

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 590

By: Laughlin of the Senate

and

Hickman of the House

6  
7  
8 COMMITTEE SUBSTITUTE

9  
10 An Act relating to counties and county officers;  
11 amending 11 O.S. 2001, Section 41-108, which relates  
12 to plat record specifications; providing for filing  
13 for reduced copy of plats; amending 19 O.S. 2001,  
14 Sections 171, 347, 1501, as last amended by Section  
15 2, Chapter 356, O.S.L. 2005, 1505, as amended by  
16 Section 6, Chapter 447, O.S.L. 2004 and 1704 (19 O.S.  
17 Supp. 2006, Sections 1501 and 1505), which relate to  
18 audits, certificates of indebtedness, equipment or  
19 vehicles, duties of the county purchasing agent,  
20 procedures for requisition, purchase, lease-purchase,  
21 rental and receipt of supplies, materials, and  
22 equipment for maintenance, operation, and capital  
23 expenditures of county government, and budget  
24 procedures for emergency medical service districts;  
providing for scope of audits; authorizing the  
destruction of certain records; prohibiting certain  
county officers from making certain changes in county  
computer software being used; deleting obsolete  
language used for county bid limits; requiring  
payment of certain purchases within a certain period  
of time; defining term; amending 42 O.S. 2001,  
Section 147.1, as amended by Section 4, Chapter 184,  
O.S.L. 2003 (42 O.S. Supp. 2006, Section 147.1),  
which relates to discharge of lien; making statutory  
reference; and providing an effective date.

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

2 SECTION 1. AMENDATORY 11 O.S. 2001, Section 41-108, is  
3 amended to read as follows:

4 Section 41-108. Any plat submitted for recording shall have the  
5 following specifications:

6 1. The dimensions of the plat shall be twenty-four (24) by  
7 thirty-six (36) inches or shall be a size that can be properly and  
8 conveniently folded to these dimensions and shall be drawn to a  
9 minimum scale of one hundred (100) feet to the inch; except that  
10 plats in which all lots contain a net area in excess of forty  
11 thousand (40,000) square feet, the plat may be drawn to a scale of  
12 two hundred (200) feet to the inch;

13 2. The drawing surface of the plat shall have a binding margin  
14 of two (2) inches at the left side of the plat, a margin of not less  
15 than one (1) inch at the right side, and a margin of not less than  
16 one and one-half (1 1/2) inches at the top and bottom;

17 3. The original tracing of each plat and two prints thereof and  
18 a reduced copy in the dimensions of eight and one-half (8 1/2)  
19 inches by eleven (11) inches shall be presented for recording;

20 4. The original plat shall be an original drawing made with  
21 india ink on a good grade linen tracing cloth, or with a suitable  
22 black acetate base ink on a stable polyester base film coated upon  
23 completion with a suitable plastic material to prevent flaking and  
24 to assure permanent legibility, or a print on a stable polyester

1 base film made by photographic processes from a film scribing tested  
2 for residual hypo with an approved hypo testing solution to assure  
3 permanency;

4 5. Marginal lines, standard certificates and approval forms may  
5 be printed or legibly stamped on the plat with permanent opaque  
6 black ink when permitted by local ordinance; and

7 6. The county clerk may require one of the prints to be a  
8 blueprint cloth and the other print to be a photographic matte film  
9 positive.

10 SECTION 2. AMENDATORY 19 O.S. 2001, Section 171, is  
11 amended to read as follows:

12 Section 171. Each county of this state shall every two (2)  
13 years have an audit made by the State Auditor and Inspector or his  
14 duly appointed deputy or deputies of all of the books, records and  
15 accounts of all the officers of each county of this state, which  
16 audit shall be general in its nature and shall include an audit of  
17 the books, records and accounts of all officers who collect or  
18 disburse monies, fees, fines or public charges of any kind including  
19 therein a tax roll audit, a claim audit, and an audit of each of the  
20 justices of peace within the county. An audit may include a  
21 performance audit, a financial audit, agreed-upon procedures,  
22 limited review, or examination of the books and records. In  
23 addition to the above, such State Auditor and Inspector may require  
24 an audit of the books and records of any county official or

1 | custodian of any of the funds of the county upon the death,  
2 | resignation or removal from office of any such county official,  
3 | covering a period from the date of the last general audit up to the  
4 | date of such death, resignation or removal therefrom.

5 |       Each biennial county audit shall cover the two preceding fiscal  
6 | years beginning as of July 1st immediately preceding the year in  
7 | which the appropriation is made for such general audit, provided,  
8 | that nothing herein shall prevent such State Auditor and Inspector  
9 | from causing an audit to be made for any prior year of all the  
10 | books, records and accounts of any such county official.

