

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1549

BY: BATES of the HOUSE

and

HERBERT of the SENATE

AS INTRODUCED

AN ACT RELATING TO MUNICIPAL BUDGET PROCEDURES;

AMENDING 11 O.S. 1981, SECTIONS 17-102, AS LAST AMENDED BY SECTION 24, CHAPTER 105, O.S.L. 1988, 17-105, AS LAST AMENDED BY SECTION 1, CHAPTER 110, O.S.L. 1987, 17-109, 17-113, 17-207, AS AMENDED BY SECTION 1, CHAPTER 146, O.S.L. 1984, 17-209, 17-210, 17-211, 17-212, 17-213, 17-215 AND 17-216 (11 O.S. SUPP. 1990, SECTIONS 17-102, 17-105 AND 17-207), WHICH RELATE TO MUNICIPAL FINANCES; PROVIDING FOR THE AUTHORIZATION OF THE PAYMENT OF INVOICES BY ORDINANCE; PROVIDING FOR PROCEDURES RELATED THERETO; MODIFYING LANGUAGE RELATING TO CERTAIN MUNICIPAL AUDITS; MODIFYING CERTAIN STANDARDS REGARDING AUDITS; DELETING REQUIREMENT THAT THE MUNICIPAL CAPITAL IMPROVEMENT FUND BE PLACED IN AN INTEREST BEARING ACCOUNT; PROVIDING THAT ALL MUNICIPALITIES MUST FILE ANNUAL AUDIT REPORT; REQUIRING CERTAIN FILING OF MUNICIPAL SINKING FUND REQUIREMENTS; PROVIDING THAT CERTAIN AD VALOREM TAX PROTESTS SHALL NOT DELAY ANY MUNICIPAL BUDGET EXPENDITURES; DELETING REQUIREMENT FOR CERTAIN FILINGS WITH THE COUNTY EXCISE BOARD; AUTHORIZING

CAPITAL PROJECT FUNDS FOR MUNICIPALITY; DELETING CERTAIN OTHER TYPES OF FUNDS; MODIFYING CLASSIFICATION OF CERTAIN EXPENDITURES; PROHIBITING CERTAIN EXPENDITURES FROM BEING AUTHORIZED BY THE GOVERNING BODY; AMENDING 11 O.S. 1981, SECTION 26-109, AS AMENDED BY SECTION 52, CHAPTER 126, O.S.L. 1984 (11 O.S. SUPP. 1990, SECTION 26-109), WHICH RELATES TO THE MUNICIPAL CEMETERY CARE FUND; MODIFYING USE OF INTEREST FROM SUCH FUND; AMENDING 11 O.S. 1981, SECTIONS 27-109 AND 27-122, AS AMENDED BY SECTION 4, CHAPTER 173, O.S.L. 1987 (11 O.S. SUPP. 1990, SECTION 27-122), WHICH RELATES TO MUNICIPAL COURTS; EXPANDING PERSONS ELIGIBLE TO BE MUNICIPAL COURT CLERKS; MODIFYING PENALTY FOR CERTAIN PERSONS WHO DO NOT PAY THEIR FINES; AMENDING 11 O.S. 1981, SECTION 31-104, WHICH RELATES TO MUNICIPAL LIBRARIES; MODIFYING AUTHORITY OF LIBRARY BOARDS; AMENDING 11 O.S. 1981, SECTION 35-107, WHICH RELATES TO PUBLIC UTILITIES; MODIFYING CERTAIN NOTICE REQUIREMENTS; AMENDING 11 O.S. 1981, SECTION 36-114, WHICH RELATES TO ROAD AND STREETS; MODIFYING HOLDING AREA OF CERTAIN ROAD MONIES; AMENDING 62 O.S. 1981, SECTION 310.1, AS LAST AMENDED BY SECTION 1, CHAPTER 201, O.S.L. 1990 (62 O.S. SUPP. 1990, SECTION 310.1), WHICH RELATES TO MUNICIPAL CONTRACTS; MODIFYING PROCEDURE FOR CERTAIN MUNICIPAL EXPENDITURES AND ENCUMBRANCES; AMENDING 62 O.S. 1981, SECTION 348.1, AS LAST AMENDED BY SECTION 13, CHAPTER 319, O.S.L. 1988 AND SECTION 14, CHAPTER 194, O.S.L. 1987 (62 O.S. SUPP. 1990, SECTIONS 348.1 AND 348.3), WHICH RELATE TO INVESTMENT OF PUBLIC FUNDS; PROVIDING FOR

INVESTMENT AUTHORIZATION BY POLICY, ORDINANCE OR RESOLUTION; MODIFYING TYPES OF INVESTMENTS WHICH MAY BE MADE; AMENDING 62 O.S. 1981, SECTION 353, WHICH RELATES TO THE ISSUE AND SALE OF BONDS; PROVIDING FOR UTILIZATION OF BOOK ENTRY SYSTEM; AMENDING 62 O.S. 1981, SECTION 372, AS AMENDED BY SECTION 1, CHAPTER 86, O.S.L. 1982 (62 O.S. SUPP. 1990, SECTION 372), WHICH RELATES TO FRAUDULENT CLAIMS; MODIFYING RECIPIENTS OF CERTAIN PENALTY; AMENDING 62 O.S. 1981, SECTION 430.1, AS AMENDED BY SECTION 2, CHAPTER 305, O.S.L. 1990 (62 O.S. SUPP. 1990, SECTION 430.1), WHICH RELATES TO RENTAL OF EQUIPMENT; AUTHORIZING CERTAIN EXTENSION OF RENTAL CONTRACTS; AMENDING 62 O.S. 1981, SECTIONS 445 AND 446, WHICH RELATE TO SINKING FUNDS; DELETING LANGUAGE RELATING TO TOWNSHIP SINKING FUNDS; DELETING RESTRICTION ON USE OF CERTAIN SURPLUS FUNDS; AMENDING 62 O.S. 1981, SECTION 516.5, AS AMENDED BY SECTION 8, CHAPTER 90, O.S.L. 1988 (62 O.S. SUPP. 1990, SECTION 516.5), WHICH RELATES TO THE UNIT COLLATERAL SYSTEM; MODIFYING THE TYPES OF ACCOUNTS A TREASURER MAY ESTABLISH; AMENDING 62 O.S. 1981, SECTIONS 551 AND 555, AS LAST AMENDED BY SECTION 4, CHAPTER 221, O.S.L. 1990 (62 O.S. SUPP. 1990, SECTION 555), WHICH RELATES TO WARRANTS; MODIFYING PROCEDURE FOR PAYMENT OF WARRANTS; MODIFYING PROCEDURE FOR ISSUING DUPLICATE WARRANTS; AMENDING 62 O.S. 1981, SECTION 602, WHICH RELATES TO FACSIMILE SIGNATURES; DELETING REQUIREMENT OF ONE MANUAL SIGNATURE ON CERTAIN DOCUMENTS; AMENDING 62 O.S. 1981, SECTION 662, WHICH RELATES TO THE LOCAL INDUSTRIAL DEVELOPMENT ACT; MODIFYING AMOUNT

