

ENROLLED HOUSE
BILL NO. 1258

By: Rhodes (Dusty), Kouba,
Monks and Maddux (Elmer)
of the House

and

Stipe of the Senate

An Act relating to roads, bridges and ferries; amending 69 O.S. 1991, Section 636.3, as amended by Section 2, Chapter 6, O.S.L. 1992 (69 O.S. Supp. 1992, Section 636.3), which relates to counties contracting to lease or lease-purchase road machinery or equipment; modifying procedure for leasing or lease-purchasing certain equipment; creating priority system; creating classification designation and providing procedure therefor; modifying procedure for accepting bids on certain machinery and equipment; providing for allocation of funds to pay for certain machinery and equipment; amending 69 O.S. 1991, Section 636.5, which relates to use and care of equipment and machinery; modifying procedure for returning certain equipment and machinery to the Oklahoma Department of Transportation; providing for inspection and appraisal; providing for purchase of certain damage insurance; amending 69 O.S. 1991, Section 636.7, which relates to storage of road machinery and equipment; deleting certain requirements to recondition road machinery and equipment; amending 69 O.S. 1991, Section 302.1, which relates to the Oklahoma Department of Transportation County Advisory Board; modifying meeting requirements; providing for the development of certain criteria for road machinery and equipment; providing for certain authority to determine certain obligations for destroyed machinery and equipment; and providing an effective date.

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

SECTION 1. AMENDATORY 69 O.S. 1991, Section 636.3, as amended by Section 2, Chapter 6, O.S.L. 1992 (69 O.S. Supp. 1992, Section 636.3), is amended to read as follows:

Section 636.3 A. Counties shall enter into lease or lease-purchase contracts for road machinery and equipment pursuant to the provisions of Sections 636.1 through 636.7 of this title or pursuant to the provisions of Sections 1500 through 1505 of Title 19 of the Oklahoma Statutes and may not otherwise lease road machinery or equipment except in the case of an emergency, when specialized

road machinery or equipment for projects of short durations is required for periods not to exceed thirty (30) days.

B. A county shall be eligible to enter into a lease or lease-purchase contract with the Department of Transportation for road machinery and equipment ~~if it does not have sufficient funds available on a priority basis determined by the county funding classification designation~~ during any fiscal year for the purchase of road machinery and equipment. The county funding classification designation shall be developed by the Department of Transportation and the Association of County Commissioners of Oklahoma and approved by the Oklahoma Department of Transportation County Advisory Board. Upon approval by the Department of Transportation County Advisory Board, the funding classification designation shall be submitted to the Transportation Commission for final approval. The counties receiving the least appropriations per mile of road shall receive the highest priority rating. A county may also enter into a full warranty lease contract for road machinery and equipment pursuant to the provisions of subsection F of this section. Nothing in Sections 636.1 through 636.7 of this title shall prohibit a county from purchasing road machinery and equipment if it has adequate funds appropriated during any fiscal year for such purpose.

C. Whenever a county desires to lease or lease-purchase road machinery and equipment with funds from the County Road Machinery and Equipment Revolving Fund, it shall notify the Department of Transportation of its requirements and specifications and shall provide a list of ~~local vendors interested in submitting bids from~~ which bids will be requested for the lease or lease-purchase agreements.

D. Upon receiving such notification from a county, the Department shall be authorized to purchase requested road machinery or equipment for lease or lease-purchase to that county or may lease or lease-purchase surplus or used road machinery and equipment to a county provided such road machinery or equipment meets the requirements and specifications of the requesting county.

E. If there are no funds available in the County Road Machinery and Equipment Revolving Fund, the Department of Transportation, upon notification that a county desires to lease or lease-purchase road machinery or equipment, shall ~~submit such notification and the road machinery or equipment requirements and specifications of the requesting county to the State Purchasing Division of the Office of Public Affairs. The Department of Transportation shall also certify to the county that there are no funds available in the County Road Machinery and Equipment Revolving Fund for such purposes and that the county's notification and road machinery or equipment requirements and specifications have been forwarded to the State Purchasing Division of the Office of Public Affairs.~~ The county may then request the Purchasing Director of the ~~Office of Public Affairs~~ Department of Central Services to solicit bids or request bids pursuant to the provisions of Section 1500 et seq. of Title 19 of the Oklahoma Statutes to lease or lease-purchase the requested road machinery or equipment ~~pursuant to the provisions of the Oklahoma Central Purchasing Act. The Purchasing Director of the Office of Public Affairs may reject any or all bids received for the lease or lease-purchase of said road machinery or equipment, provided any such bid accepted by the Purchasing Director shall meet the requirements and specifications of the requesting county.~~

F. When funds are available in the County Road Machinery and Equipment Revolving Fund the Department of Transportation shall, after receiving notification from a county desiring to lease or lease-purchase equipment, authorize the county to request bids

pursuant to the provisions of this act and allocate funds equal to the estimated cost of the equipment or machinery requested. However, if the lowest and best bid received by the county exceeds the estimated purchase price of the equipment or machinery, the county shall pay any difference above the estimated purchase price if accepted. The county shall use the bid procedure provided for in Section 1500 et seq. of Title 19 of the Oklahoma Statutes. The county shall forward the lowest and best bid received to the Department of Transportation which shall authorize the lease or lease-purchase of the equipment or machinery.

