

ENROLLED SENATE  
BILL NO. 534

By: Crutchfield of the Senate

and

Taylor and Case of the  
House

An Act relating to counties; authorizing plats to be filed in certain format; amending 19 O.S. 2001, Section 510, which relates to county sheriff qualifications; providing penalty for failure to complete sheriff's administrative school; amending 20 O.S. 2001, Section 1210, which relates to reports and penalties; removing requirement to file copy of certain report; amending 42 O.S. 2001, Section 147.1, which relates to discharge of lien; providing for forfeiture of certain deposit under specified circumstances; amending 60 O.S. 2001, Section 176, as amended by Section 1, Chapter 39, O.S.L. 2002 (60 O.S. Supp. 2002, Section 176), which relates to certain trusts; specifying membership of certain entity; amending 68 O.S. 2001, Section 3104, which relates to tax warrants; specifying officer to receive certain warrants; removing certain duties of county treasurer; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.3 of Title 19, unless there is created a duplication in numbering, reads as follows:

All plats, subdivision plats or re-plats may be filed, at the option of the county assessor, in digital electronic format with the county assessor of the county in which the property is located. The digital electronic format shall meet the specifications of the county assessor.

SECTION 2. AMENDATORY 19 O.S. 2001, Section 510, is amended to read as follows:

Section 510. Any person, otherwise qualified, who has been a resident of the State of Oklahoma for two (2) years, has been a registered voter of the party whose nomination he or she seeks, or a registered Independent, within the county from which such person seeks election for the six (6) months next preceding the first day of the filing period, is at least twenty-five (25) years of age next

preceding the date of filing for office, possesses at least a high school education, shall be eligible to hold the office of county sheriff or to file therefor. Provided, however, in counties with populations of five hundred thousand (500,000) or more, the person seeking election shall also be a current certified peace officer in good standing. Within twelve (12) months of taking office, all newly elected or appointed sheriffs shall complete a sheriff's administrative school which has been developed by the Oklahoma Sheriff's Association and which has been approved by the Council on Law Enforcement Education and Training (CLEET). Failure to complete the sheriff's administrative school within the specified period shall preclude the new sheriff from obtaining CLEET certification. New sheriffs with prior CLEET certification, who fail to attend the sheriff's administrative school, shall have their CLEET certification revoked. Provided, however, the provisions of this section relating to qualifications shall not apply to any person serving as a county sheriff or to any person previously serving as county sheriff prior to the adoption of this statute.

SECTION 3. AMENDATORY 20 O.S. 2001, Section 1210, is amended to read as follows:

Section 1210. The board of trustees, on August 1 of each year, shall prepare the following reports, a copy of which shall be filed with the Administrative Director of the Courts ~~and another copy with the State Auditor and Inspector:~~

1. A financial report showing the receipts and disbursements of money and the total amount in the fund at the end of the fiscal year, such report to be made on a form prescribed by the State Auditor and Inspector; and

2. An inventory report of all property, number of books, periodicals, and other publications on hand, the number added by purchase, gift or otherwise during the year, the number lost or missing, and such other information as is requested by the Administrative Director of the Courts.

The Administrative Director of the Courts may ~~from time to time~~ require additional reports ~~to be made~~ when ~~such are~~ deemed necessary in the discharge of ~~his~~ the Administrative Director of the Courts duties ~~hereunder~~.

SECTION 4. AMENDATORY 42 O.S. 2001, Section 147.1, is amended to read as follows:

Section 147.1 Any property owner or other interested party, including but not limited to mortgagees, contractors, subcontractors and others against whom a lien claim is filed under the provisions of the law relating to mechanics' and materialmen's liens, may at any time discharge the lien by depositing with the county clerk in whose office the lien claim has been filed either: An amount of money equal to one hundred twenty-five percent (125%) of the lien claim amount; or a corporate surety bond with a penal amount equal to one hundred twenty-five percent (125%) of the lien claim amount. Within three (3) business days after the deposit of money or bond is made, the county clerk shall serve upon the lien claimant, at the

address shown on the lien claim, written notice setting forth: The number of the lien claim; the name of the lien claimant; the name of the property owner; the name of the alleged debtor, if someone other than the property owner; the property description shown on the lien claim; and the amount of cash deposited or, if a bond is filed, the names of the principal and surety and the bond penalty. The party seeking to discharge the lien shall prepare and deliver the notice to the county clerk and pay a fee of Five Dollars (\$5.00) to cover the cost of filing and mailing. An abbreviated notice may be used if the same refers to and encloses a copy of the lien claim and either a copy of the cash receipt issued by the county clerk or a copy of the bond with the clerk's filing stamp thereon. The notice shall be mailed by registered or certified mail at the option of the county clerk.

