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Oklahoma Municipal League

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OML ADVOCATE

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JUST LIKE THAT, THEY ARE DONE

Yesterday, the 56th Legislature came to a close as the House and Senate adjourned Sine Die. They adjourned three weeks ahead of schedule for the first time in recent history. This legislative session was definitely one to remember as the legislature not only dealt with the regular session but simultaneously had their 2nd Special Session to address funding issues for education. The two weeks of the teacher walkout also provided some drama as the teachers came to the capitol to advocate for more funding for education as well as increase in pay.

In the final days, the legislature passed [SB1212](#) by Sen. Nathan Dahm (R-Broken Arrow) and Rep. Sean Roberts (R-Hominy) would implement “constitutional carry” in Oklahoma. This bill would make a major policy change in Oklahoma by eliminating the requirement that Oklahoma residents obtain a permit before carrying a loaded handgun in public. It will 1) negate the rights of business and property owners to prohibit guns from being carried into their businesses; 2) jeopardize the rights of event hosts to prohibit weapons at high-economic impact events; 3) eliminate or reduce the ability of colleges and universities to regulate weapons on campus; or, 4) lessen the ability of law enforcement officials to protect the public’s safety.

The legislature also passed [SB 86](#) by Sen. Kim David (R-Wagoner) and Rep. George Faught (R-Muskogee) amends 69 O.S. Section 1205 providing for all new construction of state highways that have a primary purpose of bypassing municipalities, the Department shall conduct an economic impact study on the affected municipalities. The study shall be conducted in addition to any study required by state or federal law. Upon completion of the study the impact shall be delivered to the governing bodies of the municipalities. Only upon a written official letter of support formally approved by the municipal governing body from the majority of the affected municipalities, shall the construction project be added to the Department’s Eight-Year Construction Work Plan”.

Please contact Governor Fallin at (405) 521-2342 or Policy Director, Jake Yunker, at jake.yunker@gov.ok.gov and ask for her support on Senate bill 86.

Since lawmakers adjourned sine die, Governor Fallin now has 15 days to sign or veto everything passed in the final 5 days of the session.

SINE DIE REPORT COMING SOON

The OML Legislative Team will be reviewing all bills that impact Oklahoma municipalities for inclusion into the OML Sine Die Legislative Report, our annual comprehensive review of session activity. As soon as Governor Fallin has completed her action on all remaining bills passed in the final days of session, the OML report will be finalized and sent to members. In the meantime, we wanted to provide just a brief summary for you on bills that we were tracking.

BILLS ON THE MOVE

Here is a snapshot of bills impacting cities and towns.

Electric Power/Tax Credits: [SB 888](#) by Sen. Josh Brecheen (R-Coalgate) and Rep. Jeff Coody (R-Grandfield) amends 68 O.S. Section 2357.32A by providing that no refund of unused credits, via this subsection, for electricity generated by wind shall be authorized for tax years beginning on or after January 1, 2019.

The House amendments were rejected and the Conference Committee Report has been read in the General Conference Committee on Appropriations.

Government Entity/Religious Convictions: [SB 1140](#) by Sen. Greg Treat (R-OKC) and Rep. Travis Dunlap (R-Bartlesville) prohibits a state or local government entity from denying a private child-placing agency any grant, contract, or participation in a government program because the agency's objection to performing or parting in a placement violates the agency's written religious or moral convictions or policies.

The Conference Committee Report was adopted and the bill passed the Senate by a vote of 33-7.

Law Enforcement/Impaired Driving: [SB 1163](#) by Sen. Kimberly David (R-Porter) and Rep. Greg Babinec (R-Cushing) repeals various 2017 statutes and replaces with new law. 47 O.S. 2011, Section 6-212.3, as last amended by Section 8, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017, Section 6-212.3) is repealed. New law is created regulating the installation of an ignition interlock device as required by the bill. An Impaired Driver Accountability Program shall be established by DPS under the bills requirements. 47 O.S. 2011, Section 753, as last amended by Section 12, Chapter 392, O.S.L. 2017 (47 O.S. Supp. 2017, Section 753) is repealed. New law provides for testing to determine alcohol concentration or any other intoxicating substance. 47 O.S. 2011, Section 754, as amended by Section 13, Chapter 392, O.S.L. 2017 (47 O.S. Suppl.