G. A county may enter into a full warranty lease contract for road machinery and equipment if the county has adequate funds appropriated during any fiscal year for such purpose. Whenever a county desires to enter into a full warranty lease contract for road machinery or equipment, the county must notify the State Auditor and Inspector of its intent and must provide the State Auditor and Inspector with its requirements and specifications along with the proper documentation to be advertised for bids. Upon receiving the notification and documentation from a county, the State Auditor and Inspector shall review the documentation and, upon approval, shall forward the documentation and specifications to the State Purchasing Division of the Office of Public Affairs. The Purchasing Director of the Office of Public Affairs shall solicit bids to lease the requested road machinery or equipment according to the documentation and specifications of the county as approved by the State Auditor and Inspector. The term of any full warranty lease contract authorized pursuant to this subsection may be for any period up to one (1) year, provided the term shall not extend beyond the end of any fiscal year, with an option to renew such lease subject to the requirement that adequate funds are appropriated during the fiscal year by the county for such purpose. The State Auditor and Inspector shall prescribe the lease forms and other documentation necessary for implementing the provisions of this subsection.

~~G.~~ H. Except as provided in subsection ~~F~~ G of this section, the Department of Transportation shall promulgate such rules and regulations and is authorized to require from the counties such information, forms and reports as are necessary for properly and efficiently administering Sections 636.1 through 636.7 of this title.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 636.5, is amended to read as follows:

Section 636.5 A. Any county leasing road machinery and equipment from the Department of Transportation shall use and care for said machinery and equipment in a careful and prudent manner and shall pay all operating and maintenance expenses including any and all repairs during the time said machinery or equipment is in its possession.

B. The leasing county assumes all risk and liability for and shall hold the Department of Transportation and its agents harmless from all damages to property and injuries and death to persons arising out of the use, possession or transportation of said road machinery or equipment.

C. ~~At the expiration of the term of lease, unless the road machinery or equipment is to be leased again by or sold to the county as provided herein, it shall be returned to the Department of Transportation in as good condition as when received, reasonable wear and tear excepted. If, upon its return, the road machinery or equipment is not in such good condition, the Department may repair it and the county shall pay the cost of any such repairs at the Department's regular shop rates~~ When road machinery or equipment is

returned to the Department of Transportation prior to the payment in full of the contract purchase price the county must notify the Department of Transportation and request an inspection and appraisal of any such unit of equipment or machinery. At the appointed time of inspection of equipment or machinery being returned, a county commissioner, a Department representative and an independent appraiser will determine the fair market value of said equipment and machinery.

Should the appraised value not meet or exceed the balance remaining on the contract for lease-purchase, the county shall be assessed the difference and shall not be permitted to participate in the County Road Machinery and Equipment Revolving Fund until such difference is paid in full. The extent of the financial obligation by the county will be based on the appraisal of equipment and road machinery at the time of inspection.

The county may elect to remedy any deficiencies noted at the inspection meeting and request a subsequent inspection and appraisal after the deficiencies are corrected.

D. All risk physical damage insurance shall be carried on all equipment and road machinery purchased through the County Road Machinery and Equipment Revolving Fund. The Department is authorized to arrange such coverage and include the cost of premium in the lease-purchase contract. The county is authorized to request such coverage through the Department or provide said coverage through a county insurance plan.

SECTION 3. AMENDATORY 69 O.S. 1991, Section 636.7, is amended to read as follows:

Section 636.7 A. The Department of Transportation is hereby authorized to acquire space for storing road machinery and equipment while not in possession of a county and to pay the necessary costs thereof from the County Road Machinery and Equipment Revolving Fund.

~~B. When any unit of road machinery or equipment is returned to the Department, the Department is authorized to recondition the unit and pay the necessary costs for its reuse or sale from the County Road Machinery and Equipment Revolving Fund.~~

~~C.~~ Any costs or expenses necessarily incurred by the Department of Transportation in the administration of the foregoing provisions relating to the County Road Machinery and Equipment Revolving Fund shall be paid from said fund.

~~D.~~ C. Any costs or expenses necessarily incurred by the Department of Transportation in the administration of a county inventory system for materials, supplies and equipment used for the construction and maintenance of roads and bridges as provided in Section 658 of this title may be paid from the County Road Machinery and Equipment Revolving Fund.

SECTION 4. AMENDATORY 69 O.S. 1991, Section 302.1, is amended to read as follows:

Section 302.1 A. There is hereby created the Department of Transportation County Advisory Board. The Board shall be made up of nine (9) county commissioners selected by the Association of County Commissioners of Oklahoma. One member shall be elected from each of the eight districts of the Association of County Commissioners of Oklahoma and one member shall be selected at large by the other eight members. Each member shall hold office for a two-year term or until the successor of the member takes office. Their term of office shall begin on July 1 of the succeeding fiscal year. It shall be the duty of the Board to act in an advisory capacity to the Director of the Department of Transportation. The Board shall review the County Road and Bridge Programs of the Department. The Board shall meet no less than on a quarterly basis with the Director

of the Department of Transportation and the staff of the Director to discuss areas of mutual concern.

B. The Board is authorized to develop the following criteria for the County Road Machinery and Equipment Revolving Fund:

1. Establish estimated purchase prices for equipment and road machinery;

2. Establish amortization schedules for all equipment and road machinery;

3. Establish a list of independent appraisers to be used for equipment and road machinery inspections;

4. Establish the County Funding Classification Designation priority list;

5. Establish the method, manner and expense of marking or identifying all equipment and road machinery; and

6. Establish a list of items which are to be purchased from the state purchase list.

C. The Board will have the authority to determine the financial obligation of a county when road machinery or equipment is destroyed by an act of God or other unforeseen occurrence.

SECTION 5. This act shall become effective September 1, 1993.

Passed the House of Representatives the 13th day of April, 1993.

Speaker of the House of
Representatives

Passed the Senate the 30th day of March, 1993.

President of the Senate