

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1376

By: Plunk

COMMITTEE SUBSTITUTE

An Act relating to counties and county officers; amending 19 O.S. 1991, Section 339, as last amended by Section 1, Chapter 200, O.S.L. 2000 and Section 1501, as last amended by Section 1, Chapter 210, O.S.L. 2000 (19 O.S. Supp. 2000, Sections 339 and 1501), which relate to general powers of the board and duties of county purchasing agent; adding a certain power for the board; adding a certain exception to bidding procedures; amending 47 O.S. 1991, Section 14-113, which relates to restrictions on the use of highways; updating language; adding certain reason for restriction; providing for certain notice exception; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 1991, Section 339, as last amended by Section 1, Chapter 200, O.S.L. 2000 (19 O.S. Supp. 2000, Section 339), is amended to read as follows:

Section 339. A. The county commissioners shall have power:

1. To make all orders respecting the real property of the county, to sell the public grounds of the county and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all the interests of the county in such grounds when an order made for the sale and a deed is executed in the name of the county by the chair of the board of county commissioners, reciting the order, and signed by the chair and acknowledged by the county clerk for and on behalf of the county;

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit;

3. To construct and repair bridges and to open, lay out and vacate highways: Provided, however, that when any state institution, school or department shall own, lease or otherwise control land on both sides of any established highway, the governing board or body of the same shall have the power to vacate, alter or relocate the highway adjoining the property in the following manner:

If it should appear that it would be to the best use and interest of such institution, school or department to vacate, alter or relocate such highway, the governing board or body shall notify the board of county commissioners, in writing, of their intention to hold a public hearing and determine whether to vacate, alter or relocate such highway, setting forth the location and terminals of the road, and all data concerning the proposed right-of-way if changed or relocated, and shall give fifteen (15) days' notice of such hearing by publication in some newspaper in the county or counties in which the road is located, and such hearing shall be held at the county seat of the county in which the road is located, and if a county line road, may be heard in either county. At such hearing testimony may be taken, and any protests or suggestions shall be received as to the proposed measure, and at the conclusion thereof if the governing board or body shall find that it would be to the best use and interest of such institution, school or department, and the public generally, they may make an appropriate order either vacating, altering or relocating the highway, which order shall be final if approved by the board of county commissioners. Such institution, school or department may by agreement share the cost of changing any such road. No property owner shall be denied access to a public highway by such order;

4. To protect and preserve the county roads and bridges within their jurisdiction by providing clearly marked routes for overweight loads. The board may restrict loads according to the design construction of a road or bridge. To restrict overweight loads by route designation or design construction, written notice shall be given to the Department of Public Safety as provided for in Section 113 of Title 47 of the Oklahoma Statutes. The board may restrict loads on county roads because of snow, rain or other weather conditions, and the restrictions shall remain in effect until conditions improve. Notice of restrictions shall be posted with temporary signs or by public notice through available news media and public broadcast. Local enforcement of violations shall not exceed state law;

5. Until January 1, 1983, to furnish necessary blank books, plats, blanks and stationery for the clerk of the district court, county clerk, register of deeds, county treasurer and county judge, sheriff, county surveyor and county attorney, justices of the peace, and constables, to be paid for out of the county treasury; also a fireproof vault sufficient in which to keep all the books, records, vouchers and papers pertaining to the business of the county;

~~5.~~ 6. To set off, organize and change the boundaries of townships and to designate and give names therefor: Provided, that the boundaries of no township shall be changed within six (6) months next preceding a general election;

~~6.~~ 7. To lease tools, apparatus, machinery or equipment of the county to another political subdivision or a state agency. The Association of County Commissioners of Oklahoma, the Oklahoma State University Center for Local Government Technology and the Office of the State Auditor and Inspector, together, shall establish a system of uniform rates for the leasing of such tools, apparatus, machinery and equipment;

~~7.~~ 8. To jointly, with other counties, buy heavy equipment and to loan or lease such equipment across county lines;

~~8.~~ 9. To develop minimum personnel policies for the county with the approval of a majority of all county elected officers;

~~9.~~ 10. To purchase, rent, or lease-purchase uniforms, safety devices and equipment for the officers and employees of the county and, provide incentive awards for safety related job performance. However, no employee shall be recognized more than once per calendar year and the award shall not exceed the value of One Hundred Dollars (\$100.00). The county commissioners may pay for any safety training or safety devices and safety equipment out of the general county funds or any county highway funds available to the county commissioners;