2017, Section 754) is repealed. New law establishes the procedure when alcohol concentration limits are reached. Finally, 47 O.S. 2011, Section 755 is repealed.

The bill is waiting to be heard in the House Conference Committee on Judiciary.

Law Enforcement/Impaired Driving: [SB 1164](#) by Sen. Kimberly David (R-Porter) and Rep. Greg Babinec (R-Cushing) repeals various 2017 statutes and replaces with new law impacting various aspects of revocation of the driving privilege.

The bill is waiting to be heard in the House Conference Committee on Judiciary.

Law Enforcement/Ignition Interlock Device: [SB 1165](#) by Sen. Kimberly David (R-Porter) and Rep. Greg Babinec (R-Cushing) repeals 47 O.S. 2011, Section 11-902a. New law impacts driving without an ignition interlock device by a person required to have the device. Penalties are created.

The bill is waiting to be heard in the House Conference Committee on Judiciary.

Municipal Court/Protection: [HB 1234](#) by Rep. Mike Osburn (R-Edmond) and Sen. Anthony Sykes (R-Moore) creates the Court Records Protection and Modernization Act impacting destruction of records in 10A O.S. Sections 2-6-108 and 2-6-109. In addition, various sections of Title 20 are impacted by court record changes.

The Senate amendments were rejected and the bill is waiting to be heard in the House Conference Committee on Government Modernization.

Firearm/Police Officer: [HB 1608](#) by Rep. John Enns (R-Enid) and Sen. Anthony Sykes (R-Moore) amends concealed carry for off-duty police officer by adding a "service" weapon approved "and issued" by the employing agency and a "personal rifle or shotgun". The bill contains details.

The bill passed in the Senate with the Conference Committee Report adopted by a vote of 44-0.

Public Safety/Jurors: [HB 2567](#) by Rep. Ross Ford (R-Broken Arrow) and Sen. Nathan Dahm (R-Broken Arrow) adds municipal, county and state law enforcement officers certified by CLEET to those persons not qualified to serve as jurors.

The Senate amendments were rejected and the bill is waiting to be heard in the House Conference Committee on Judiciary.

Alcoholic Beverages/Purpose: [SB 1173](#) by Sen. Stephanie Bice (R-OKC) and Rep. Jon Echols (R-OKC) amends various sections of the Oklahoma Alcoholic Beverage Control Act. Included are changes to 37A O.S. Section 1-102 which adds a lengthy statement regarding a legislative finding regarding the state's substantial interest in excising its powers in regulating the structure of the state's alcoholic beverage industry. This includes the manufacture, distribution and sale of alcoholic beverages via strict regulation. Mention is made of a competitive and orderly market, promoting temperance and collection of excise taxes and fees. All provision of this act shall be literally construed for the accomplishment of these purposes, and any exceptions are to be narrowly interpreted and applied.

The bill passed both chambers yesterday. The Senate vote was 44-0 and the House vote was 62-16. It is now on the Governor's desk.

Jails/Pregnant Inmates: [HB 3393](#) by Rep. Boring Loring (D-Miami, Rep. Chris Kannady (R-OKC) and Sen. A J Griffin (R-Guthrie) creates new law regulating penal institutions, detention centers and county jails requiring the least restrictive restraints necessary when the facility has actual or constructive knowledge that an inmate is pregnant. The bill contains comprehensive details.

The Conference Committee Report was adopted in the Senate and the bill passed by a vote of 44-0.

