substitute was passed in the Senate Energy and Environment committee. The latest version prohibits a municipal solid waste landfill from accepting for disposal any municipal sewage sludge unless:

1. The sludge has been treated to meet Class B requirements for pathogen reduction, as specified in Section 503.32 of Title 40 of the Code of Federal Regulations; and
2. The sludge is demonstrated not to contain free liquids pursuant to the Paint Filter Liquids Test, EPA Method 9095, or any successor free liquids test hereafter adopted by the United States Environmental Protection Agency and approved by the Department of Environmental Quality.

The Department may refuse to renew, or may suspend or revoke, a permit issued to a municipal solid waste landfill pursuant to the Oklahoma Solid Waste Management Act for willful violation.

Law Enforcement Training. HB 2631 by Rep. Johnson and Sen. Sykes requires active part-time reserve peace officers to complete a minimum of 8 hours of continuing law enforcement training. In addition, active full-time officers continuing training requirement is amended. Depending on the composition of your police force, this may cost you additional funds for training and retaining your officers.

Meth. SB 1775 by Sen. Burrage and Rep. Sherrer amends 41 O.S. Section 113a to require a landlord to include information on any written rental agreement that the premises have been the location of prior manufacturing of methamphetamine. See also **HB 3021** by Rep. Scott and Sen. Burrage. Issues surrounding the statewide problems associated with meth have been a major issue for the Mayors Council of Oklahoma.

Municipal Sales Tax Enforcers. SB 1900 by Sen. Coates and Rep. Jett requires municipalities to verify the owner, contractor or subcontract has remitted sales or use tax prior to issuing an occupancy permit. On the one hand, it may generate additional municipal sales and use tax. On the other hand, it increases

your state mandated duties and perhaps potential legal liability.

Administrative Rules. HB 3311 by Rep. Scott Martin and Sen. Sparks amends the Administrative Procedures Act by authorizing either the house or the senate to disapprove state agency rules. See also **SB 1849** by Sen. Sykes and Rep. Terrill and **HB 2852** by Rep. Wright and Sen. Aldridge regarding emergency rules.

Zoning Pre-emption. We were able to remove the original language from **HB 3026** that pre-empted municipal zoning and land use regulations from lands administered by the Commissioners of the Land Office. This 90 page bill by Speaker Bengie in Section 39 now states that Commissioners "shall comply with local regulations, ordinances or laws where compliance is not contrary to trust obligations of the Commissioners of Land Office"