~~10.~~ 11. To provide for payment of notary commissions, filing fees, and the cost of notary seals and bonds;

~~11.~~ 12. To do and perform such other duties and acts that the board of county commissioners may be required by law to do and perform;

~~12.~~ 13. To make purchases at a public auction pursuant to the county purchasing procedures in subsection D of Section 1505 of this title;

~~13.~~ 14. To deposit interest income from highway funds in the general fund of the county;

~~14.~~ 15. To submit sealed bids for the purchase of equipment from this state, or any agency or political subdivision of this state;

~~15.~~ 16. To utilize county owned equipment, labor and supplies at their disposal on property owned by the county, public schools, state and unincorporated towns and cities with populations less than two thousand five hundred (2,500), the county may be reimbursed expenses related to any particular project upon the development and agreement of the work order;

~~16.~~ 17. To enter into intergovernmental cooperative agreements with the federally recognized Indian tribes within this state to address issues of construction and maintenance of streets, roads, bridges and highways exclusive of the provisions of Section 1221 of Title 74 of the Oklahoma Statutes; and

~~17.~~ 18. To execute hold harmless agreements with the lessor in the manner provided by subsection B of Section 636.5 of Title 69 of the Oklahoma Statutes when leasing or lease-purchasing equipment.

B. The county commissioners of a county or, in counties where there is a county budget board, the county budget board may designate money from general county funds for the designated purpose of drug enforcement and drug abuse prevention programs within the county.

C. When any lease or lease purchase is made on behalf of the county by the board pursuant to the provisions of this section, the county shall be allowed to have trade in values for transactions involving the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes.

D. In order to timely comply with the Oklahoma Vehicle License and Registration Act with regard to county vehicles, the board of county commissioners may, by resolution, create a petty cash account. The board of county commissioners may request a purchase order for petty cash in an amount necessary to pay the expense of license and registration fees for county motor vehicles. Any balance in the petty cash account after the license and registration fees have been paid shall be returned to the account or fund from which the funds originated. The county purchasing agent shall be the custodian of the petty cash account, and the petty cash account shall be subject to audit.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 1501, as last amended by Section 1, Chapter 210, O.S.L. 2000 (19 O.S. Supp. 2000, Section 1501), is amended to read as follows:

Section 1501. A. The county purchasing agent:

1. Shall, within the amount of the unencumbered balance, make all purchases that are paid from county funds for the various institutions, departments, officers, and employees of the county, except at public auctions and as otherwise provided for by law;

2. May make purchases for political subdivisions of this state within the county if authorized by appropriate action of the governing board or body of the political subdivision affected;

3. Shall make purchases and rental or lease-purchase agreements only after following the bidding procedures as provided for by law, except:

- a. when the purchase does not exceed Five Thousand Dollars (\$5,000.00). All purchases made pursuant to this subparagraph shall be by a single purchase order. Splitting purchase orders which would result in paying an amount in excess of the limitations specified in this subparagraph is expressly prohibited. Any person convicted of violating the provisions of this subparagraph shall be guilty of a misdemeanor and such person shall forfeit the person's position or office,
- b. when the total payments of a rental or lease-purchase agreement do not exceed Five Thousand Dollars (\$5,000.00),
- c. when articles and items are covered by single source contracts,
- d. service or maintenance contracts on equipment or machinery which are entered into at the time of the purchase of the equipment or machinery,
- e. purchases made pursuant to a blanket purchase order as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes,

- f. when materials for road or bridge improvements do not exceed Three Dollars (\$3.00) per yard or per ton,
- g. purchases of fuel if the county purchasing agent obtains telephone quotes from at least three vendors prior to the purchase and the lowest and best quote is selected. Documentation of these quotes shall be recorded in the permanent records of the clerk,
- h. purchases of tools, apparatus, machinery or equipment from a state agency or a political subdivision of the state as provided for in subsection C of Section 421.1 of this title,
- i. purchases of food for prisoners incarcerated in the county jail; provided, in counties having a population in excess of one hundred thousand (100,000) persons, the county purchasing agent shall follow bidding procedures as provided by law unless the county purchasing agent obtains telephone quotes pursuant to the whole total of food items requisitioned prior to the purchase and the lowest and best quote is selected. Documentation of these quotes shall be recorded in the permanent records of the county clerk,
- j. when a county solicits bids for the purchase of processed native materials for road and bridge improvements, the county may accept all bids received, with the lowest and best bid from those accepted to be selected at the time of opening of any construction project. The selection of the bid shall be based upon availability, bid price, plus transportation costs,
- k. when a vendor has been selected as the lowest and best bidder to furnish a particular item or items to the county during a specified time period and in the event the vendor is unable to perform, the purchasing agent

may solicit telephone quotes for the item or items needed from the list of qualified bidders and provide for the purchase of the items at the lowest and best quote available,