Underground Facilities/Excavate: [HB 3407](#) by Rep. Weldon Watson (R-Tulsa) and Sen. Mark Allen (R-Spiro) amends the definition of "excavate" by deleting from current law "any individual excavating on his own property and who is not in the excavating business for hire". Substituted for this language is any individual "who has called the Oklahoma One-/Call System before digging on his or her own property".

The Conference Committee Report was adopted but the bill failed in the Senate by a vote of 19-25.

Law Enforcement/DNA Collection: [HB 3439](#) by Rep. Carol Bush (R-Tulsa) and Sen. Wayne Shaw (R-Grove) amends DNA testing requirements in 20 O.S. Section 1313.2. Impacted are Rapid DNA analysis and fee collection. If an individual is arrested or convicted submits a DNA sample to an arresting authority, jail or booking center for Rapid DNA analysis, the individual shall pay the agency processing the sample a fee of \$150 in lieu of the DNA fee. Collection is the

responsibility of the agency conducting the Rapid DNA analysis. The fee shall be used to pay the expenses incurred to perform the Rapid DNA analysis. In addition, 74 O.S. Section 150.27a is amended creating the OSBI Criminalistics Services Division (CSD) to make rules on collection, "storage", "analysis", expungement and dissemination of information and samples for the OSBI CODIS Database. Duties are specified for the CSD including the use of Rapid DNA systems for law enforcement. The bill contains details.

The Senate amendments were adopted in the House. The bill failed and was then held on a motion to reconsider.

Municipal Court/Fine: [SB 340](#) by Sen. Greg Treat (R-OKC) and Rep. Elise Hall (R-OKC) amends 11 O.S. Section 28-124 regarding jail time for a person convicted in a municipal court of record. If the defendant is without means to pay the fine or costs, and no undue hardship would result, the municipal judge may direct the defendant to perform community service at a rate of not less than the current federal minimum wage.

The bill passed the Senate with the House amendments adopted by a vote of 44-0.

Law Enforcement/Vulnerable Adult Investigations: [SB 993](#) by Sen. A J Griffin (R-Guthrie) and Rep. Harold Wright (R-Weatherford) amends 43 O.S. Section 10-105 by requiring, when feasible, law enforcement and the Department of Human Services jointly conduct investigation of a report of alleged abuse of a vulnerable adult. Current law requires investigation by the Department. The bill contains details.

The bill passed the House by a vote of 91-0.

BILLS MOVE TO THE GOVERNOR'S DESK

Firearms/Deadly Force: [HB 2632](#) by Rep. Greg Babinec (R-Cushing) and Sen. Micheal Bergstrom (R-Adair) adds places of worship to 21 O.S. Section 1289.25 regarding the use of deadly force.

The bill passed the House with the Senate amendments adopted by a vote of 68-24.

Bidding/Published Electronically: [HB 2923](#) by Rep. Avery Frix (R-Muskogee) and Sen. Stephanie Bice (R-OKC) amends 61 O.S. Section 110 to authorize the Department of Transportation and the Turnpike Authority to be exempt from current law's requirement that sealed bids be opened only at the time and place in the bidding documents and read aloud. The exemption is activated

if the agency electronically publishes the bids on the website of the agency.

The bill and its emergency clause passed the House by a vote of 78-18.

Law Enforcement/Fine: [SB 1203](#) by Sen. Anthony Sykes (R-Moore) and Rep. Dustin Roberts (R-Durant) amends 47 O.S. Section 11-801 by altering speeding fines/costs for offenses in subsection B or F. For 1 to 10 miles per hour over the speed limit for offenses occurring prior to November 1, 2022 the fine is \$5 with costs and fees not be exceed \$95. The money is then divided in new law to various entities/purposes such as the District Attorney, Sheriff, Attorney General, CLEET and the like. For an offense occurring on or after November 1, 2022 for 1 to 10 miles per hour over the limit the fine is \$10.

