

New Federal Action: Municipal Franchise/9-1-1 Fees Collected by the State?

OML staff joined municipal officials from Oklahoma City, Broken Arrow, Tulsa, Midwest City, and Norman on July 8, 2009 to determine a unified position and course of action on a move afoot in Congress to require the collection of municipal franchise fees and 9-1-1 fees under the Streamlined Sales Tax Agreement. Should this pass in Congress, instead of these fees being paid directly to the city or town pursuant to your franchise agreement voted on by the people, the Oklahoma Tax Commission (OTC) would act on your behalf as a central point of collection. Your revenue, minus an administrative fee would then be remitted to you along with your monthly sales tax.

We have the potential for impacting the direction of Congressional legislation due to Oklahoma Tax Commissioner Jerry Johnston who has been deeply involved in the national development of the Streamlined Sales Tax Project and Oklahoma's voluntary participation in it. As you recall, back in February of 2009, Commissioner Johnson meet with OML and some knowledgeable municipal officials about municipal taxes and fees pertaining to telecom and cable industries.

At this February meeting, we learned: (1). That the expected reach of the telecom proposal extended to cable franchise fees, permits, in-lieu fees or taxes, right-of-way ordinances, 9-1-1 fees and any other fees and taxes related to telecommunications business; (2). The proposed legislation may provide that a state that does not agree to the telecom provisions may no longer participate in the streamlined sales tax project for any purpose; and (3). the Commissioner has been told (by telecom industry representatives) that the proposed amendments are have a strong possibility of being included.

At our July meeting municipal officials decided that:

- Cities and towns do not support the expansion of the Streamline Sales Tax Agreement beyond its original purpose of addressing sales tax issues. Therefore, the Telecom industry's efforts to enlarge the Agreement to non-germane taxes, fees and permitting issues should be opposed.
- Oklahoma municipalities stood to lose critical revenue currently flowing to municipal coffers due to the expected administrative fee that OTC would charge. In addition, municipal officials with the most knowledge of the fees would needlessly be removed from their collection thereby decreasing transparency and the ability of local government to audit the revenue.
- Local franchises, established by the Oklahoma Constitution, might be altered by the federal legislation. This would reduce the benefits flowing to cities and towns from franchise terms such as local access channels or public safety lighting. In addition, local officials would lose control over the timing and expense of disruption of the municipal rights-of-way.
- Since municipal franchise rights are mandated by the Oklahoma Constitution to be created solely by a vote of the people, following the federal mandate may result in use of the right-of-way in an unconstitutional manner. If so, under the provisions of the Streamline Sales Tax program, this could end Oklahoma's participation since a state must join in each component of the program.

NLC reports that no final language has been placed in a bill. Our latest information is the likely authors are Senator Enzi (R. Wyoming) and Congressman Delahunt (D. Mass).

[Back To Story Page](#)