11 |       SECTION 3.       AMENDATORY       19 O.S. 2001, Section 347, is  
12 | amended to read as follows:

13 |       Section 347. A. With respect to counties seeking cash-flow  
14 | management during any fiscal year, any county may issue and deliver  
15 | certificates of indebtedness bearing a stated maturity date for the  
16 | purpose of participating in a short-term cash management program  
17 | pursuant to the provisions of Section 177.2 of Title 60 of the  
18 | Oklahoma Statutes to fund the estimated costs of operations, capital  
19 | expenditures or other lawful costs of the county, or any of its  
20 | public trusts as operator of its property, for the current fiscal  
21 | year. The proceeds of certificates of indebtedness shall be set  
22 | aside in a separate account and used only for the purpose of meeting  
23 | expenditures and obligations which would otherwise be lawfully  
24 | payable from the revenue certified by the county excise board. As

1 proceeds from the certificates are used to pay such lawful  
2 expenditures and obligations, the financial records of the county  
3 shall reflect the amounts of these obligations paid with such  
4 proceeds so that a like amount of revenue collected and available to  
5 the county may be used to repay the certificates of indebtedness, in  
6 whole or in part. The State Auditor and Inspector shall adopt  
7 uniform accounting procedures for use by the counties to ensure that  
8 the issuance of certificates of indebtedness and the use of the  
9 proceeds derived from these certificates will be documented and will  
10 not result in a district overspending its authorized budget. All  
11 certificates of indebtedness shall be issued, delivered and  
12 registered for payment in the specific manner designated by the  
13 State Auditor and Inspector; provided, any such certificates of  
14 indebtedness shall be made payable on any date within the then  
15 current fiscal year and may be purchased for value through the  
16 funding of uncollateralized investments made for the benefit of and  
17 on behalf of the county. Short-term cash management programs of any  
18 county may lawfully provide for the investment of note, bond or  
19 certificate proceeds by the issuer of the obligations with the  
20 benefit and use of such proceeds assured to the county when needed  
21 by the county. Monies remaining in any such investment agreement or  
22 investments may be applied to or credited for the payment of the  
23 certificate of indebtedness by trust instruction when due in a like  
24 and similar manner provided for the transfer of monies by subsection

1 J of Section 5-135 of Title 70 of the Oklahoma Statutes. In no case  
2 may a county participate in a short-term cash management program in  
3 any given fiscal year beyond that fiscal year. Monies received by a  
4 county pursuant to a short-term cash management program may be used  
5 only for those purposes for which other monies of the county may be  
6 lawfully expended.

7 B. It shall be unlawful for the board of county commissioners  
8 to issue any certificate of indebtedness, in any form, in payment of  
9 or representing or acknowledging any account, claim, or indebtedness  
10 against the county, or to make any contracts for or incur any  
11 indebtedness against the county in excess of the amount then  
12 unexpended and unencumbered of the sum appropriated for the specific  
13 item of estimated needs for such purpose theretofore made,  
14 submitted, and approved or authorized for such purpose by a bond  
15 issue. All warrants upon the county treasurer, for a county  
16 purpose, shall be issued upon the order of the board of county  
17 commissioners, drawn by the county clerk, signed by the chairman of  
18 the board, and attested by the signature of the county clerk, with  
19 the county seal attached. Each warrant shall designate the fund,  
20 department and appropriation account, and shall further show the  
21 nature of the indebtedness acknowledged by the allowance of the  
22 claim so paid.

23 C. Whenever a county ~~officer~~ officers holding an elective  
24 office will not immediately succeed ~~himself~~ themselves in said

1 office, it shall be unlawful for the board of county commissioners,  
2 during the first six months of the fiscal year in which said term of  
3 office expires, to approve claims for the operation of said office  
4 totaling in excess of one-half the amount allocated for the  
5 operation of said office during said fiscal year, unless approval in  
6 writing is obtained from the county excise board, and any claim in  
7 excess thereof and any warrant issued pursuant thereto shall be null  
8 and void.

9 D. It shall be unlawful for a county officer holding an  
10 elective office, who will not immediately succeed himself or herself  
11 in said office, to make any changes or alterations in the licensing  
12 or source code of computer software currently being used.

13 SECTION 4. AMENDATORY 19 O.S. 2001, Section 1501, as  
14 last amended by Section 2, Chapter 356, O.S.L. 2005 (19 O.S. Supp.  
15 2006, Section 1501), is amended to read as follows:

16 Section 1501. A. The county purchasing agent:

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

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

24

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

4            a. when the purchase does not exceed Ten Thousand Dollars  
5                    (\$10,000.00). All purchases made pursuant to this  
6                    subparagraph shall be by a single purchase order.

