

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2254

BY: ADAIR of the HOUSE

and

STIPE of the SENATE

AS INTRODUCED

AN ACT RELATING TO ROADS, BRIDGES AND FERRIES;

AMENDING 69 O.S. 1991, SECTIONS 670, 673, 674, 675
AND 676, WHICH RELATE TO THE COUNTY PRIMARY ROAD
IMPROVEMENT ACT; MODIFYING SHORT TITLE TO COUNTY
PRIMARY ROAD MAINTENANCE ACT; TRANSFERRING
ADMINISTRATION OF CERTAIN PROGRAMS TO THE COUNTY
COMMISSIONERS; SPECIFYING PURPOSE; SPECIFYING
LOCATION OF PROJECTS; CHANGING NAME OF COUNTY
PRIMARY ROAD IMPROVEMENT FUND TO COUNTY PRIMARY
ROAD MAINTENANCE FUND; MODIFYING PROCEDURES RELATED
THERE TO; MODIFYING PROCEDURES RELATING TO THE
DESIGNATION OF A COUNTY PRIMARY ROAD SYSTEM;
PROVIDING FOR CERTAIN PRIORITIZED MAINTENANCE
PLANS; AMENDING 69 O.S. 1991, SECTION 687, WHICH
RELATES TO THE COUNTY ROAD IMPROVEMENT REVOLVING
FUND; MODIFYING USE OF FUNDS; AUTHORIZING TRANSFER
OF CERTAIN PERCENTAGE OF MONIES TO COUNTY PRIMARY
ROAD MAINTENANCE FUND; PROVIDING PROCEDURES RELATED
THERE TO; AUTHORIZING THE CREATION OF CERTAIN
CIRCUIT ENGINEERING DISTRICTS AND PROCEDURES
RELATED THERE TO; 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 69 O.S. 1991, Section 670, is amended to read as follows:

Section 670. This act shall be known and cited as the "County Primary Road ~~Improvement~~ Maintenance Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 671.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

The purpose of the County Primary Road Maintenance Act is to provide for the systematic inventory and maintenance of the County Primary Road System in Oklahoma.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 672.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

Maintenance projects performed under the provisions of the County Primary Road Maintenance Act shall be located on the County Primary Road System as provided for in Section 654 of Title 69 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 69 O.S. 1991, Section 673, is amended to read as follows:

Section 673. ~~A.~~ The programs ~~and funds~~ associated with the provisions of this act shall be administered by the ~~Transportation Commission~~ board of county commissioners of each county in this state.

~~B. In addition to their other duties the county road branch of the Department of Transportation shall immediately establish a program to aid counties in improving primary roads, and shall be~~

~~authorized necessary and additional funds and personnel to efficiently carry out the provisions of this act.~~

~~C. The Transportation Commission shall promulgate such rules and regulations as are necessary for properly administering the provisions of this act.~~

SECTION 5. AMENDATORY 69 O.S. 1991, Section 674, is amended to read as follows:

Section 674. A. There is hereby created in the State Treasury a special fund to be designated as the "County Primary Road ~~Improvement~~ Maintenance Fund". This fund shall consist of monies, ~~if any, which have been appropriated by the Legislature from the General Revenue Fund which have been transferred from the County Road Improvement Revolving Fund pursuant to the provisions of Section 687 of this title or which~~ may accrue from revenues dedicated to this fund or any other funds that may accrue to the benefit of the fund. ~~Provided, the amount apportioned to the County Primary Road Improvement Fund shall not exceed the sum of Twenty Million Dollars (\$20,000,000.00) for each fiscal year. Revenues to this fund shall be expended only pursuant to legislative appropriation for implementation of the County Primary Road Improvement Act.~~ The provisions of subsection ~~B~~ D of Section ~~4~~ of ~~this act~~ 676 of this title shall not apply until funds have accrued to the County Primary Road ~~Improvement~~ Maintenance Fund.

B. Funds designated for the purposes of this act may be used ~~to match federal funds, provided the applicable federal funds can be ascertained to be available at the time a project is approved; however, projects using federal funds are to be restricted to those county primary road improvement projects of exceptional need where the cost is beyond the normal scope of this program. Provided, however, in no case shall the state funds exceed one-half the required matching funds~~ for the following purposes:

1. Matching federal funds, provided the applicable federal program funds are available at the time of project approval;

2. The repair and maintenance of bases and surfaces, including soil asphalt and crushed stone bases, oil seals, crushed stone surfaces, asphalt concrete patching and portland cement concrete patching; and

3. The repair and maintenance of culvert pipe, box culverts and bridges.

C. Funds available to the counties for carrying out the provisions of this act shall be apportioned among the various counties by the ~~Transportation Commission on an equitable basis consistent with the identifiable county primary road improvement needs in each county, and shall include consideration of the county primary road system mileage in each county, as well as the estimated cost of improving the system in each county relative to total statewide needs, mileage and costs~~ Oklahoma Tax Commission pursuant to subsection B of Section 687 of this title.