OF CONTRACTS WHICH MUST BE ADVERTISED AND BID;
AMENDING 60 O.S. 1981, SECTION 176, AS LAST AMENDED
BY SECTION 3 OF ENROLLED HOUSE BILL NO. 1001 OF THE
1ST EXTRAORDINARY SESSION OF THE 43RD OKLAHOMA
LEGISLATURE, WHICH RELATES TO PUBLIC TRUSTS;
PROVIDING THAT CERTAIN PUBLIC TRUSTS MUST COMPLY
WITH THE BUDGET PROVISIONS APPLICABLE TO THE
BENEFICIARY OF SUCH TRUSTS; AMENDING 68 O.S. 1981,
SECTIONS 2601 AND 2603, WHICH RELATE TO MUNICIPAL
TAX ON UTILITIES; MODIFYING RATE OF SUCH TAX;
MODIFYING TIME OF PAYMENTS OF SUCH TAX; AMENDING 68
O.S. 1981, SECTION 2481.4, AS LAST AMENDED BY
SECTION 5, CHAPTER 321, O.S.L. 1989 (68 O.S. SUPP.
1990, SECTION 2481.4), WHICH RELATES TO THE
REEVALUATION OF TAXABLE PROPERTY; EXCLUDING SINKING
FUNDS FROM THE APPORTIONMENT OF REVENUES GENERATED
FROM AD VALOREM TAXES; REPEALING 11 O.S. 1981,
SECTION 17-106, WHICH RELATES TO ANNUAL AUDIT
REPORTS OF MUNICIPALITIES; REPEALING 11 O.S. 1981,
SECTION 17-111, WHICH RELATES TO APPROVAL OF CLAIMS
FROM CAPITAL IMPROVEMENT FUND; REPEALING 11 O.S.
1981, SECTION 33-203, WHICH RELATES TO THE
MUNICIPAL FISHING AND HUNTING LICENSE ACCOUNT;
REPEALING 11 O.S. 1981, SECTIONS 35-102, 35-103,
35-104, 35-105 AND 35-106, WHICH RELATE TO PUBLIC
UTILITIES; REPEALING 62 O.S. 1981, SECTION 310.1b,
WHICH RELATES TO PRESENTATION AND APPROVAL OF
PURCHASE ORDERS; REPEALING 62 O.S. 1981, SECTION
348.2, WHICH RELATES TO THE CASHING OF CERTAIN
SECURITIES; REPEALING 62 O.S. 1981, SECTIONS 439
AND 441, WHICH RELATE TO SINKING FUNDS; PROVIDING

FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 1981, Section 17-102, as last amended by Section 24, Chapter 105, O.S.L. 1988 (11 O.S. Supp. 1990, Section 17-102), is amended to read as follows:

Section 17-102. A. Any invoice against a municipality must be presented in writing and examined in the manner provided by municipal ordinance or in absence of such ordinance by other applicable law. ~~No account or invoice may be paid by the municipality unless it has been audited and allowed by the governing body and an entry of the account or invoice is made in the proper books kept for that purpose~~ The municipal ordinance shall establish an internal control structure adequate to provide reasonable assurance against unauthorized or illegal payments of invoices. Except as otherwise provided for in this subsection, monies may be drawn from the municipal treasury only upon a proper warrant as provided by law. In lieu of issuing such warrant, a municipality may ~~enter the warrant on the warrant register and record payment of the warrant~~ process payment by check, wire transfer, direct payroll deposit, or other instrument or method of disbursement through the Federal Reserve System.

B. ~~A city or town may issue a negotiable instrument which will serve as both a warrant on the municipal treasury and a check ordering payment of the warranted amount of money from the municipality's account. This~~ The warrant, check, or other instrument shall be prepared and issued in accordance with procedures and requirements provided by municipal ordinance or in absence of such ordinance, by other applicable law ~~for a municipal warrant and a municipal check and shall be signed by the municipal~~

~~clerk, treasurer and mayor. Printing on the instrument shall indicate that the instrument is a "warrant" of the municipality and a "check" drawn on the municipality's account.~~ The municipal warrant or municipal check shall be signed by the officer designated in the ordinance or in the absence of such ordinance, by the municipal treasurer. The provisions of state law on uniform facsimile signatures of public officials, Sections 601 through 606 of Title 62 of the Oklahoma Statutes, shall be applicable to instruments authorized by this section.

C. ~~If~~ Unless alternate procedures have been enacted by municipal ordinance and a majority or all of governing body offices in a municipality become vacant, thereby preventing approval of amounts lawfully owing on invoices ~~and purchase orders~~, the interim mayor or the remaining governing body members, as the case may be, may authorize emergency payments of amounts owing on invoices ~~or purchase orders~~ for a period not to exceed ninety (90) days after the date that a majority of the offices become vacant. The interim mayor or the remaining governing body members may also authorize payment of ~~purchase orders for~~ payroll, utility bills, or other usual and regular obligations of the municipality. Any such authorization and payment shall not exceed the unencumbered and unexpended balance of the appropriation made for that purpose, nor may the total amount of such emergency authorizations and payments exceed fifteen percent (15%) of the total appropriations approved for the town government for the fiscal year. Any warrant, check or other instrument issued pursuant to this section shall state that it is being issued under emergency circumstances and by special authority of this section.

D. A municipality shall have the authority to establish petty cash accounts in amounts established by the governing body for use in making payments for costs incurred in operating the municipality. The petty cash accounts shall be reimbursed by utilizing properly

itemized invoices or petty cash voucher slips and processing the reimbursement in accordance with the provisions of subsection A of this section.

SECTION 2. AMENDATORY 11 O.S. 1981, Section 17-105, as last amended by Section 1, Chapter 110, O.S.L. 1987 (11 O.S. Supp. 1990, Section 17-105), is amended to read as follows:

Section 17-105. The governing body of each municipality with an income of Twenty-five Thousand Dollars (\$25,000.00) or more to its general fund during a fiscal year shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial audit ~~of the funds, assets, books and records of the clerk and treasurer of the municipality to be~~ conducted in accordance with the generally accepted auditing standards and the "Government Auditing Standards" as issued by the Comptroller General of the United States. Such audit shall be ordered within thirty (30) days of the close of each fiscal year. ~~Certified copies~~ Copies shall be filed with the ~~county clerk and the State Auditor and Inspector~~ within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 24102 and 24103 of Title 68 of the Oklahoma Statutes. ~~The expense of the audit shall be paid from the general fund of the municipality and~~ with the governing body of the municipality.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-106.1 of Title 11, unless there is created a duplication in numbering, reads as follows:

Independent auditor's reports relating to federal financial assistance will be in a form consistent with the auditors' reports in "Audits of State and Local Governmental Units," which is prepared by The American Institute of Certified Public Accountants and recognized by "Government Auditing Standards" of the Comptroller General of the United States. State agencies or other pass-through grantors of Federal Financial Assistance will not place auditing

requirements on a municipality, in addition to the required reports and schedules of Federal Financial Assistance, without approval of the State Auditor and Inspector.

SECTION 4. AMENDATORY 11 O.S. 1981, Section 17-109, is amended to read as follows:

Section 17-109. The municipal governing body may create a capital improvement fund and place in the fund any money available to the municipality. Money in the fund may be accumulated from year to year. ~~The fund shall be placed in an insured interest bearing account.~~ The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the capital improvement fund may be expended for any capital improvement.

SECTION 5. AMENDATORY 11 O.S. 1981, Section 17-113, is amended to read as follows:

Section 17-113. ~~The council of each city having a population in excess of five thousand (5,000) persons, according to the latest federal census, shall cause to be published in October and in April of each year a full and detailed statement of the receipts, expenditures and indebtedness of the city for the periods ending on the last day of September and the last day of March, respectively~~
Any municipality subject to the annual audit requirements of Section 17-105 of this title shall cause to be published, within thirty (30) days of receipt of its annual audit report, a notice of availability of the annual audited financial statements for public inspection.

All publications mentioned in this section shall be made in a newspaper of general circulation in the ~~city~~ municipality. The provisions of this section shall not apply to any city governed by charter where the charter provides for the manner or procedure for publication of such financial information.