7                    Splitting purchase orders which would result in paying  
8                    an amount in excess of the limitations specified in  
9                    this subparagraph is expressly prohibited. Any person  
10                    convicted of violating the provisions of this  
11                    subparagraph shall be guilty of a misdemeanor and such  
12                    person shall forfeit the person's position or office,

13            b. when the total payments of a rental or lease-purchase  
14                    agreement do not exceed ~~Five Thousand Dollars~~  
15                    ~~(\$5,000.00)~~ the current bid limit as established in  
16                    subparagraph a of this paragraph,

17            c. when articles and items are covered by single source  
18                    contracts,

19            d. service or maintenance contracts on equipment or  
20                    machinery which are entered into at the time of the  
21                    purchase of the equipment or machinery,

22            e. purchases made pursuant to a blanket purchase order as  
23                    provided for in Section 310.8 of Title 62 of the  
24                    Oklahoma Statutes,



- 1 f. when materials for road or bridge improvements do not  
2 exceed Three Dollars (\$3.00) per yard or per ton,
- 3 g. purchases of fuel if the county purchasing agent  
4 obtains telephone quotes from at least three vendors  
5 prior to the purchase and the lowest and best quote is  
6 selected. Documentation of these quotes shall be  
7 recorded in the permanent records of the clerk,
- 8 h. purchases of tools, apparatus, machinery or equipment  
9 from a state agency or a political subdivision of the  
10 state as provided for in subsection C of Section 421.1  
11 of this title,
- 12 i. purchases of food for prisoners incarcerated in the  
13 county jail; provided, in counties having a population  
14 in excess of one hundred thousand (100,000) persons,  
15 the county purchasing agent shall follow bidding  
16 procedures as provided by law unless the county  
17 purchasing agent obtains telephone quotes pursuant to  
18 the whole total of food items requisitioned prior to  
19 the purchase and the lowest and best quote is  
20 selected. Documentation of these quotes shall be  
21 recorded in the permanent records of the county clerk,
- 22 j. when a county solicits bids for the purchase of  
23 processed native materials for road and bridge  
24 improvements, the county may accept all bids received,

1 with the lowest and best bid from those accepted to be  
2 selected at the time of opening of any construction  
3 project. The selection of the bid shall be based upon  
4 availability, bid price, plus transportation costs,

5 k. when a vendor has been selected as the lowest and best  
6 bidder to furnish a particular item or items to the  
7 county during a specified time period and in the event  
8 the vendor is unable to perform, the purchasing agent  
9 may solicit telephone quotes for the item or items  
10 needed from the list of qualified bidders and provide  
11 for the purchase of the items at the lowest and best  
12 quote available,

13 l. when considering the purchase of an item or items from  
14 the state bid list as provided by the Department of  
15 Central Services or the General Services  
16 Administration, if the same exact item is available  
17 from a local vendor at or below the price listed on  
18 the state bid list or the General Services  
19 Administration list, the item may be obtained from the  
20 vendor,

21 m. any item or items bid by the Department of Central  
22 Services which may be purchased by the county,  
23 provided the vendor is willing to supply the item or  
24 items to the county at the bid price,

1 n. when a county obtains proceeds from the sale of its  
2 property at a public auction, that county may use  
3 those proceeds to acquire items previously identified  
4 as needed by the county at the same public auction  
5 pursuant to subsection D of Section 1505 of this  
6 title,

7 o. when an item or items have been competitively bid by a  
8 county, or on behalf of a group of contiguous  
9 counties, provided:

10 (1) the notice to bidders shall list each county  
11 which may participate in the purchase of the item  
12 or items being bid,

13 (2) the notice of bid is advertised, as provided by  
14 law, in each of the counties which may  
15 participate in the purchase of the item or items,

16 (3) all vendors on the list of qualified bidders of  
17 each participating county who offer the item or  
18 items for sale received notice of the bid  
19 request, and

20 (4) the vendor awarded the bid is willing and able to  
21 provide the item or items at the bid price,

22 p. counties may participate in a nationwide purchasing  
23 program sponsored by the national association  
24 representing counties, or

1           q.    when the Governor declares an emergency in a county,  
2                    the district attorney of that county shall have the  
3                    authority to temporarily waive competitive bidding  
4                    procedures for purchases that may expedite a response  
5                    to the emergency situation.  This temporary waiver  
6                    shall be in addition to any powers exercised pursuant  
7                    to Section 683.11 of Title 63 of the Oklahoma  
8                    Statutes.

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

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

1           5. Shall make lease or lease-purchase agreements for road  
2 machinery and equipment if the county has adequate funds  
3 appropriated during any fiscal year for such purpose and only after  
4 following the bidding procedures as provided for in Section 1505 of  
5 this title. The term of any lease or lease-purchase agreement  
6 authorized pursuant to this paragraph may be for any period up to  
7 one (1) year, provided, the term shall not extend beyond the end of  
8 any fiscal year, with an option to renew such agreement subject to  
9 the requirement that adequate funds are appropriated during the  
10 fiscal year by the county for such purpose. The State Auditor and  
11 Inspector's office shall be notified by the county of the terms and  
12 conditions of a lease or lease-purchase agreement authorized  
13 pursuant to this paragraph before any such agreement is made by the  
14 county purchasing agent; and

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

17           B. Each department of county government needing repairs to  
18 equipment, machinery or vehicles shall make estimates and  
19 requisition a purchase order from the county purchasing agent for  
20 repairs not in excess of Two Thousand Five Hundred Dollars  
21 (\$2,500.00). Repairs in excess of Two Thousand Five Hundred Dollars  
22 (\$2,500.00), shall be submitted on a blanket purchase order as  
23 provided in Section 310.8 of Title 62 of the Oklahoma Statutes.  
24

1 SECTION 5. AMENDATORY 19 O.S. 2001, Section 1505, as  
2 amended by Section 6, Chapter 447, O.S.L. 2004 (19 O.S. Supp. 2006,  
3 Section 1505), is amended to read as follows:

4 Section 1505. The following procedures shall be used by  
5 counties for the requisition, purchase, lease-purchase, rental, and  
6 receipt of supplies, materials, and equipment for the maintenance,  
7 operation, and capital expenditures of county government unless  
8 otherwise provided for by law.