~~D. Counties receiving funds under the provisions of this act shall enter into an agreement with the Department of Transportation that the county shall provide necessary and adequate maintenance on any part of the primary road system improved under this program. Funds made available under this act shall be withheld from any county which fails to provide such necessary and adequate maintenance.~~

~~E. Funds available for the purposes of this act may be used for maintenance activities only upon approval of, and in a manner specified by, the Transportation Commission.~~

~~F.~~ Right-of-way acquisition and utility relocation shall be the responsibility of the county in which the project is located, and ~~no~~ funds provided under this act ~~shall~~ may be used for such purposes.

~~G. Any costs and expenses necessarily incurred by the Department of Transportation in administering the provisions of this act shall be paid from the County Primary Road Improvement Fund.~~

SECTION 6. AMENDATORY 69 O.S. 1991, Section 675, is amended to read as follows:

Section 675. A. All activities provided for or required by this act shall be performed on a countywide basis with the board of county commissioners acting as a unit. Failure by any board of county commissioners to do so will preclude that county from receiving any funds which are or may become available for the purposes of this act.

~~B. All work accomplished pursuant to this act shall be coordinated with that performed under the County Bridge Improvement Act, as provided for in Sections 657 through 665 of Title 69 of the Oklahoma Statutes, so as to assure maximum benefit to the overall county road system.~~

~~C. In all instances, the county primary road system in a county shall remain the responsibility of the board of county commissioners.~~

SECTION 7. AMENDATORY 69 O.S. 1991, Section 676, is amended to read as follows:

Section 676. A. The board of county commissioners of each county in this state shall designate a county primary road system maintenance plan pursuant to the provisions of ~~Sections~~ Section 601.3 and 654 of Title 69 of the Oklahoma Statutes this title. ~~Provided, however, such county primary road system shall not include less than fifteen percent (15%) or more than twenty percent (20%) of the total road mileage in each county.~~

B. Each county shall make a condition inventory and maintenance cost estimates of its county primary road system, every odd numbered year, determining the general adequacy of the system to serve existing traffic needs. ~~Cost estimates, based on engineering~~

~~criteria to be developed jointly by the Department of Transportation and the State County Commissioners Association, shall be made for all inadequate sections of the county primary road system.~~

Improvement Maintenance priorities shall be determined by the county based on the relative adequacy of the various roadway and bridge sections comprising the county primary road system.

C. Based on the determined ~~improvement~~ maintenance priorities, with practical consideration of the relative cost of individual route sections, the county shall prepare a continuing ~~program~~ plan of prioritized maintenance projects which shall be adopted by the board of county commissioners and shall form the basis for the expenditure of all funds available to the county for ~~use on the county primary road system~~ carrying out the provisions of the County Primary Road Maintenance Act. The adopted program shall be made a matter of public record.

D. Individual projects shall be selected from the ~~priority program~~ prioritized maintenance plan by the board of county commissioners ~~and transmitted to the Department of Transportation~~ in the form of an official ~~program~~ resolution bearing the signatures of a majority of the county commissioners and filed with the county clerk. Where more than one project is submitted by a single county the board of commissioners shall designate the priority in which it ~~wishes~~ resolves the projects to be accomplished. ~~The Department of Transportation shall review these projects and recommend to the Transportation Commission for approval those projects which meet program requirements~~ Documentation of all expenditures related to the maintenance project shall be filed with the corresponding resolution upon completion of the project.

E. ~~Approved projects shall be awarded to contractors by the Transportation Commission pursuant to normal competitive bidding procedures, excluding prequalification of bidders. Provided, however, force account projects may be awarded to a county by the~~

~~Transportation Commission, based upon agreed unit prices, if deemed by the Commission to be in the best public interest. No project in excess of Two Hundred Thousand Dollars (\$200,000.00) in cost may be done by the force account method.~~

F. Each county shall update its condition inventory, maintenance cost estimate and review its ~~priority project program~~ prioritized maintenance plan annually. Revisions of the ~~priority program plan~~ shall be subject to the approval of a majority of the board of county commissioners in the form of an official resolution and become a part of the adopted ~~program plan~~.

~~G. Each county shall furnish copies of the condition inventory data and the adopted program and any revisions thereto to the Department of Transportation for approval.~~

~~H.~~ F. The Department of Transportation, at the request of a county, shall assist ~~the counties~~ in developing condition inventory and ~~program plan~~ procedures, and ~~shall provide assistance~~ in any other areas of expertise required to comply with the provisions of this act. Provided, however, the final responsibility for carrying out the requirements contained herein shall be with the various boards of county commissioners.