SECTION 6. AMENDATORY 11 O.S. 1981, Section 17-207, as amended by Section 1, Chapter 146, O.S.L. 1984 (11 O.S. Supp. 1990, Section 17-207), is amended to read as follows:

Section 17-207. Any monies received or expended by a municipality must be accounted for by fund and account. Each municipality shall prepare a budget for the general fund and for all other funds ~~as the~~ established by the governing body ~~may require~~ pursuant to the provisions of Section 17-212 of this title. The municipal governing body shall determine the needs of the municipality for sinking fund purposes, pursuant to the provisions of Section 431 of Title 62 of the Oklahoma Statutes, Section 2497 of Title 68 of the Oklahoma Statutes, and Section 28 of Article 10 of the Oklahoma Constitution, and include these requirements in the debt service fund budget for the budget year.

SECTION 7. AMENDATORY 11 O.S. 1981, Section 17-209, is amended to read as follows:

Section 17-209. A. After the hearing and at least seven (7) days prior to the beginning of the budget year, the governing body shall adopt the budget by resolution, or as any charter may require, at the level of classification as defined in Section 17-213 of this title. The governing body may add or increase items or delete or decrease items in the budget. In all cases the proposed expenditures shall not exceed the estimated revenues for any fund.

B. The adopted budget shall be ~~filed with the excise board of each county in which the municipality is located on or before the first day of the budget year. At the same time that the budget is filed with the excise board, one copy of the budget as adopted shall~~ be transmitted to the State Auditor and Inspector and one copy shall be kept on file in the office of the municipal clerk. A copy of the municipality's sinking fund requirements shall be filed with the excise board of the county or counties in which the municipality is located.

C. The adopted budget shall be in effect on and after the first day of the fiscal year to which it applies. The budget as adopted and filed with the State Auditor and Inspector shall constitute an appropriation for each fund, and the appropriation thus made shall not be used for any other purpose except as provided by law.

D. At the time required by law, the county excise board shall levy the taxes necessary for the municipality's sinking fund for the budget year pursuant to Section 431 of Title 62 of the Oklahoma Statutes.

SECTION 8. AMENDATORY 11 O.S. 1981, Section 17-210, is amended to read as follows:

Section 17-210. Within fifteen (15) days after the filing of any municipal budget with the State Auditor and Inspector, any taxpayer may file protests against any ~~alleged illegality of the budget~~ levy of ad valorem taxes for creating sinking funds in the manner provided by this section and Sections 24104 through 24111 of Title 68 of the Oklahoma Statutes. The fifteen-day protest period begins upon the date the budget is received in the Office of the State Auditor and Inspector. After receipt of a taxpayer protest, the State Auditor and Inspector shall transmit by certified mail one copy of each protest to the municipal clerk, and one copy of each protest to the county treasurer and the excise board of each county in which the municipality is located. The taxpayer ~~protest~~ shall specify the ~~alleged illegality in the budget and the~~ grounds upon which the ~~alleged illegality~~ protest is based. Any protest filed by any taxpayer shall inure to the benefit of all taxpayers. Provided, the provisions of this section shall not delay any budget expenditures of a municipality if the amount of revenue from the ad valorem tax levy which is deposited in the municipal general fund is less than five percent (5%) of the total revenue accruing to the municipal general fund during the prior fiscal year. If no protest is filed by any taxpayer within the fifteen-day period, the budget

and any appropriations thereof shall be deemed legal and final until amended by the governing body or the county excise board as authorized by law. Taxpayers shall have the right at all reasonable times to examine the budget on file with the municipal clerk, ~~the county excise board,~~ or the State Auditor and Inspector for the purpose of ~~checking illegalities in the budget or for filing~~ protests in accordance with this section and Sections 24104 through 24111 of Title 68.

SECTION 9. AMENDATORY 11 O.S. 1981, Section 17-211, is amended to read as follows:

Section 17-211. A. No expenditure or encumbrance may be authorized or made by any officer or employee which exceeds ~~any~~ the fund balance for any fund ~~of the budget as adopted or amended or which exceeds the appropriation for any fund of the budget as adopted or amended.~~ Any fund balance remaining in a fund at the end of the ~~budget~~ fiscal year shall be carried forward to the credit of the fund for the next ~~budget~~ fiscal year.

B. It shall be unlawful for any officer or employee of the municipality in any budget year:

1. To create or authorize creation of a deficit in any fund; or
 2. To authorize, make or incur expenditures or encumbrances in excess of ninety percent (90%) of the appropriation for any fund of the budget as adopted or amended until revenues ~~is~~ received, including the prior fiscal year's fund balance carried forward, totals an amount equal to at least ninety percent (90%) of the appropriation for the fund ~~have been collected.~~ ~~Any fund balance which is included in the appropriation for the fund is considered revenue in the budget year for which it is appropriated.~~
- Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act shall become the

obligation of the officer or employee himself and shall not be valid or enforceable against the municipality. Any officer or employee who violates this act shall forfeit his office or position and shall be subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void.

SECTION 10. AMENDATORY 11 O.S. 1981, Section 17-212, is amended to read as follows:

Section 17-212. A municipality shall establish funds consistent with legal and operating requirements. Each municipality shall maintain according to its own needs some or all of the following funds or ledgers in its system of accounts:

1. A general fund, to account for all monies received and disbursed for general municipal government purposes, including all assets, liabilities, reserves, fund balances, revenues and expenditures which are not accounted for in any other fund or special ledger account. All monies received by the municipality under the motor fuel tax or under the motor vehicle license and registration tax and earmarked for the street and alley fund may be deposited in the general fund and accounted for as a "street and alley account" within the general fund. Expenditures from this account shall be made as earmarked and provided by law. All references to the street and alley fund or to the special fund earmarked for state-shared gasoline and motor vehicle taxes may mean the street and alley account provided in this section;

2. Special revenue funds, as required, to account for the proceeds of specific revenue sources that are restricted by law to expenditures for specified purposes;

3. Debt service fund, which shall include the municipal sinking fund, established to account for the retirement of general obligation bonds or other long-term debt and payment of interest thereon and judgments as provided by law. Any monies pledged to

service general obligation bonds or other long-term debt must be deposited in the debt service fund;

4. Capital ~~improvement fund~~ project funds, to account for financial resources segregated for acquisition, construction or other improvement related to capital facilities other than those ~~financed by general long-term debt~~ accounted for in enterprise funds and nonexpendable trust funds;

5. Enterprise funds, to account for each utility or enterprise or other service, other than those operated as a department of the general fund, where the costs are financed primarily through user charges or where there is a periodic need to determine revenues earned, expenses incurred or net income for a service or program;

6. Trust and agency funds, to account for assets held by the municipality as trustee or agent for individuals, private organizations or other governmental units or purposes, such as a retirement fund or a cemetery perpetual care fund;

~~7. Special assessment funds, to account for the financing of public improvements or services deemed to benefit properties against which special assessments are levied; a separate fund for each special improvement district established by the governing body shall be established, each of which shall be known as a special assessment fund;~~

§ 7. Internal service funds, to account for the financing of goods or services provided by one department or agency of the municipality to another department or agency, or to another government, on a cost reimbursement basis;

§ 8. A ledger or group of accounts in which to record the details relating to the general fixed assets of the municipality;

~~10~~ 9. A ledger or group of accounts in which to record the details relating to the general bonds or other long-term debt of the municipality; or

~~11~~ 10. Such other funds or ledgers as may be established by the governing body.