9 A. The procedure for requisitioning items for county offices  
10 shall be as follows:

11 1. The requesting department shall prepare a requisition form  
12 in triplicate. The requisition shall contain any specifications for  
13 an item as deemed necessary by the requesting department. The form  
14 shall be prescribed by the State Auditor and Inspector;

15 2. The requesting department shall retain a copy of the  
16 requisition and forward the original requisition and a copy to the  
17 county purchasing agent; and

18 3. Upon receipt of the requisition, the county purchasing  
19 agent, within two (2) working days, shall begin the bidding and  
20 purchasing process as provided for in this section. Nothing in this  
21 section shall prohibit the transfer of supplies, materials, or  
22 equipment between county departments upon a written agreement  
23 between county officers.

24

1 B. The bid procedure for selecting a vendor for the purchase,  
2 lease-purchase, or rental of supplies, materials, and equipment used  
3 by a county shall be as follows:

4 1. The county purchasing agent shall request written  
5 recommendations from all county officers pertaining to commonly used  
6 supplies, materials, and equipment. From such recommendations and  
7 available requisition, purchase, or inventory records, the county  
8 purchasing agent shall prepare a list of items commonly used by  
9 county officers. The county purchasing agent shall request from the  
10 Purchasing Division of the Department of Central Services all  
11 contracts quoting the price the state is paying for the items. The  
12 county purchasing agent shall either request the Purchasing Division  
13 of the Department of Central Services to make the purchase for the  
14 county or solicit bids for unit prices on the items for periods of  
15 not to exceed twelve (12) months in the manner described in  
16 paragraph 2 of this subsection. If the county purchasing agent  
17 receives a requisition for an item for which the county purchasing  
18 agent does not have a current bid, the county purchasing agent shall  
19 request from the Purchasing Division of the Department of Central  
20 Services all contracts quoting the price the state is paying for the  
21 item. The county purchasing agent shall either request the  
22 Purchasing Division of the Department of Central Services to make  
23 the purchase for the county or solicit bids in the manner described  
24 in paragraph 2 of this subsection. Nothing in this paragraph shall

1 prohibit bids from being taken on an item currently on a twelve-  
2 month bid list, at any time deemed necessary by the county  
3 purchasing agent. Whenever the county purchasing agent deems it  
4 necessary to take a bid on an item currently on a twelve-month bid  
5 list, the reason for the bid shall be entered into the minutes of  
6 the board of county commissioners;

7       2. Bids shall be solicited by mailing a notice to all persons  
8 or firms who have made a written request of the county purchasing  
9 agent that they be notified of such bid solicitation and to all  
10 other persons or firms who might reasonably be expected to submit  
11 bids. Notice of solicitation of bids shall also be published one  
12 time in a newspaper of general circulation in the county. Notices  
13 shall be mailed and published at least ten (10) days prior to the  
14 date on which the bids are opened. Proof of the mailing shall be  
15 made by the affidavit of the person mailing the request for bids and  
16 shall be made a part of the official records of the county  
17 purchasing agent. Whenever any prospective supplier or vendor  
18 dealing in or listing for sale any particular item or article  
19 required to be purchased or acquired by sealed bids fails to enter  
20 or offer a sealed bid for three successive bid solicitations, the  
21 name of the supplier or vendor may be dropped from the mailing lists  
22 of the board of county commissioners;

23       3. The sealed bids received from vendors and the state contract  
24 price received from the Purchasing Division of the Department of



1 Central Services shall be given to the county clerk by the county  
2 purchasing agent. The county clerk shall forward the sealed bids  
3 and state contract price, if any, to the board of county  
4 commissioners;

5 4. The board of county commissioners, in an open meeting, shall  
6 open the sealed bids and compare them to the state contract price.  
7 The board of county commissioners shall select the lowest and best  
8 bid based upon the availability of material and transportation cost  
9 to the job site within thirty (30) days of the meeting. For any  
10 special item not included on the list of commonly used items, the  
11 requisitioning official shall review the bids and submit a written  
12 recommendation to the board before final approval. The board of  
13 county commissioners shall keep a written record of the meeting as  
14 required by law, and any time the lowest bid was not considered to  
15 be the lowest and best bid, the reason for such conclusion shall be  
16 recorded. Whenever the board of county commissioners rejects the  
17 written recommendation of the requisitioning official pertaining to  
18 a special item, the reasons for the rejection shall be entered in  
19 their minutes and stated in a letter to the requisitioning official  
20 and county purchasing agent;