- l. when considering the purchase of an item or items from the state bid list as provided by the Department of Central Services, if the same exact item is available from a local vendor at or below the price listed on the state bid list, the item may be obtained from the vendor,
- m. any item or items bid by the Department of Central Services which may be purchased by the county, provided the vendor is willing to supply the item or items to the county at the bid price,
- n. when an item or items have been competitively bid by a county, or on behalf of a group of contiguous counties, provided:
 - (1) the notice to bidders shall list each county which may participate in the purchase of the item or items being bid,
 - (2) the notice of bid is advertised, as provided by law, in each of the counties which may participate in the purchase of the item or items,
 - (3) all vendors on the list of qualified bidders of each participating county who offer the item or items for sale received notice of the bid request, and
 - (4) the vendor awarded the bid is willing and able to provide the item or items at the bid price.

If the exact item is available from a local vendor at or below the bid price, the item may be obtained from the local vendor; ~~or,~~

- o. counties may participate in a nationwide office supply and office equipment purchasing program sponsored by the national association representing counties, or
- p. when the Governor declares an emergency in a county, the district attorney of that county shall have the authority to temporarily waive competitive bidding procedures for purchases that may expedite a response to the emergency situation. This temporary waiver shall be in addition to any powers exercised pursuant to Section 683.11 of Title 63 of the Oklahoma Statutes.

The purchases shall be paid by attaching properly itemized invoices, as described in Section 1505 of this title, to a purchase order which has been prepared by the county purchasing agent and submitting both to the county clerk for filing, encumbering, and consideration for payment by the board of county commissioners;

4. Shall not furnish any supplies, materials, equipment, or other articles, except upon receipt of a requisition signed by a county officer. Written requisitions will not be required for blanket purchase orders as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes. Each county officer may designate not more than two employees who also shall be authorized to sign requisitions in the absence of the county officer. A written designation of the employees shall be filed with the county clerk and shall be entered in the minutes of the board of county commissioners;

5. Shall make lease or lease-purchase agreements for road machinery and equipment if the county has adequate funds appropriated during any fiscal year for such purpose and only after following the bidding procedures as provided for in Section 1505 of this title. The term of any lease or lease-purchase agreement authorized pursuant to this paragraph 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 agreement subject to the requirement that adequate funds are appropriated during the fiscal year by the county for such purpose. The State Auditor and Inspector's office shall be notified by the county of the terms and conditions of a lease or lease-purchase agreement authorized pursuant to this paragraph before any such agreement is made by the county purchasing agent; and

6. Shall perform such other duties as may be delegated by the appointing authority or as may be provided for by law.

B. Each department of county government needing repairs to equipment, machinery or vehicles shall make estimates and requisition a purchase order from the county purchasing agent for repairs not in excess of Two Thousand Five Hundred Dollars (\$2,500.00). Repairs in excess of Two Thousand Five Hundred Dollars (\$2,500.00), shall be submitted on a blanket purchase order as provided in Section 310.8 of Title 62 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 14-113, is amended to read as follows:

Section 14-113. The Director of the Department of ~~Highways~~ Transportation with respect to highways on the state highway system or local authorities with respect to highways under their jurisdiction, as defined in Title 69, may prohibit the operation of vehicles on any such highways, or impose restrictions as to the weights of vehicles to be operated upon any state or federal highway or any detour established for such highways, or for any bridge located upon such highways or detours, whenever any such highway, detour or bridge for reason of preservation by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight reduced. Such restrictions shall be effective when signs giving notice thereof are erected upon

the highway, detour, bridge, or portion thereof affected by such action, and the Department of Public Safety has been notified, except as provided in Section 339 of Title 19 of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 2001.

48-1-6483 MD 6/12/15