SECTION 11. AMENDATORY 11 O.S. 1981, Section 17-213, is amended to read as follows:

Section 17-213. Each fund shall be made up of accounts for classifying revenues and expenditures. Revenues shall be classified separately by source. Expenditures shall be departmentalized within each fund and shall be classified into at least the following accounts:

1. Personal services, which may include expenses for salaries, wages, per diem or other compensation, fees, allowances or reimbursement for travel expenses, and related employee benefits, paid to any officer or employee for services rendered or for employment. Employee benefits may include employer contributions to a retirement system, insurance, sick leave, terminal pay or similar benefits;

2. Materials and supplies, which may include articles and commodities which are consumed or materially altered when used, such as office supplies, operating supplies and repair and maintenance supplies, and all items of expense to any person, firm or corporation rendering a service in connection with repair, sale or trade of such articles or commodities;

3. Other services and charges, which may include all current expenses other than those listed in paragraphs 1, 2, 4 ~~or~~, 5 or 6 of this section, such as services or charges for communications, transportation, advertising, printing or binding, insurance, public utility services, repairs and maintenance, rentals, miscellaneous items and all items of expenses to any person, firm or corporation rendering such services;

4. Capital outlays, which may include outlays which result in acquisition of or additions to fixed assets which are purchased by the municipality, including machinery and equipment, furniture,

land, buildings, improvements other than buildings, and all construction, reconstruction, appurtenances or improvements to real property accomplished according to the conditions of a contract; ~~and~~

5. Debt service, which may include outlays in the form of debt principal payments, periodic interest payments, or related service charges for benefits received in part in prior fiscal periods as well as in current and future fiscal periods; and

6. Fund transfers, which may include outlays to other funds in the form of operating transfers and residual equity transfers.

SECTION 12. AMENDATORY 11 O.S. 1981, Section 17-215, is amended to read as follows:

Section 17-215. A. The chief executive officer, or designee, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one account to another within the same department or from one department to another within the same fund; except that no appropriation for debt service or other appropriation required by law or ordinance may be reduced below the minimums required. Any fund balance in an enterprise fund of the municipality may be transferred to another fund of the municipality as authorized by the governing body. Other interfund transfers may be made only ~~as authorized by this act or as provided in the budget~~ as adopted or amended according to Section 17-206 or 17-216 of this title. Whenever the necessity for maintaining any ~~special~~ fund of a municipality has ceased to exist and a balance remains in the fund, the governing body may authorize the transfer of the balance to the general fund or any other designated fund, unless otherwise provided by law. ~~Applicable law shall govern the use or transfer of balance in any debt service or special assessment fund.~~

B. No encumbrance or expenditure may be authorized or made by any officer or employee which exceeds the available appropriation

for each classification level defined in Section 17-213 of this title.

SECTION 13. AMENDATORY 11 O.S. 1981, Section 17-216, is amended to read as follows:

Section 17-216. A. The governing body may amend the budget to make supplemental appropriations to any fund up to the amount of additional revenues which are available for current expenses ~~as shown by a fund balance~~ for the fund due to:

1. Revenues received or to be received from sources not anticipated in the budget for that year;

2. Revenues received or to be received from anticipated sources but in excess of the budget estimates therefor; or

3. Unexpended unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated or appropriated in the budget. Any appropriation authorizing the creating of an indebtedness shall be governed by the applicable provisions of Article 10 of the Oklahoma Constitution.

B. If at any time during the budget year it appears probable that revenues available will be insufficient to meet the amount appropriated, or that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of appropriation for the fund, the governing body shall take action as it deems necessary. For that purpose, it may amend the budget to reduce one or more appropriations or it may amend the budget to transfer money from one fund to another fund, but no appropriation for debt service may be reduced and no appropriation may be reduced by more than the amount of the unencumbered and unexpended balance thereof. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or applicable law.

C. A budget amendment as provided in this section authorizing supplemental appropriations or a decrease or change in appropriation

or funds shall be adopted at a meeting of the governing body and filed with the municipal clerk, ~~the county excise board of each county in which the municipality is located,~~ and the State Auditor and Inspector.

SECTION 14. AMENDATORY 11 O.S. 1981, Section 26-109, as amended by Section 52, Chapter 126, O.S.L. 1984 (11 O.S. Supp. 1990, Section 26-109), is amended to read as follows:

Section 26-109. In all municipally owned cemeteries where lots are sold or charges made for interments, not less than twenty-five percent (25%) of all monies received from the sale of lots and interments shall be segregated and set aside as a permanent fund to be known as the "Cemetery Care Fund". The Cemetery Care Fund principal shall be expended for purchasing lands for cemeteries and for making capital improvements as defined in Section 17-110 of this title, if necessary. The balance of the fund may be invested ~~by the governing body of the municipality~~ in the manner provided by law for investment of municipal funds. ~~Only the~~ The interest from the investments shall be used for the same purposes as the principal or in improving, caring for, and embellishing the lots, walks, drives, parks, and other necessary improvements on such cemeteries.

SECTION 15. AMENDATORY 11 O.S. 1981, Section 27-109, is amended to read as follows:

Section 27-109. The municipal clerk of any municipality where a municipal court is established, or a deputy designated by him, or the chief municipal court officer, who is independent of the municipal police or judicial department, as established by the municipality shall be ~~ex-officio~~ the clerk of the municipal court. The clerk of the court shall:

1. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;
2. Administer oaths required in judicial or other proceedings before the court;

3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;

4. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and

5. Receive and give receipt for and disburse or deliver to the municipal treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

SECTION 16. AMENDATORY 11 O.S. 1981, Section 27-122, as amended by Section 4, Chapter 173, O.S.L. 1987 (11 O.S. Supp. 1990, Section 27-122), is amended to read as follows:

Section 27-122. A. If a defendant who is financially able refuses or neglects to pay a fine or costs or both, payment may be enforced:

1. by imprisonment until the same shall be satisfied at the rate of Five Dollars (\$5.00) per day; ~~or~~

2. in the same manner as is prescribed in subsection B of this section for a defendant who is without means to make such payment; or

3. by issuing an order to state tag agents to refuse vehicle registration and/or driver's license renewal.

B. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court in the county where the situs of the municipal government is located, where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.

C. The municipal court, by action of the governing body of the municipality, may enter into a contract with tag agents to collect delinquent or unpaid fines at the time that a defendant is refused renewal of his vehicle registration or driver's license and permit the tag agent to keep a portion of the fine or fines as compensation for the services provided.

SECTION 17. AMENDATORY 11 O.S. 1981, Section 31-104, is amended to read as follows:

~~Section 31-104. The library board shall adopt rules and regulations for its own guidance and for the governance and operation of the municipal library, not inconsistent with this article, which shall be subject to the approval of the municipal governing body. The library board shall have control of the expenditure of all monies collected and placed to the credit of the library fund, and of the construction of any library building, and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for the library. All money received by the board on account of the operation of the library, or otherwise, shall be paid by the board to the municipal treasurer, who shall deposit the same in a special account, separate and apart from other money in the municipal treasury, to be designated the "library fund". Such monies shall be paid out only upon warrants authorized by the library board. The library board shall have authority to establish a petty cash fund, not to exceed the sum of One Hundred Dollars (\$100.00) at any one time, for use in maintaining the library, which money shall be expended by the librarian on forms prescribed and authorized by the library board. The library board shall have authority to appoint, and remove, a suitable librarian and necessary assistants, and to fix their compensation, all of which shall be subject to the approval of the municipal governing body exercise control and supervision over the library. The board shall fix any fees to be charged by the library~~

and shall have such other powers and authority as may be provided by ordinances of the municipality.