21 5. The county purchasing agent shall notify the successful  
22 bidders and shall maintain a copy of the notification. The county  
23 purchasing agent shall prepare and maintain a vendors list  
24 specifying the successful bidders and shall notify each county

1 officer of the list. The county purchasing agent may remove any  
2 vendor from such list who refuses to provide goods or services as  
3 provided by contract if the removal is authorized by the board of  
4 county commissioners. The county purchasing agent may make  
5 purchases from the successful bidders for a price at or below the  
6 bid price. If a vendor who is the low bidder cannot or will not  
7 sell goods or services as required by a county bid contract, the  
8 county purchasing agent may purchase from the next low bidder or  
9 take quotations as provided in paragraph 6 of this subsection,  
10 provided, however, such purchase does not exceed Five Thousand  
11 Dollars (\$5,000.00); and

12 6. When bids have been solicited as provided for by law and no  
13 bids have been received, the procedure shall be as follows:

14 a. the county purchasing agent shall determine if  
15 potential vendors are willing to commit to a firm  
16 price for a reduced period of time, and, if such is  
17 the case, the bid procedure described in this  
18 subsection shall be followed, or

19 b. if vendors are not willing to commit to a firm price  
20 for a reduced period, the purchasing agent shall  
21 solicit and record at least three quotes of current  
22 prices available to the county and authorize the  
23 purchase of goods based on the lowest and best quote  
24 as it becomes necessary to acquire such goods. The

1 quotes shall be recorded on a form prescribed by the  
2 State Auditor and Inspector and shall be attached to  
3 the purchase order and filed with the county clerk's  
4 copy of the purchase order. Any time the lowest quote  
5 was not considered to be the lowest and best quote,  
6 the reason for this conclusion shall be recorded by  
7 the county purchasing agent and transmitted to the  
8 county clerk, or

9 c. if three quotes are not available, a memorandum to the  
10 county clerk from the county purchasing agent shall  
11 describe the basis upon which a purchase is  
12 authorized. The memorandum shall state the reasons  
13 why the price for such a purchase is the lowest and  
14 best under the circumstances. The county clerk shall  
15 then attach the memorandum to the county clerk's copy  
16 of the purchase order and file both in the office of  
17 the county clerk.

18 C. After selection of a vendor, the procedure for the purchase,  
19 lease-purchase, or rental of supplies, materials, and equipment used  
20 by a county shall be as follows:

21 1. The county purchasing agent shall prepare a purchase order  
22 in quadruplicate and submit it with a copy of the requisition to the  
23 county clerk;

1 2. The county clerk shall then encumber the amount stated on  
2 the purchase order and assign a sequential number to the purchase  
3 order;

4 3. If there is an unencumbered balance in the appropriation  
5 made for that purpose by the county excise board, the county clerk  
6 shall so certify in the following form:

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

11 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

12 \_\_\_\_\_

13 County Clerk/Deputy

14 of \_\_\_\_\_ County.

15 In instances where it is impossible to ascertain the exact amount of  
16 the indebtedness sought to be incurred at the time of recording the  
17 encumbrance, an estimated amount may be used. No purchase order  
18 shall be valid unless signed by the county purchasing agent and  
19 certified by the county clerk; and

20 4. The county clerk shall file a copy of the purchase order and  
21 return the original purchase order and two copies to the county  
22 purchasing agent who shall file a copy, retain the other copy for  
23 the county road and bridge inventory officer if the purchase order  
24 is for the purchase of equipment, supplies, or materials for the

1 construction or maintenance of roads and bridges, and submit the  
2 original purchase order to the receiving officer of the requesting  
3 department.

4 D. 1. The procedure for the purchase of supplies, materials,  
5 and equipment at public auction or by sealed bid to be used by a  
6 county shall be as follows:

7 a. the county purchasing agent shall prepare a purchase  
8 order in quadruplicate and submit it with a copy of  
9 the requisition to the county clerk,

10 b. the county clerk shall then encumber the amount stated  
11 on the purchase order and assign a sequential number  
12 to the purchase order,

13 c. if there is an unencumbered balance in the  
14 appropriation made for that purpose by the county  
15 excise board, the county clerk shall so certify in the  
16 following form:

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

21 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

22 \_\_\_\_\_

23 County Clerk/Deputy

24 of \_\_\_\_\_ County.

1 In instances where it is impossible to ascertain the  
2 exact amount of the indebtedness sought to be incurred  
3 at the time of recording the encumbrance, an estimated  
4 amount may be used. No purchase order shall be valid  
5 unless signed by the county purchasing agent and  
6 certified by the county clerk, and

7 d. the county clerk shall file a copy of the purchase  
8 order and return the original purchase order and two  
9 copies to the county purchasing agent who shall file a  
10 copy, retain the other copy for the county road and  
11 bridge inventory officer if the purchase order is for  
12 the purchase of equipment, supplies, or materials for  
13 the construction or maintenance of roads and bridges,  
14 and submit the original purchase order to the  
15 receiving officer of the requesting department.