If cash is deposited, the county clerk shall immediately show the lien released of record. If a bond is deposited, the lien claimant shall have ten (10) days after the notice is mailed within which to file a written objection with the county clerk. If a written objection is not timely filed the county clerk shall immediately show the lien released of record. If an objection is timely made, the county clerk shall set a hearing within ten (10) days thereafter and notify by ordinary mail both the lien claimant and the party making the deposit of the date and time thereof. The only grounds for objection shall be that: The surety is not authorized to transact business in this state; the bond is not properly signed; the penal amount is less than one hundred twenty-five percent (125%) of the claim; the power of attorney of the surety's attorney-in-fact does not authorize the execution; there is no power of attorney attached if the bond is executed by anyone other than the surety's president and attested by its secretary; or a cease and desist order has been issued against the surety either by the Insurance Commissioner or a court of competent jurisdiction. Within two (2) business days following the hearing the county clerk shall either sustain or overrule the objections and notify the parties of ~~his~~ the county clerk's ruling by ordinary mail. If the objections are sustained, the ruling of the county clerk shall be conclusive for lien release purposes unless appealed within ten (10) days to the district court. If the objections are overruled, the county clerk shall immediately show the lien released of record.

The bond shall: Name the lien claimant as obligee and the party seeking the release as principal; be executed by both the principal and the surety; have a proper power of attorney attached if executed by an attorney-in-fact; be executed by a corporate surety authorized to transact business in this state; and be conditioned that the principal and surety will pay the full amount of the claim as established in any appropriate court proceeding, plus any court costs and attorney's fees awarded the lien claimant, but in no event shall the liability of the principal or surety under the bond exceed the bond penalty. The preceding clause shall not limit the common law liability of the party who created the indebtedness upon which the lien claim is based. The conditions of any bond filed pursuant to this section shall be deemed to comply with the requirements hereof, regardless of the language or limitations set forth therein,

if both the principal and surety intend that the bond be filed to secure a lien release under this section.

The cash deposit or bond, as the case may be, shall stand in lieu of the released lien, and the lien claimant must proceed against the substituted security in the same time and manner as is required for foreclosure of a lien claim. The cash deposit or bond shall stand liable for such principal, interest, court costs and attorney's fees to the extent they could be awarded in a lien foreclosure proceeding.

The only proper parties to an action against the substituted security are: The party making the cash deposit; the bond principal and surety; the party primarily liable for the indebtedness giving rise to the lien claim; and anyone else who may be liable to the lien claimant for the same indebtedness. The party making the cash deposit and the bond principal and surety are necessary parties to an action against the substituted security, and by making a deposit or filing a bond the parties subject themselves to personal jurisdiction in the court where the action is properly filed and may be served with process as in other cases.

If the lien claimant fails to timely file a foreclosure action, upon application of the party making the deposit or filing the bond and the payment of a fee of Ten Dollars (\$10.00), the county clerk shall return the cash to the party making the deposit or appropriately note on the bond that the same has been released. The clerk shall not incur liability to any lien claimant for an inadvertent release of cash or bond. At the end of ten (10) years and after the county clerk has attempted written notification to the lien claimant at the address shown on the lien claim, if no foreclosure has been commenced by the lien claimant or such money has not been withdrawn upon application of the depositing party, the cash deposit plus all accrued interest shall be forfeited to the county general fund.

Nothing contained in this section shall preclude the lien claimant and other interested parties from entering into agreements for the substitution of a different form of security in lieu of the lien claim.

The county clerk shall invest the deposited cash in the manner provided for county treasurers in Section 348.1 of Title 62 of the Oklahoma Statutes. Any interest earned thereon shall become a part of the deposit and be either returned to the party making the deposit, if no action is filed, or paid in accordance with any final judgment rendered by the court in the action against the substituted security. If a district court judgment adverse to the depositing party is entered, in setting the amount of supersedeas bond the court shall take into consideration the existing cash deposit or bond.