The bill passed the Senate with the House amendments adopted by a vote of 40-3.

Workers' Compensation/Self-Insurance Fund: [SB 1249](#) by Sen. James Leewright (R-Bristow) and Rep. Glen Mulready (R-Tulsa) amends the Workers' Compensation Act regarding sub-contractors and altering the details of current law's Affidavit of Exempt Status.

The bill passed the Senate with the House amendments adopted by a vote of 44-0.

Law Enforcement/Prescription Drugs: [SB 1367](#) by Sen. Ervin Yen (R-OKC) and Rep. Dale Derby (R-Owasso) prohibits a peace officer from taking a person into custody based solely on an offense involving a controlled dangerous substance under conditions listed in the bill.

The bill passed the Senate with the House amendments adopted by a vote of 45-0.

Occupational License/Preemption: [SB 1475](#) by Sen. Adam Pugh (R-Edmond) and Rep. Mike Osburn (R-Edmond) known as the Occupational Licensing Review Act creates the Occupational Licensing Advisory Commission. The Commission shall review each occupational or professional licensing act in this state. Included is a public meeting with a vote to determine whether to recommend to the Legislature that a license be maintained, modified, or repealed. A report is given to the Governor and legislative leaders and placed on the Department of Labor website.

The bill and its emergency clause passed the Senate by a vote of 42-1.

Construction Industries Board/New Authority: [HB 1280](#) by Rep. Kevin Wallace (R-Wellston) and Sen. James Leewright (R-Bristow) creates new authority for the Construction Industries Board including a website, contractual authority with Department of Career and Technology Education and establishment of the Skilled Trade Education and Workforce Development Fund. The Fund consists of an annual transfer of fully adjudicated fine revenue received in the following revolving funds: Mechanical Licensing, Electrical, Plumbing Licensing or Roofing Contractor Registration. This Fund can be spent on a number of costs including instructional materials relating to plumbing, mechanical, electrical and roofing trades and state licensing standards, cost of equipment, materials, personnel and other costs in developing/implementing the workforce development programs and advancement of trade-related education and workforce development. The bill contains details.

The bill passed the House with the Senate amendments adopted by a vote of 88-0.

Pension/Actuarial Analysis Act: [HB 1340](#) by Rep. Randy McDaniel (R-Edmond) and Sen. Greg Treat (R-OKC) amends the Oklahoma Pension Legislation Actuarial Analysis Act by adding to the definition of a non-fiscal bill. Added is provision for a one-time increase in retirement benefits if the increase in retirement benefits is not a permanent increase in the gross annual retirement benefit payable to a member or beneficiary, occurs only once pursuant to a single statutory authorization and does not exceed four (4) alternative benefit increases/funded ratios. The retirement benefits increase in the alternatives if higher funded ratios are maintained. As an example, included is the lesser of 2% of the gross annual retirement benefit of the member or \$1,000 if the funded ratio of the affected retirement system would not be less than 60% but not greater than 80% after the benefit increase is paid. New law defines "funded ratio" including that the rate of return on public retirement system assets for computation of the funded ratio shall not exceed 7.5% but shall be computed using any assumed rate of return utilized by the applicable retirement system if such rate or return does not exceed 7.5%. Effective October 1, 2018, a public retirement system shall make a one-time distribution, consistent with one of the four above alternative benefit increases/funded ratios, to retired members who have retired for a period of 5 or more years. In addition, new law recites the need for retiree benefit increases since the last authorization in 2008, and the modification of a non-fiscal bill is a prudent response to the needs of retirees and is consistent with obligations for prudent and conservative management.

The bill passed the House with the Senate amendments adopted by a vote of 93-0.

Firearms/Unlawful Carry: [HB 2527](#) by Rep. Bobby Cleveland (R-Slaughterville) and Sen. Nathan Dahm (R-Broken Arrow) amends unlawful carry by adding county employees when acting in the scope of employment within the courthouses of the county.