16 2. The procedure for the purchase of supplies, materials and  
17 equipment at a public auction when the purchase will be made with  
18 the proceeds from the sale of county property at the same public  
19 auction are as follows:

20 a. the purchasing agent shall cause such items being sold  
21 to be appraised in the manner determined in Section  
22 421.1 of this title,  
23  
24

- 1           b.    the county purchasing agent shall prepare a purchase  
2                   order in quadruplicate and submit it with a copy of  
3                   the requisition to the county clerk,
- 4           c.    the county clerk shall then encumber the amount of the  
5                   appraised value and any additional funds obligated by  
6                   the county on the purchase order and assign a  
7                   sequential number to the purchase order,
- 8           d.    the county clerk shall certify that the amount of the  
9                   encumbrance is equal to the appraised value of the  
10                  item being sold plus any additional funds obligated by  
11                  the county.  In effect the recording of the  
12                  encumbrance is an estimate that is authorized by law.  
13                  No purchase order shall be valid unless signed by the  
14                  county purchasing agent and certified by the county  
15                  clerk,
- 16          e.    the county clerk shall file a copy of the purchase  
17                  order and return the original purchase order and two  
18                  copies to the county purchasing agent who shall file a  
19                  copy, retain a copy for the county road and bridge  
20                  inventory officer if the purchase order is for the  
21                  purchase of equipment, supplies or materials for the  
22                  construction or maintenance of roads and bridges, and  
23                  submit the original purchase order to the receiving  
24                  officer of the requesting department, and

1 f. a purchase shall not be bid until such time that the  
2 appraised item or items are sold. Any item or items  
3 purchased shall not exceed the appraised value plus  
4 any additional funds obligated by the county or the  
5 actual selling price of the item or items, whichever  
6 is the lesser amount.

7 E. The procedure for the receipt of items shall be as follows:

8 1. A receiving officer for the requesting department shall be  
9 responsible for receiving all items delivered to that department;

10 2. Upon the delivery of an item, the receiving officer shall  
11 determine if a purchase order exists for the item being delivered;

12 3. If no such purchase order has been provided, the receiving  
13 officer shall refuse delivery of the item;

14 4. If a purchase order is on file, the receiving officer shall  
15 obtain a delivery ticket, bill of lading, or other delivery document  
16 and compare it with the purchase order. If any item is back  
17 ordered, the back order and estimated date of delivery shall be  
18 noted in the receiving report;

19 5. The receiving officer shall complete a receiving report in  
20 quadruplicate which shall state the quantity and quality of goods  
21 delivered. The receiving report form shall be prescribed by the  
22 State Auditor and Inspector. The person delivering the goods shall  
23 acknowledge the delivery by signature, noting the date and time;

24



1       6. The receiving officer shall file the original receiving  
2 report and submit:

- 3           a. the original purchase order and a copy of the
- 4                   receiving report to the county purchasing agent, and
- 5           b. a copy of the receiving report with the delivery
- 6                   documentation to the county clerk;

7       7. The county purchasing agent shall file the original purchase  
8 order and a copy of the receiving report;

9       8. Upon receipt of the original receiving report and the  
10 delivery documentation, the county clerk shall maintain a file until  
11 such time as an invoice is received from the vendor;

12       9. The invoice shall state the name and address of the vendor  
13 and must be sufficiently itemized to clearly describe each item  
14 purchased, the unit price when applicable, the number or volume of  
15 each item purchased, the total price, the total purchase price, and  
16 the date of the purchase;

17       10. Upon receipt of an invoice, the county clerk shall compare  
18 the following documents:

- 19           a. requisition,
- 20           b. purchase order,
- 21           c. invoice with noncollusion affidavit as required by
- 22                   law,
- 23           d. receiving report, and
- 24           e. delivery document.

1 The documents shall be available for public inspection during  
2 regular business hours; and

3 11. If the documents conform as to the quantity and quality of  
4 the items, the county clerk shall prepare a warrant for payment  
5 according to procedures provided for by law.

6 F. The following procedures are for the processing of purchase  
7 orders:

8 1. Purchase orders may be allowed and paid at the first meeting  
9 of the board of county commissioners ~~after~~ five (5) days ~~have~~  
10 ~~elapsed following the date of the filing of the purchase order~~ after  
11 presentation for payment, provided that purchase orders for the  
12 salaries of the county officers and their full-time assistants,  
13 deputies and employees may be allowed and paid immediately after  
14 filing;

15 2. The board of county commissioners shall consider the  
16 purchase orders so presented and act upon the purchase orders, by  
17 allowing in full or in part or by holding for further information or  
18 disallowing the same. The disposition of purchase orders shall be  
19 indicated by the board of county commissioners, showing the amounts  
20 allowed or disallowed and shall be signed by at least two members of  
21 the board of county commissioners. Any claim held over for further  
22 information shall be acted upon by allowing or disallowing same at  
23 any future meeting of the board held within seventy-five (75) days  
24 from the date of filing of the purchase order. Any purchase order

1 not acted upon within the seventy-five (75) days from the date of  
2 filing shall be deemed to have been disallowed, but such  
3 disallowance shall not prevent the refiling of the purchase order at  
4 the proper time; and

5 3. Whenever any allowance, either in whole or in part, is made  
6 upon any purchase order presented to the board of county  
7 commissioners and is accepted by the person making the claim, such  
8 allowance shall be a full settlement of the entire purchase order  
9 and provided that the cashing of warrant shall be considered as  
10 acceptance by the claimant.