SECTION 18. AMENDATORY 11 O.S. 1981, Section 35-107, is amended to read as follows:

Section 35-107. Money in the municipal treasury which has been acquired as a utility deposit from a customer of a municipal utility shall be refunded or credited to the customer upon termination of the utility service and payment of all charges due and connected with the service, or at an earlier date as may be allowed by the municipality. If the deposit has not been claimed by or refunded to a customer within one (1) year following termination of the utility service to the customer, the municipality shall send written notice to the customer at his last-known address stating that the deposit will be paid over to the municipality unless it is claimed by the customer within ninety (90) days of the date the notice is mailed by the municipality. The municipality may, in lieu of mailing notices to the last-known address, publish in a newspaper of local circulation a list of names and last-known addresses of customers stating the deposit will be paid over to the municipality if not claimed within ninety (90) days. If the money is not claimed or refunded within the ninety (90) days, the amount of the deposit shall be paid into the fund of the municipal utility for which the deposit was collected, or into the general fund as may be determined by the governing body. No municipal utility customer shall have a right to any claim or refund on the deposit after written notice or publication and expiration of the ninety-day period in accordance with this section.

SECTION 19. AMENDATORY 11 O.S. 1981, Section 36-114, is amended to read as follows:

Section 36-114. A municipal governing body which receives money from the state under the motor fuel tax or under the motor vehicle license and registration tax act may expend such money out of the

street and alley fund or the street and alley account of the general fund of the municipality for construction, maintenance, repair, improvement, or lighting of streets and alleys.

SECTION 20. AMENDATORY 62 O.S. 1981, Section 310.1, as last amended by Section 1, Chapter 201, O.S.L. 1990 (62 O.S. Supp. 1990, Section 310.1), is amended to read as follows:

Section 310.1 ~~Municipal~~ A. Unless otherwise provided by ordinance, municipal officers, municipal boards, commissions and designated employees, hereinafter referred to as the purchasing officer, having authority to purchase or contract against all budget appropriation accounts ~~as departmentalized and appropriated by the county excise board or by the municipal governing body~~ as authorized by law shall submit all purchase orders and contracts ~~in quadruplicate at~~ prior to the time such indebtedness is incurred the commitment is made, to the officer charged with keeping the appropriation and expenditure records or clerk of the municipality, who shall, if there be an unencumbered balance in the appropriation made for that purpose ~~by the excise board or governing body~~, so certify in the following form:

I hereby certify that the amount of this encumbrance has been entered against the designated appropriation accounts and that this encumbrance is within the authorized available balance of said appropriation.

Dated this _____ day of _____, 19____.

Encumbering Officer or Clerk of _____.

Provided, in instances where it is impossible to ascertain the exact amount of ~~indebtedness sought, to be incurred~~ expenditures to be made at the time of recording the encumbrance, an estimated amount may be used and the encumbrance made in like manner as set forth above. Provided, no purchase order or contract shall be valid unless signed and approved by the purchasing officer and certified

as above set forth by the officer or clerk charged with keeping the appropriation and expenditure records. The clerk or encumbering officer shall retain and file one copy of the purchase order. ~~The original and two copies of the purchase order shall be returned to the purchasing officer who shall retain the original copy of the purchase order for completion of the transaction as hereinafter provided, and file one copy in that office. The other copy may be given to the vendor as his notification of the purchase.~~

B. After satisfactory delivery of the merchandise or completion of the contract, the ~~vendor~~ supplier shall deliver an invoice ~~to the municipal finance officer or his designee.~~ Such invoice shall state the ~~vendor's~~ supplier's name and address and must be sufficiently itemized to clearly describe each item purchased, its unit price, where applicable, the number or volume of each item purchased, its total price, the total of the purchase and the date of the purchase. ~~The municipal finance officer or his designee~~ appropriate municipal officer shall attach the itemized invoice together with delivery tickets, freight tickets or other supporting information to the original of the purchase order and, after approving and signing said original copy of the purchase order ~~for payment,~~ shall submit ~~it~~ the invoices, the purchase order and other supporting data for consideration for payment by the governing board. All invoices submitted shall be examined by the governing board to determine their legality. The governing board shall approve such invoices for payment in the amount the board determines just and correct.

~~Provided further, each purchasing officer, or other municipal department head when so authorized by the governing board of the municipality and under rules established by the governing board, may make small purchases, but the outstanding total of each purchasing officer's or authorized department head's unencumbered purchases shall not exceed Five Hundred Dollars (\$500.00) at any one time. Such purchases shall be paid by attaching properly itemized~~

~~invoices, as described above, to a purchase order and, after being approved by the purchasing officer or authorized department head, submitting it to the clerk for filing, encumbering and consideration for payment by the governing board. Copies of the purchase order shall be filed in the same manner and sequence as other purchase orders. It shall be the responsibility of the purchasing officer or authorized department head to keep an accurate record of such purchases and all such purchases shall be filed for payment no later than one (1) month after the close of the month within which the purchase was made.~~

C. As an alternative to the provisions of subsection B of this section, the governing body of a municipality may elect to pay claims and invoices pursuant to the provisions of subsection A of Section 17-102 of Title 11 of the Oklahoma Statutes, which provides for the adoption of a municipal ordinance to ensure adequate internal controls against unauthorized or illegal payment of invoices. The municipal governing body may also authorize the chief executive officer or designee to approve payment of such invoices. In absence of such authority, the governing board shall approve payment.

SECTION 21. AMENDATORY 62 O.S. 1981, Section 348.1, as last amended by Section 13, Chapter 319, O.S.L. 1988 (62 O.S. Supp. 1990, Section 348.1), is amended to read as follows:

Section 348.1 Except as otherwise provided for by law, a county treasurer, when authorized by the board of county commissioners by a written investment policy, ordinance or resolution or the treasurer of any city, town, or school district, when authorized by the appropriate governing body by a written investment policy, ordinance or resolution, shall invest monies in the custody of the treasurer in:

1. direct obligations of the United States Government, its agencies or instrumentalities to the payment of which the full faith

and credit of the Government of the United States ~~or of this state~~
is pledged; or

2. collateralized or insured certificates of deposits of savings and loan associations, banks, ~~and trust companies when the certificates of deposits are secured by acceptable collateral as in the deposit of other public monies~~ savings banks and credit unions located in this state, when the certificates of deposit are secured by acceptable collateral as provided in Section 516.3 of this title, or fully insured certificates of deposit at banks, savings banks, savings and loan associations and credit unions located out-of-state; or

3. savings accounts or savings certificates of savings and loan associations, banks, ~~and trust companies~~ credit unions, to the extent that the accounts or certificates are fully insured by the ~~Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;~~ or

4. investments as authorized by Section 348.3 of this title which are fully collateralized in investments specified in paragraphs 1 through 3 of this section, and where the collateral has been deposited with a trustee or custodian bank in an irrevocable trust or escrow account established for such purposes; or ~~whenever the appropriate governing board shall determine by resolution that the monies cannot then be used for the purpose for which they are to be expended.~~

5. county, municipal or school district direct debt obligation for which an ad valorem tax may be levied or bond and revenue anticipation notes, money judgments ordered by a court of record or bonds or bond and revenue anticipation notes issued by a public trust for which such county, municipality or school district is a beneficiary thereof;

All collateral pledged to secure public funds shall be valued at no more than market value. The income received from that investment

may be placed in the general fund of the governmental subdivision to be used for general governmental operations, the sinking fund, the building fund, or the fund from which the investment was made.

SECTION 22. AMENDATORY Section 14, Chapter 194, O.S.L. 1987 (62 O.S. Supp. 1990, Section 348.3), is amended to read as follows:

Section 348.3 A. In addition to the investments authorized by Section 348.1 of Title 62 of the Oklahoma Statutes, the governing body of a city with a population of not less than three hundred thousand (300,000) persons according to the latest Federal Decennial Census or of a county with a population of not less than four hundred thousand (400,000) persons according to the latest Federal Decennial Census may adopt a written investment policy directing the investment of the funds of the city or county and any of its public trusts or authorities. If such a policy is adopted by the governing body, such funds shall be invested pursuant to the provisions of the policy. The written policy shall address liquidity, diversification, safety of principal, yield, maturity and quality and capability of investment management, with primary emphasis on safety and liquidity. To the extent practicable, taking into account the need to use sound investment judgment, the written investment policies shall include provision for utilization of a system of competitive bidding in the investment of municipal funds. Such system shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested.