SECTION 8. AMENDATORY 69 O.S. 1991, Section 687, is amended to read as follows:

Section 687. A. The Department of Transportation shall establish a program to aid counties in making improvements on the county road system in each county.

B. Funds appropriated to or otherwise accruing to the County Road Improvement Revolving Fund shall be apportioned on the basis of a formula developed by the Department of Transportation. Such formula shall be similar to that currently used for the distribution of County Bridge Program funds, but also taking into consideration the effect of terrain and traffic volume as related to county road improvement and maintenance costs.

The Department of Transportation may approve the utilization of up to ninety percent (90%) of a county's estimated four-year apportionment from the fund for a project, provided, however, no funds may be released or deposited pursuant to subsection C of this section and no additional project may be approved or expenditures made for said county until the county has accumulated a surplus of six (6) months apportioned funds and repaid all funds advanced from the State Highway Construction and Maintenance Fund. The Department of Transportation may update the formula factors from time to time as necessary to account for changing conditions. Said funds so apportioned may be used for the following purposes:

1. Construction projects for the improvement of county roads.
2. Matching federal funds for road or bridge construction projects provided the applicable federal program funds are available at the time of project approval.
3. Matching federal funds for the annual Federal Highway Administration allocation to the Center for Local Government Technology at Oklahoma State University for the Federal Highway Administration Rural Technical Assistance Program, up to twenty-five percent (25%) of the amount of funding the state is required to provide, not to exceed Fifty Thousand Dollars (\$50,000.00).
4. Project engineering costs.
5. The cost of right-of-way acquired for projects to be constructed under the provisions of this act and the relocation of utilities from the right-of-way so acquired.
6. Any cost or expense for administration, program management, engineering, including the development of appropriate local road standards, or construction supervision necessarily incurred by the Department of Transportation in fulfilling its duties and responsibilities pursuant to the County Road Improvement Act.

7. Projects authorized under the provisions of the County Bridge Improvement Act, including such projects which may be less than twenty (20) feet in length.

8. Any cost or expense related to a comprehensive plan for signing the county road system, including Nine-One-One (911) emergency telephone service route markers, traffic-control and other informational signs and the maintenance of such signs as according to policies to be developed jointly by the Department of Transportation and the Association of County Commissioners of Oklahoma.

9. The expense and related costs of employing an engineer to assist a county or counties in carrying out the day-to-day operations of road maintenance and construction, including the employment of a circuit engineer pursuant to the provisions of Section 7 of this act.

C. Thirty percent (30%) of the funds appropriated to or otherwise accruing to the County Road Improvement Revolving Fund may be deposited in the County Primary Road Maintenance Fund to be apportioned to each county pursuant to subsection B of this section. Such funds shall not be released to a county until an official resolution requesting the release of such funds is approved by a majority of the board of county commissioners of the county and filed with the Oklahoma Tax Commission. A copy of the resolution shall be sent to the Department of Transportation. Upon receipt of such resolution, the Tax Commission shall release the funds to the county to be placed in a restricted road maintenance fund of the county. The release of such funds to a county shall not prevent the county from using those funds for any purpose as provided for in the County Road Improvement Act. Provided, such funds, if released, shall not be used in estimating a county's four-year apportionment from the funds advanced from the State Highway Construction and Maintenance Fund pursuant to subsection B of this section.

D. Each county in this state shall prioritize projects located in such county to be funded from the County Road Improvement Revolving Fund. Each county shall consider the following factors in establishing priorities:

1. Project need based on traffic conditions and hazardous conditions.

2. Availability of federal matching funds.

3. Availability of other county funds.

4. County accrued surplus in this fund.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 687.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. The board of county commissioners of any county in this state may create a circuit engineering district with any other county or counties located within its Association of County Commissioners of Oklahoma district to employ one (1) circuit engineer to assist the counties in carrying out the day-to-day operations of road maintenance, construction and inspection.

B. The salary of the circuit engineer and the operational costs and expenses of the district shall be shared by the participating counties in a manner as established by the Association of County Commissioners of Oklahoma. In addition, policies and procedures relating to the administration and operation of the district shall be established by the Association of County Commissioners of Oklahoma.

C. The district shall be governed by a board of directors which is composed of one person appointed by a majority of the board of county commissioners of each county participating in the district. The board shall establish a budget and determine the salaries, staff size, space requirements, supplies, duties, obligations and priorities for the operation of the district. Upon the request of

the board, the Department of Transportation may assist in the formation of such district.

D. The district board shall employ the circuit engineer for the district. The circuit engineer may be terminated by a majority vote of the district board. All meetings of the district board shall be subject to the provisions of the Oklahoma Open Meeting Law.

SECTION 10. This act shall become effective July 1, 1992.

SECTION 11. 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.

43-2-7324

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