

Challenge to Electric-Drive/Hybrid-Drive Vehicle Fee: Supreme Court of Oklahoma Opinion



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The Supreme Court of the State of Oklahoma (“Court”) issued an October 24th opinion addressing a challenge filed by the Sierra Club to Oklahoma legislation which created the Motor Fuels Tax Fee (“H.B. 1449 [Legislation]”) for electric-drive and hybrid-drive vehicles.

The legislation assessed a fee of \$100 and \$30 per year, respectively, for electric-drive and hybrid-drive vehicles.

The Sierra Club challenged the legislation as an unconstitutional revenue bill under Article V, Section 33 of the Oklahoma Constitution and requested a writ of prohibition or mandamus.

The State of Oklahoma responded that the legislation was not a revenue bill. As a result, it argued Article V, Section 33 was not violated.

The Court addressed two principal issues in analyzing the question.

First, it assessed whether the principal object of the legislation was to raise revenue or if it was a bill under which revenue incidentally arises. Second, it considered whether the legislation levied a tax in the strict sense of the word or as a bill for another purpose which incidentally creates revenue.

The Court struck down the fees, concluding:

H.B. 1449 has a principal object of raising revenue and levies a tax in the strict sense of the word, it is not for another purpose which incidentally creates revenue. Thus, it is a revenue bill under the strictures of Article V, Section 33 of the Oklahoma Constitution. H.B. 1449 was passed in the last five days of the legislative session and did not receive the support of three-fourths of the membership of the Oklahoma Legislature. Thus, its passage did not conform to the mandates of Article V, Section 33 and it is unconstitutional. For these reasons, we grant Petitioner’s request for declaratory relief. . . .

[A copy of the opinion can be downloaded here.](#)