The bill passed the House with the Senate amendments adopted by a vote of 79-12.

Law Enforcement/Controlled Dangerous Substances: [HB 2796](#) by Rep. Tim Downing (R-Purcell) and Sen. A J Griffin (R-Guthrie) amends the Uniform Controlled Dangerous Substances Act at 63 O.S. Section 2-302. It impacts persons who manufacture, distributes, dispense, prescribe, administers or uses for scientific purposes any controlled dangerous substances within "or into" this state. There are registration requirements and confidentiality mandates with exceptions for certain peace officers. The bill contains details.

The bill passed the House with the Senate amendments adopted by a vote of 83-0.

Drug Courts/Regulations: [HB 2881](#) by Rep. Josh West (R-Grove) and Sen. Greg Treat (R-OKC) amends the Oklahoma Drug Court Act in a variety of ways. Included are changes to eligibility requirements and review and process of an offender for a drug court program.

The bill passed the House with the Senate amendments adopted by a vote of 86-0.

CLEET/Minimum Standards: [HB 2882](#) by Rep. Josh West (R-Grove) and Sen. Jason Smalley (R-Stroud) creates new law authorizing any state supported technology center or any Oklahoma higher education institution to, upon application and approval of CLEET, offer courses of study for law enforcement certification, basic peace officer certification academies and other law-enforcement training. In addition, CLEET is authorized to conduct Basic Peace Officer Certification Academies and other law-enforcement-related training for individuals who are neither commissioned nor appointed by a law enforcement agency.

The bill passed the House with the title restored by a vote of 88-0.

Water/Groundwater: [HB 3405](#) by Rep. Weldon Watson (R-Tulsa) and Sen. Eddie Fields (R-Wynona) amends 82 O.S. Section 1020.1 by adding "marginal water" to the

definition of "groundwater". Marginal water means water which has at least 5,000 and less than 10,000 parts per million total dissolved solids.

The bill passed the House with the Senate amendments adopted by a vote of 70-9.

Agricultural Vehicles/Exemption: [SB 912](#) by Sen. Mark Allen (R-Spiro) and Rep. Zack Taylor (R-Seminole) exempts agricultural motor vehicles engaged in intrastate commerce from the requirement for electronic logging devices and hours of services mandated by Section 32301(b) of the U.S. Commercial Motor Vehicle Safety Enhancement Act.

The bill and its emergency clause passed by a vote of 86-5.

Law Enforcement/Controlled Dangerous Substances: [SB 1128](#) by Sen. Ervin Yen (R-OKC) and Rep. Dale Derby (R-Owasso) creates new law regarding electronic prescribing of controlled dangerous substances.

The House amendments have been adopted in the Senate and the bill passed by a vote of 41-1.

BILLS SIGNED BY THE GOVERNOR

Law Enforcement/Sex Offenders: [HB 3330](#) by Rep. Mike Sanders (R-Kingfisher) and Sen. A J Griffin (R-Guthrie) amends the Sex Offenders Registration Act by changing the residency restriction to add family child care homes.

School Surplus Property/Housing Authority: [HB 1334](#) by Rep. Chuck Hoskin (D-Vinita) and Sen. John Sparks (D-Norman) amends 70 O.S. Section 5-117 adding housing authorities to the entities eligible to receive surplus school property without consideration.

Workers' Compensation: [HB 2722](#) by Rep. Todd Russ (R-Cordell) and Sen. Mark Allen (R-Spiro) amends Workers' Compensation by altering the definition of employee.

Firearms/Self Defense Act: [HB 2889](#) by Rep. Zack Taylor (R-Seminole) and Sen. Paul Scott (R-Duncan) amends applications for a handgun license with the sheriff authorized to charge a fee for taking fingerprints.