11 G. The procedure upon consumption or disposal of supplies,  
12 materials, or equipment shall be as follows:

13 1. For consumable road or bridge items or materials, a monthly  
14 report of the road and bridge projects completed during such period  
15 shall be prepared and kept on file by the consuming department. The  
16 report shall contain a record of the date, the place, and the  
17 purpose for the use of the road or bridge items or materials. For  
18 purposes of identifying county bridges, the board of county  
19 commissioners shall number each bridge subject to its jurisdiction;  
20 and

21 2. For disposal of all equipment which originally cost more  
22 than Two Hundred Fifty Dollars (\$250.00), resolution of disposal  
23 shall be submitted by the officer on a form prescribed by the State  
24 Auditor and Inspector's Office to the board of county commissioners.

1 The approval of the resolution of disposal shall be entered into the  
2 minutes of the board.

3 H. Inventory forms and reports shall be retained for not less  
4 than two (2) years after all audit requirements for the state and  
5 federal government have been fulfilled and after any pending  
6 litigation involving the forms and reports has been resolved.

7 I. The procedures provided for in this section shall not apply  
8 when a county officer certifies that an emergency exists requiring  
9 an immediate expenditure of funds. Such an expenditure of funds  
10 shall not exceed Five Thousand Dollars (\$5,000.00). The county  
11 officer shall give the county purchasing agent a written explanation  
12 of the emergency. The county purchasing agent shall attach the  
13 written explanation to the purchase order. The purchases shall be  
14 paid by attaching a properly itemized invoice, as described in this  
15 section, to a purchase order which has been prepared by the county  
16 purchasing agent and submitting them to the county clerk for filing,  
17 encumbering, and consideration for payment by the board of county  
18 commissioners.

19 SECTION 6. AMENDATORY 19 O.S. 2001, Section 1704, is  
20 amended to read as follows:

21 Section 1704. As used in this act:

22 1. "Account" means an entity for recording specific revenues or  
23 expenditures, or for grouping related or similar classes of revenues  
24 and expenditures and recording them within a fund or department;

1           2. "Appropriation" means an authorization and allocation of  
2 money to be expended for a purpose;

3           3. "Audit" means a performance audit, a financial audit,  
4 agreed-upon procedures, limited review, or examination of the books  
5 and records;

6           4. "Board" means a board of trustees of an emergency medical  
7 service district created pursuant to the provisions of Section 9C of  
8 Article X of the Constitution of the State of Oklahoma;

9           ~~4.~~ 5. "Budget" means a plan of financial operations for a  
10 fiscal year, including an estimate of proposed expenditures for  
11 given purposes and the proposed means for financing them;

12           ~~5.~~ 6. "Budget summary" means a tabular listing of revenues by  
13 source and expenditures by fund and by department within each fund  
14 for the budget year;

15           ~~6.~~ 7. "Budget year" means the fiscal year for which a budget is  
16 prepared or being prepared;

17           ~~7.~~ 8. "Current year" means the year in which the budget is  
18 prepared and adopted, or the fiscal year immediately preceding the  
19 budget year;

20           ~~8.~~ 9. "Deficit" means the excess of the liabilities, reserves,  
21 contributions and encumbrances of a fund over its assets as  
22 reflected by its book of account;

23           ~~9.~~ 10. "Department" means a functional unit within a fund which  
24 carries on a specific activity;

1       ~~10.~~ 11. "District" means an emergency medical service district  
2 created pursuant to the provisions of Section 9C of Article X of the  
3 Constitution of the State of Oklahoma;

4       ~~11.~~ 12. "Estimated revenue" means the amount of revenues  
5 estimated to be received during the budget year in each fund for  
6 which a budget is prepared. Revenue includes any appropriated fund  
7 balance in the budget of revenues for a fund for the budget year;

8       ~~12.~~ 13. "Fiscal year" means the annual period for reporting  
9 fiscal operations which begins and ends on dates as the Legislature  
10 provides;

11       ~~13.~~ 14. "Fund" means an independent fiscal and accounting  
12 entity with a self-balancing set of accounts to record cash and  
13 other financial resources, together with all liabilities, which are  
14 segregated for the purpose of carrying on specific activities or  
15 attaining certain objectives, or as otherwise defined in current  
16 generally accepted accounting principles;

17       ~~14.~~ 15. "Fund balance" means the excess of the assets of a fund  
18 over its liabilities, reserves, contributions and encumbrances, as  
19 reflected by its books of account;

20       ~~15.~~ 16. "Immediate prior fiscal year" means the year preceding  
21 the current year;

22       ~~16.~~ 17. "Levy" means to impose ad valorem taxes or the total  
23 amount of ad valorem taxes for a purpose or entity;

24

1       ~~17.~~ 18. "Operating reserve" means that portion of the fund  
2 balance which has not been appropriated in a budget year. The  
3 "operating reserve" will be equivalent to the "unappropriated fund  
4 balance" in any fund for which a budget is prepared.