B. The written investment policy may authorize the city treasurer or county treasurer to purchase and invest in any or all of the following:

1. Obligations of the United States government, its agencies and instrumentalities;

2. Collateralized or insured certificates of deposit and other evidences of deposit at banks, savings banks, savings and loan associations and credit unions located in this state, or fully insured certificates of deposit at banks, savings banks, savings and loan associations and credit unions located out of state;

3. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings bank, a savings and loan association or a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed ten percent (10%) of the surplus funds of the city or county which may be invested pursuant to this section. Not more than one-half (1/2) of the ten percent (10%) limit shall be invested in any one financial institution specified in this paragraph;

4. Prime banker's acceptances which are eligible for purchase by the Federal Reserve System and which do not exceed two hundred seventy (270) days' maturity. Purchases of prime banker's acceptances shall not exceed ten percent (10%) of the surplus funds of the city or county which may be invested pursuant to this section. Not more than one-half (1/2) of the ten percent (10%) limit shall be invested in any one commercial bank pursuant to this paragraph;

5. Prime commercial paper which shall not have a maturity that exceeds one hundred eighty (180) days nor represent more than ten percent (10%) of the outstanding paper of an issuing corporation. Purchases of prime commercial paper shall not exceed seven and one-half percent (7 1/2%) of the surplus funds of the city or county which may be invested pursuant to this section; and

6. Repurchase agreements that have underlying collateral consisting of those items specified in paragraphs 1 through 5 of this subsection.

C. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion

and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

SECTION 23. AMENDATORY 62 O.S. 1981, Section 353, is amended to read as follows:

Section 353. Whenever any municipal corporation or political subdivision of the State of Oklahoma shall vote any bonds or issue any funding or refunding bonds, such bonds, or combined issue of bonds referred to in Section 354, Title 62, Oklahoma Statutes 1961 shall be made to mature in equal annual installments, beginning not less than two (2) nor more than five (5) years after their date, except that the first maturing installment may be for such sum, not more than one installment and the last maturing installment may be for such sum not more than two installments, as will complete the full issue of such bonds notwithstanding the necessity of varying the amount thereof to complete the same. The denomination of said bonds shall be One Hundred Dollars (\$100.00) or multiples thereof, not exceeding One Hundred Thousand Dollars (\$100,000.00) except the first numbered bond may be for such odd amount as will complete the full issue of said bonds. Provided, when a book entry system is utilized, the issuer may issue and deliver one bond only, for the entire principal amount, to the book entry agent.

SECTION 24. AMENDATORY 62 O.S. 1981, Section 372, as amended by Section 1, Chapter 86, O.S.L. 1982 (62 O.S. Supp. 1990, Section 372), is amended to read as follows:

Section 372. Every officer of the state and of any county, township, city, town or school district, who shall hereafter order or direct the payment of any money or transfer of any property belonging to the state or to such county, ~~township,~~ city, town or school district, in settlement of any claim known to such officers to be fraudulent or void, or in pursuance of any unauthorized,

unlawful or fraudulent contract or agreement made or attempted to be made, for the state or any such county, ~~township,~~ city, town or school district, by any officer thereof, and every person, having notice of the facts, with whom such unauthorized, unlawful or fraudulent contract shall have been made, or to whom, or for whose benefit such money shall be paid or such transfer of property shall be made, shall be jointly and severally liable in damage to all innocent persons in any manner injured thereby, and shall be furthermore jointly and severally liable to the state, county, ~~township,~~ city, town or school district affected, for triple the amount of all such sums of money so paid, and triple the value of property so transferred, as a penalty, to be recovered at the suit of the proper officers of the state or such county, ~~township,~~ city, town or school district, ~~or of any resident taxpayer thereof,~~ as hereinafter provided.

SECTION 25. AMENDATORY 62 O.S. 1981, Section 430.1, as amended by Section 2, Chapter 305, O.S.L. 1990 (62 O.S. Supp. 1990, Section 430.1), is amended to read as follows:

Section 430.1 A. The governing board of any county, city or town, or school district is authorized to rent on a monthly basis real property or equipment as authorized by the governing board and to pay the rental charges thereon for usage during any fiscal period, or portion thereof, out of appropriations made and approved for such purposes for, or during, such fiscal year. Any such rental contract extending beyond June 30 of the fiscal year shall ~~be wholly void and of no effect unless it contains the~~ contain provisions for mutual ratification of renewal under the conditions provided in this section.

B. It is the purpose of this act to authorize such governing boards to enter into lease and lease-purchase contracts but not to incur any obligation upon the part of their respective municipal or governmental subdivisions in excess of the income and revenue

thereof provided for such purposes for the fiscal year in which the lease contract is effectively operative.

C. Any agreement to lease and purchase real property or equipment, where title is to be acquired by the municipal or governmental subdivision, shall state the purchase price of the real property or equipment so leased and in no event shall the lease be extended so as to cause payment of more than the stated purchase price of the real property or equipment plus interest not to exceed ten percent (10%) simple interest on the unpaid balance due as of each payment date. When the purchase price plus interest has been paid the property shall belong to the lessee and the lessor shall deliver a bill of sale to the property to the lessee.

D. The payment for the lease or rental of real property, machinery and equipment shall be made only from annual and supplemental appropriations specifically designated for such purpose, and no appropriation for the purpose of paying rentals on real property, machinery and equipment shall be transferred or diverted to any other purpose, except as may be authorized by the terms of the agreement or by law.

E. When any real property, machinery or equipment has been leased or rented during any fiscal year under any contract which permits continuance of such rental for the remainder of the fiscal year, the renting or leasing thereof shall be continued for the remainder of the fiscal year unless the governing body renting or leasing the same, by proper resolution entered in the minutes of the governing body, shall certify that the continuance of such rental is unnecessary and contrary to the public interest.

SECTION 26. AMENDATORY 62 O.S. 1981, Section 445, is amended to read as follows:

Section 445. Where any county, city, town, ~~township~~, or school district, dependent or independent, has accumulated a surplus in the sinking fund thereof, represented by actual cash on hand in excess

of all outstanding bond or judgment indebtedness, both matured and unmatured, including coupon and/or other interest earnings thereon whether matured or unmatured, earned or unearned, or if there be no known bond, coupon, or judgment indebtedness outstanding against it, the county excise board on application of the proper officers thereof is hereby authorized to approve the transfer of said surplus in the sinking fund of said county, city, town, or school district to be used for general fund purposes of the same county, city, town, or school district; provided, that before the excise board shall have authority to consider or approve the application of the governing board for authority to make such transfer, there shall be attached to such application an affidavit and proof of publication of published notice by such governing board of its intention to apply for authority to make such transfer, which published notice shall set forth in detail the condition of the sinking fund thereof or as to the fact of there being no known bond, coupon or judgment indebtedness outstanding. Such notice shall be published in some newspaper of general circulation in such municipality, or in such county if there be no newspaper published in the city, town, or school district. ~~Similarly, a township sinking fund surplus, similarly defined, may be transferred to the county highway fund of such county; but in this event, an appropriation shall be made, simultaneous with the effective order approving such transfer, equivalent to the amount of sinking fund surplus so transferred, either in the highway budget account in the general fund or in the county highway cash fund, for the specific purpose of maintaining county roads in the particular township to which such sinking fund belonged.~~

SECTION 27. AMENDATORY 62 O.S. 1981, Section 446, is amended to read as follows:

Section 446. Whenever any city, or town ~~or township~~ of the state of Oklahoma shall have accumulated an amount of money in its

sinking fund sufficient to pay at maturity the principal and interest of all its outstanding bonds, coupons and judgments, any surplus money in said fund, after all outstanding bonds, judgments or other charges against said sinking funds have been fully paid, whether maturing in the current or in future years, may be transferred by the governing body of such city, or town ~~or township~~ to its general fund ~~to be used in reducing the ad valorem tax levies for the ensuing fiscal year or years, or in constructing public buildings or other permanent improvements as the governing body may determine.~~

SECTION 28. AMENDATORY 62 O.S. 1981, Section 516.5, as amended by Section 8, Chapter 90, O.S.L. 1988 (62 O.S. Supp. 1990, Section 516.5), is amended to read as follows:

Section 516.5 The treasurer of every county, city, town and board of education in the State of Oklahoma shall deposit daily (not later than the immediately next banking day) all funds and monies of whatsoever kind that shall come into the possession of the treasurer by virtue of the office, in one or more banks, trust companies, credit unions or savings and loan associations that have been designated as either state or county depositories, or both, and the acceptance of any such deposit from any such treasurer shall be tantamount to adoption, in relation thereto, of the same privileges and conditions (other than collateral security) as are now provided by law in acceptance of designation as state or county depositories. No deposit in any bank, trust company, credit union or savings and loan association shall be made or accepted in excess of the sum set out in the effective statement or statements of the State Treasurer as by this act provided, plus the amount or amounts insured, by Congressional Enactment, by the Federal Deposit Insurance Corporation, by the National Credit Union Administration, or by ~~the Federal Savings and Loan Insurance Corporation~~ successor organizations insuring deposits in such institutions, and plus any

amounts secured by collateral securities pledged under other laws to which this act is cumulative. The treasurer may establish a depository or depositories for demand accounts in banks, trust companies, credit unions or savings and loan associations outside of the governmental or municipal area of the treasurer but within this state. The State Treasurer is hereby authorized to be the official depository for the treasurer of any county, and for the treasurer of any city or board of education where such city or school district has a population of five thousand (5,000) inhabitants or more but only for deposit of remaining fund balances in inactive funds and not for checking purposes; and the county treasurer is hereby authorized to be official depository for the treasurer of any city, town, or board of education.

SECTION 29. AMENDATORY 62 O.S. 1981, Section 551, is amended to read as follows:

Section 551. It shall be the duty of the State Treasurer and each county, ~~township,~~ city, town or school district treasurer, and the treasurer of every board of education in this state, to pay on presentation any check, warrant or order properly drawn on any funds in his custody by virtue of his office, when there is cash sufficient in such fund to do so and when any check, warrant or order is paid, such treasurer shall ~~write across the face of the same in red ink, "Paid," and date and sign the same~~ maintain evidence such check or warrant has been processed and paid.

SECTION 30. AMENDATORY 62 O.S. 1981, Section 555, as last amended by Section 4, Chapter 221, O.S.L. 1990 (62 O.S. Supp. 1990, Section 555), is amended to read as follows:

Section 555. A. The clerk of any municipal subdivision, county, city, town, or school district, is hereby authorized and empowered to issue a second or duplicate check, warrant or voucher in lieu of any check, warrant or voucher that has been issued and subsequently lost or destroyed. Except as provided in subsection B

of this section or unless the treasurer of any municipal subdivision, county, city, town or school district has evidence that a stop-payment order has been issued, no second or duplicate check, warrant or voucher shall be issued until an affidavit setting forth the facts as to the loss or destruction of said original check, warrant or voucher has been filed with the clerk, together with an indemnifying bond running to the treasurer of said municipal subdivision, county, city, town or school district, or to the Treasurer of the State of Oklahoma, in double the amount of such lost or destroyed check, warrant or voucher. The conditions of such bond shall be to indemnify and protect the municipal subdivision, county, city, town or school district, or to the Treasurer of the State of Oklahoma, from any loss or harm occasioned or sustained on account of the issue of such second or duplicate check, warrant or voucher. The bond shall be in such form as the Attorney General shall prescribe, and shall be signed by at least two sureties, ~~residents of this state,~~ which sureties shall be satisfactory to the treasurer of such municipality, county, city, town or school district, or to the Treasurer of the State of Oklahoma, who shall, upon being satisfied as to the sufficiency of said bond and sureties, endorse his approval thereon. Provided, however, such bond may be, at the option of the person or entity providing the same, in the form of a corporate surety bond. The clerk and treasurer shall make such records in their respective offices as will, as nearly as possible, preclude any loss being sustained by the municipal subdivision, county, city, town or school district, or to the Treasurer of the State of Oklahoma, on account of the issue of any second or duplicate warrant or voucher. Warrants issued by the State Treasurer against claims submitted through the Director of State Finance in payment of obligations of the state which may subsequently be lost or destroyed will be governed by the provisions of Section 34 of Title 74 of the Oklahoma Statutes.

B. If a board of education of a school district approves, an alternate warrant with a new number may be issued by a school district for a lost or destroyed warrant, upon affidavit of the payee as set forth in subsection A of this section and upon the treasurer stopping payment on the original warrant, and if such warrant also serves as a check, upon stopping payment of the check by the payor bank.

SECTION 31. AMENDATORY 62 O.S. 1981, Section 602, is amended to read as follows:

Section 602. Any authorized officer, after filing with the Secretary of State his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

~~(a) Any any public security, or any certificate thereon or thereto, provided that at least one signature required or permitted in the execution of such public security shall be manually subscribed.~~

Upon compliance with this act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

SECTION 32. AMENDATORY 62 O.S. 1981, Section 662, is amended to read as follows:

Section 662. In all cases where the trustees shall contract for the payment of ~~Five Hundred Dollars (\$500.00)~~ Two Thousand Dollars (\$2,000.00) or more for the purchase of any materials, equipment, or supplies or for the construction of facilities, said contract shall be made only, after public advertisement for bids, to the lowest and best bidder upon the proposal so advertised.

All meetings of the trustees shall be open to the public to the same extent as is required by law of meetings by other boards and commissions, and all records of the trustees shall be public records

as provided by law and shall be kept either in the office of the city clerk or the county clerk, as the case may be.

SECTION 33. AMENDATORY 60 O.S. 1981, Section 176, as last amended by Section 3 of Enrolled House Bill No. 1001 of the 1st Extraordinary Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 176. (a) Express trusts may be created to issue obligations and to provide funds for the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality or any combinations thereof, in real or personal property, or either or both, or in any estate or interest in either or both, with the state, or any county or municipality or any combinations thereof, as the beneficiary thereof by the: (1) express approval of the Legislature and the Governor if the State of Oklahoma is the beneficiary; (2) express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a county is a beneficiary; (3) express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a municipality is a beneficiary. Provided, that no funds of said beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of said trust, except by express action of the legislative authority of the beneficiary prior to the charging or expending of the funds. The officers or any other governmental agencies or authorities having the custody, management or control of any property, real or personal or both, of the beneficiary of such trust, or of such a proposed trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease such property for said purposes, after the acceptance of the beneficial interest therein by the beneficiary as hereinafter provided.

(b) A municipality may convey title to real property which is used for an airport to the trustees of an industrial development authority trust whose beneficiary is the municipality. Said industrial development authority trust must already have the custody, management or control of such real property. Such conveyance must be approved by a majority of the governing body of the municipality. A conveyance pursuant to this section may be made only for the sole purpose of allowing such authority to sell the property for fair market value when the property is to be used for industrial development purposes. Conveyances made pursuant to this subsection shall be made subject to any existing reversionary interest or other restrictions burdening the property and subject to any reversionary interest or other restriction considered prudent by the municipality.