Law Enforcement/Stalking: [HB 3260](#) by Rep. Mark McBride (R-Moore) and Sen. Anthony Sykes (R-Moore) amends the definition of stalking in 21 O.S. Section 1173 by adding a definition of "following" to include a GPS

device or other monitoring device. The bill contains details.

Juveniles/Court Records: [SB 224](#) by Sen. A J Griffin (R-Guthrie) and Rep. Chris Kannady (R-OKC) amends various sections of Title 10A regarding the confidentiality of youthful offender court records.

Controlled Dangerous Substances/Electronic Prescribing: [HB 2931](#) by Rep. Glen Mulready (R-Tulsa) and Sen. A J Griffin (R-Guthrie) amends the Uniform Controlled Dangerous Substances Act by requiring electronic prescriptions with several exceptions.

Law Enforcement/Human Trafficking: [SB 1005](#) by Sen. A J Griffin (R-Guthrie) and Rep. Chris Kannady (R-OKC) amends human trafficking by creating a law enforcement duty to for “any peace officer or employee of a district court” to assume protective custody over a minor. The duty is triggered if the officer has a reasonable suspicion that a minor may be a victim of human trafficking and is in need of immediate protection. The bill contains details including required emergency social services including medical examination/treatment or a mental health assessment.

CLEET/Basic Peace Officer: [SB 1023](#) by Sen. Greg McCortney (R-Ada) and Rep. Todd Thomsen (R-Ada) authorizes CLEET to conduct full-time Basic Peace Officer Certification Academies and other law enforcement related training for individuals not commissioned or appointed by a law enforcement agency. The bill contains details.

Open Records Act/Court Clerk: [SB 1346](#) by Sen. Paul Scott (R-Duncan) and Rep. Rande Worthen (R-Lawton) amends 22 O.S. Section 977 regarding court records of convictions. The court must include a notation in a copy of the judgment of the defendant’s “month and” year of birth “date”. The court shall also obtain this data.

Tag Agents/Location: [SB 1439](#) by Sen. Mike Schulz (R-Altus) and Rep. Charles McCall (R-Atoka) removes the population limits for the location of motor license agencies in 47 O.S. Section 1140. The removed language is counties with a population of less than 130,000 and municipalities having a population of less than 8,500 located in a county having a population of greater than 130,000. In addition, a population limits is placed on a motor license agency being the primary source of income for the agent. For this to apply, the county must have a population in excess of 30,000 persons.

Roofing Contractor Registration Act/Labor Only Crews: [SB 1535](#) by Sen. A J Griffin (R-Guthrie) and Rep. Mike Osborn (R-Edmond) amends the Roofing contractor Registration Act by adding a definition of “labor only crews” and “prefabricated or pre-engineered metal building erector” and altering the definition of “residential roofing contractor work”. Metal building erectors who install prefabricated-or pre-engineered-metal-building packages and labor only crews are then included in the section of those exempted from the Act.

Wind Energy/Military Bases: [SB 1576](#) by Sen. Mike Schulz (R-Altus) and Rep. Charles Ortega (R-Altus) amends 17 O.S. Section 160.20 to protect the operation of any military installation or branch of the military regarding proposed wind energy facilities or proposed wind energy facility expansion. These facilities shall not encroach or otherwise have a significant adverse impact on missions, training or operations. No wind energy facility may be constructed or expanded unless an active Determination of No Hazard from the FAA or an approved mitigation plan is obtained from the Military Aviation and Installation Assurance Siting Clearinghouse. These are filed with the Corporation Commission which is authorized to make rules. Amendments are made to 17 O.S. Section 160.21 regarding notification of intent to build a facility which must also be submitted to the Oklahoma Strategic Military Planning Commission.

BILLS VETOED BY THE GOVERNOR

Bail Bonds/Charges: [SB 1251](#) by Sen. James Leewright (R-Bristow) and Rep. Josh West (R-Grove) amends 59 O.S. Sections 1327 and 1332 regarding the bond being exonerated by operation of law in which the defendant has new or additional charges.