SECTION 5. AMENDATORY 60 O.S. 2001, Section 176, as amended by Section 1, Chapter 39, O.S.L. 2002 (60 O.S. Supp. 2002, Section 176), 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 and all 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 and all combinations thereof, as the beneficiary thereof by:

1. The express approval of the Legislature and the Governor if the State of Oklahoma is the beneficiary;

2. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a county is a beneficiary;

3. The express approval of two-thirds (2/3) of the membership of the governing body of the beneficiary if a municipality is a beneficiary; or

4. The express approval of two-thirds (2/3) of the membership of the governing body of each beneficiary in the event a trust has more than one beneficiary; provided, that no funds of a beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of the 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 mixed, of the beneficiary of the trust, or of a proposed trust, which property shall be needful for the execution of the trust purposes, are authorized and empowered to lease the property for those 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. The industrial development authority trust must already have the custody, management, or control of the real property. The 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 the 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 the trust; provided, that any amendment is subject to the approval of the Governor of the State of Oklahoma. Any 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 the indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of the beneficiary. In the event a trust has more than one beneficiary, as authorized by this section, the trust shall not incur an indebtedness or obligation until the 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 the trust.

F. All bonds described in subsection E of this section, after December 1, 1976, 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; provided, competitive bidding may be waived 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, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required, or three-fourths (3/4) vote of the governing bodies of each of the beneficiaries of the trust, unless one of the beneficiaries is a county in which case a two-thirds (2/3) vote of the members of the governing body of such county shall be required. No bonds shall be sold for less than par value, except upon approval of three-fourths (3/4) of the trustees, unless the beneficiary is a county in which case a two-thirds (2/3) vote of the members of the governing body shall be required. 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 the bonds by the purchaser of the 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 the 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. Any estimates shall be considered a public record of the 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 file annually, with their respective beneficiaries, copies of financial documents and reports sufficient to demonstrate the fiscal activity of such trust, including, but not limited to, budgets, financial reports, bond indentures, and audits. Amendments to the adopted budget shall be approved by the trustees of the public trust and recorded as such in the official minutes of such trust.

H. Contracts for construction, labor, equipment, material or repairs in excess of Twenty-five Thousand Dollars (\$25,000.00) 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; the 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 Twenty-five Thousand Dollars (\$25,000.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then the 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. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly awarded by a governmental entity which is the beneficiary of the public trust.

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 or for projects for rail transportation. 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 the county, or contiguous to the county pursuant to the limitations imposed pursuant to this section.

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.

K. Any trust created under this act, in whole or in part, to operate, administer or oversee any county jail facility shall consist of not less than five members and include a county commissioner and the county sheriff, or their designee, and one member appointed by each of the county commissioners. The appointed members shall not be elected officials.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 3104, is amended to read as follows:

Section 3104. A. 1. The county treasurer shall issue tax warrants for the collection of delinquent personal taxes upon demand of any person, or whenever the treasurer shall deem it advisable, on a form ~~as~~ prescribed by the State Auditor and Inspector, to the sheriff of the county in which the real or personal property is located for the collection of such delinquent personal taxes.

2. The tax warrant shall be issued or directed against any person or legal entity who had possession, control or an interest in personal property at the time the taxes were assessed.

3. The tax warrant shall command the sheriff to collect the amount due for unpaid taxes, penalties and interest thereon, cost of advertising, sheriff's collection fees and any other lawful fees on personal property belonging to the person to whom such taxes were assessed, and if no personal property is found, then upon any real property such person owns or in which ~~he~~ such person has an interest.

B. 1. The sheriff, upon receiving a tax warrant, shall levy said warrant and sell the property of the taxpayer in the manner and form as provided for the sale of personal and/or real property on execution.

2. The sheriff shall pay the total amount received from the sale of personal and/or real property to the county treasurer.

3. The tax warrant shall be returned by the sheriff within sixty (60) days after its issuance.

4. Failure to collect or return the tax warrant as provided in this section, shall subject the sheriff to the same penalties as provided by law for the failure to collect or return execution.

5. The sheriff shall be entitled to the same fees as are provided by law for like sales on execution.

~~C. 1. It shall be the duty of the county treasurer to forward a copy of the record of an existing personal tax lien, filed in the treasurer's personal tax lien docket, to the county treasurer of any county in Oklahoma where the delinquent taxpayer resides or possesses real or personal property.~~

~~2. The name and address of the delinquent taxpayer, together with the amount due for unpaid taxes, penalties, interest and cost, shall be recorded in the recipient county treasurer's personal tax lien docket. The treasurer of said county shall proceed with the collection of the delinquent taxes, interest, penalties and other lawful fees as herein provided. Upon receiving the total amount due, the county treasurer shall release the personal tax lien and forward the sum, less the lawful fees for collection, to the treasurer of the county where the tax lien originated.~~

SECTION 7. This act shall become effective November 1, 2003.

Passed the Senate the 29th day of April, 2003.

---

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of March, 2003.

---

Presiding Officer of the House  
of Representatives