(c) The trustees of a public trust having the State of Oklahoma as beneficiary shall make and adopt bylaws for the due and orderly administration and regulation of the affairs of the public trust. All bylaws of a public trust having the State of Oklahoma as beneficiary shall be submitted in writing to the Governor of the State of Oklahoma. The Governor must approve the proposed bylaws before they take effect.

(d) No public trust in which the State of Oklahoma is the beneficiary may be amended without a two-thirds (2/3) vote of approval of the trustees of such trust. Provided, that any such amendment is subject to the approval of the Governor of the State of Oklahoma. Such amendments shall be sent to the Governor within fifteen (15) days of their adoption.

(e) No trust in which a county or municipality is the beneficiary shall hereafter create an indebtedness or obligation until such indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of said beneficiary. In the event a trust has more than one beneficiary, as authorized by

this section, such trust shall not incur an indebtedness or obligation until such indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of two-thirds (2/3) of the beneficiaries of said trust.

(f) All bonds described in subsection (e) of this section, after the effective date of this act, except bonds sold to the federal government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the trust is located prior to the date on which bids are received and opened, except, on bond issues with the approval of three-fourths (3/4) of the trustees, and a three-fourths (3/4) vote of the governing body of the beneficiary, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of said trust as the case may be, competitive bidding may be waived. No bonds shall be sold for less than par value, except upon approval of three-fourths (3/4) of the trustees. In no event shall bonds be sold for less than sixty-five percent (65%) of par value. Provided, however, in no event shall the original purchaser from the issuer of any bonds issued by any public trust for any purpose receive directly or indirectly any fees, compensation or other remuneration in excess of four percent (4%) of the price paid for such bonds by the purchaser of such bonds from the original purchaser; and further provided, that the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum. No public trust shall sell bonds for less than ninety-six percent (96%) of par value until the public trust has received from the underwriter or financial advisor or, in the absence of an underwriter or financial advisor, the initial purchaser of such bonds, an estimated alternative financing structure or structures showing the estimated total interest and principal cost of each

alternative. At least one alternative financing structure shall include bonds sold to the public at par. Such estimates shall be considered a public record of said public trust. Bonds, notes or other evidences of indebtedness issued by any public trust shall be eligible for purchase by any state banking association or corporation subject to such limitations as to investment quality as may be imposed by regulations, rules or rulings of the State Banking Commissioner.

(g) Public trusts created pursuant to this section shall comply with annual budget provisions applicable to the beneficiary of such trust. A copy of such budget shall be submitted to the beneficiary.

(h) Contracts for construction, labor, equipment, material or repairs in excess of Two Thousand Dollars (\$2,000.00) shall be awarded by public trusts to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published in the manner provided in the preceding section hereof; such advertisements shall appear in the county where the work, or the major part of it, is to be done, or the equipment or materials are to be delivered, or the services are to be rendered. Provided, however, should the trustee or the trustees find that an immediate emergency exists, which findings shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Two Thousand Dollars (\$2,000.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then such contracts may be made and entered into without public notice or competitive bids; provided that the provisions of this subsection shall not apply to contracts of industrial and cultural trusts.

~~(h)~~ (i) Any public trust created pursuant to the provisions of this section shall have the power to acquire lands by use of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes.

Any exercise of the power of eminent domain by a public trust pursuant to the provisions of this section shall be limited to the furtherance of public purpose projects involving revenue-producing utility projects of which the public trust retains ownership; provided, for public trusts in which the State of Oklahoma is the beneficiary the exercise of the power of eminent domain may also be used for public purpose projects involving air transportation. Revenue-producing utility projects shall be limited to projects for the transportation, delivery, treatment or furnishing of water for domestic purposes or for power, including, but not limited to the construction of lakes, pipelines and water treatment plants. Any public trust formed pursuant to this section which has a county as its beneficiary shall have the power to acquire, by use of eminent domain, any lands located either inside such county, or contiguous to such county pursuant to the limitations imposed pursuant to this section.

~~(i)~~ (j) Provisions of this section shall not apply to entities created under Sections 1324.1 through 1324.26, of Title 82 of the Oklahoma Statutes.

SECTION 34. AMENDATORY 68 O.S. 1981, Section 2601, is amended to read as follows:

Section 2601. The power is hereby vested in the governing body of any city or town in the State of Oklahoma to levy and assess, by ordinance, an annual tax upon the gross receipts from residential and commercial sales of power, light, heat, gas, electricity or water in said city or town in an amount not ~~exceeding two percent~~ ~~(2%)~~ less than three percent (3%) of the gross receipts from residential and commercial sales, which tax shall be in lieu of any other franchise, license, occupation or excise tax, levied by such city or town.

SECTION 35. AMENDATORY 68 O.S. 1981, Section 2603, is amended to read as follows:

Section 2603. The tax authorized to be levied under Section 1, of this act, shall be levied for a term of not less than one year; shall be payable ~~quarterly, and placed in the general revenue of the~~ city monthly.

SECTION 36. AMENDATORY 68 O.S. 1981, Section 2481.4, as last amended by Section 5, Chapter 321, O.S.L. 1989 (68 O.S. Supp. 1990, Section 2481.4), is amended to read as follows:

Section 2481.4 A. The cost of the comprehensive program of revaluation shall be paid by appropriate warrants from those who receive the revenues of the mill rates levied on the property of the county in the following manner: The county assessor shall prepare a special budget for such comprehensive program of revaluation and file the same with the county excise board or county budget board.

B. That board shall apportion such cost among the various recipients of revenues from the mill rates levied, including the county, all cities and towns, all school districts ~~and all~~ excluding any sinking funds of such recipients, in the ratio which each recipient's total tax proceeds collected from its mill rates levied for the preceding year bears to the total tax proceeds of all recipients, excluding sinking funds, from all their mill rates levied for the preceding year.

C. Such amounts shall be included in or added to the budgets of each such recipient and the mill rates to be established by the board for each such recipient for the current year shall include and be based upon such amounts. Then the board and each such recipient shall appropriate the said amounts to the county assessor for expenditure for the comprehensive program of revaluation.

D. The county assessor shall render a statement to each of the jurisdictions within the county which receive revenue from an ad valorem mill rate excluding sinking funds. Such statement shall include the following information:

1. The current fiscal year in which the charge has been incorporated in the jurisdiction's budget;

2. All jurisdictions receiving statements from the county assessor, the mill rate for each in the previous year, and the proportion of each to the combined mill rates of each jurisdiction within the county for the previous year; the proportions specified in this paragraph should sum to one hundred percent (100%); and

3. The charge for the entity receiving the statement as well as the charge for each jurisdiction of the county based upon the proportions specified in paragraph 2 of this subsection; the total of all current year charges for all county jurisdictions should sum to the total county assessor's budget for the comprehensive program of revaluation for the current fiscal year.

E. In any county wherein any jurisdiction's budget and mill rates are not subject to review and approval by the county excise board, the county assessor shall nevertheless include any such jurisdiction in the calculations required under subsection A of this section. The county assessor shall also render a billing statement to any such jurisdiction showing the charge for the current fiscal year due from the jurisdiction. Such billing statement shall also show all the information specified in paragraphs 2 and 3 of subsection D of this section. Such billing statement shall clearly indicate that the charge payable by the jurisdiction is due and payable by December 31 of the current fiscal year.

SECTION 37. REPEALER 11 O.S. 1981, Sections 17-106, 17-111, 33-203, 35-102, 35-103, 35-104, 35-105 and 35-106 and 62 O.S. 1981, Sections 310.1b, 348.2, 439 and 441, are hereby repealed.

SECTION 38. This act shall become effective July 1, 1991.

SECTION 39. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-5074

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