5       SECTION 7.       AMENDATORY       42 O.S. 2001, Section 147.1, as  
6 amended by Section 4, Chapter 184, O.S.L. 2003 (42 O.S. Supp. 2006,  
7 Section 147.1), is amended to read as follows:

8       Section 147.1 Any property owner or other interested party,  
9 including but not limited to mortgagees, contractors, subcontractors  
10 and others against whom a lien claim is filed under the provisions  
11 of the law relating to mechanics' and materialmen's liens, may at  
12 any time discharge the lien by depositing with the county clerk in  
13 whose office the lien claim has been filed either: An amount of  
14 money equal to one hundred twenty-five percent (125%) of the lien  
15 claim amount; or a corporate surety bond with a penal amount equal  
16 to one hundred twenty-five percent (125%) of the lien claim amount.  
17 Within three (3) business days after the deposit of money or bond is  
18 made, the county clerk shall serve upon the lien claimant, at the  
19 address shown on the lien claim, written notice setting forth: The  
20 number of the lien claim; the name of the lien claimant; the name of  
21 the property owner; the name of the alleged debtor, if someone other  
22 than the property owner; the property description shown on the lien  
23 claim; and the amount of cash deposited or, if a bond is filed, the  
24 names of the principal and surety and the bond penalty. The party

1 seeking to discharge the lien shall prepare and deliver the notice  
2 to the county clerk and pay a fee ~~of Five Dollars (\$5.00) to cover~~  
3 ~~the cost of filing and mailing~~ in accordance with Section 32 of  
4 Title 28 of the Oklahoma Statutes. An abbreviated notice may be  
5 used if the same refers to and encloses a copy of the lien claim and  
6 either a copy of the cash receipt issued by the county clerk or a  
7 copy of the bond with the clerk's filing stamp thereon. The notice  
8 shall be mailed by registered or certified mail at the option of the  
9 county clerk.

10 If cash is deposited, the county clerk shall immediately show  
11 the lien released of record. If a bond is deposited, the lien  
12 claimant shall have ten (10) days after the notice is mailed within  
13 which to file a written objection with the county clerk. If a  
14 written objection is not timely filed the county clerk shall  
15 immediately show the lien released of record. If an objection is  
16 timely made, the county clerk shall set a hearing within ten (10)  
17 days thereafter and notify by ordinary mail both the lien claimant  
18 and the party making the deposit of the date and time thereof. The  
19 only grounds for objection shall be that: The surety is not  
20 authorized to transact business in this state; the bond is not  
21 properly signed; the penal amount is less than one hundred  
22 twenty-five percent (125%) of the claim; the power of attorney of  
23 the surety's attorney-in-fact does not authorize the execution;  
24 there is no power of attorney attached if the bond is executed by



1 anyone other than the surety's president and attested by its  
2 secretary; or a cease and desist order has been issued against the  
3 surety either by the Insurance Commissioner or a court of competent  
4 jurisdiction. Within two (2) business days following the hearing  
5 the county clerk shall either sustain or overrule the objections and  
6 notify the parties of the county clerk's ruling by ordinary mail.  
7 If the objections are sustained, the ruling of the county clerk  
8 shall be conclusive for lien release purposes unless appealed within  
9 ten (10) days to the district court. If the objections are  
10 overruled, the county clerk shall immediately show the lien released  
11 of record.

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

1 hereof, regardless of the language or limitations set forth therein,  
2 if both the principal and surety intend that the bond be filed to  
3 secure a lien release under this section.

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

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

21 If the lien claimant fails to timely file a foreclosure action,  
22 upon application of the party making the deposit or filing the bond  
23 and the payment of a fee of Ten Dollars (\$10.00), the county clerk  
24 shall return the cash to the party making the deposit or

1 appropriately note on the bond that the same has been released. The  
2 clerk shall not incur liability to any lien claimant for an  
3 inadvertent release of cash or bond. At the end of ten (10) years  
4 and after the county clerk has attempted written notification to the  
5 lien claimant at the address shown on the lien claim, if no  
6 foreclosure has been commenced by the lien claimant or such money  
7 has not been withdrawn upon application of the depositing party, the  
8 cash deposit plus all accrued interest shall be forfeited to the  
9 county general fund.

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

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

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SECTION 8. This act shall become effective November 1, 2007.

51-1-7740 LRB 04/03/07