

1 ENGROSSED HOUSE
2 BILL NO. 2895

By: Walker of the House

and

Bingman of the Senate

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6 An Act relating to circuit engineering districts;
7 amending 51 O.S. 2001, Section 152, as last amended
8 by Section 21 of Enrolled Senate Bill No. 2113 of the
9 2nd Session of the 52nd Oklahoma Legislature, which
10 relates to The Governmental Tort Claims Act;
11 modifying definition; amending 69 O.S. 2001, Section
12 687.1, as amended by Section 1, Chapter 113, O.S.L.
13 2007 (69 O.S. Supp. 2009, Section 687.1), which
14 relates to circuit engineering districts; declaring
15 circuit engineering districts to be political
16 subdivisions of the state; and providing an effective
17 date.

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

19 SECTION 1. AMENDATORY 51 O.S. 2001, Section 152, as last
20 amended by Section 21 of Enrolled Senate Bill No. 2113 of the 2nd
21 Session of the 52nd Oklahoma Legislature, is amended to read as
22 follows:

23 Section 152. As used in The Governmental Tort Claims Act:

24 1. "Action" means a proceeding in a court of competent
jurisdiction by which one party brings a suit against another;

2. "Agency" means any board, commission, committee, department
or other instrumentality or entity designated to act in behalf of
the state or a political subdivision;

1 3. "Charitable health care provider" means a person who is
2 licensed, certified, or otherwise authorized by the laws of this
3 state to administer health care in the ordinary course of
4 business or the practice of a profession and who provides care
5 to a medically indigent person, as defined in paragraph 8 of
6 this section, with no expectation of or acceptance of
7 compensation of any kind;

8 4. "Claim" means any written demand presented by a claimant or
9 the claimant's authorized representative in accordance with this act
10 to recover money from the state or political subdivision as
11 compensation for an act or omission of a political subdivision or
12 the state or an employee;

13 5. "Claimant" means the person or the person's authorized
14 representative who files notice of a claim in accordance with The
15 Governmental Tort Claims Act. Only the following persons and no
16 others may be claimants:

17 a. any person holding an interest in real or personal
18 property which suffers a loss, provided that the claim
19 of the person shall be aggregated with claims of all
20 other persons holding an interest in the property and
21 the claims of all other persons which are derivative
22 of the loss, and that multiple claimants shall be
23 considered a single claimant,

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- 1 b. the individual actually involved in the accident or
2 occurrence who suffers a loss, provided that the
3 individual shall aggregate in the claim the losses of
4 all other persons which are derivative of the loss, or
5 c. in the case of death, an administrator, special
6 administrator or a personal representative who shall
7 aggregate in the claim all losses of all persons which
8 are derivative of the death;

9 6. "Community health care provider" means:

- 10 a. a health care provider who volunteers services at a
11 community health center that has been deemed by the
12 U.S. Department of Health and Human Services as a
13 federally qualified health center as defined by 42
14 U.S.C., Section 1396d(1)(2)(B),
15 b. a health provider who provides services to an
16 organization that has been deemed a federally
17 qualified look-alike community health center, and
18 c. a health care provider who provides services to a
19 community health center that has made application to
20 the U.S. Department of Health and Human Services for
21 approval and deeming as a federally qualified look-
22 alike community health center in compliance with
23 federal application guidance, and has received
24 comments from the U.S. Department of Health and Human

1 Services as to the status of such application with the
2 established intent of resubmitting a modified
3 application, or, if denied, a new application, no
4 later than six (6) months from the date of the
5 official notification from the U.S. Department of
6 Health and Human Services requiring resubmission of a
7 new application;

8 7. "Employee" means any person who is authorized to act in
9 behalf of a political subdivision or the state whether that person
10 is acting on a permanent or temporary basis, with or without being
11 compensated or on a full-time or part-time basis.

12 a. Employee also includes:

13 (1) all elected or appointed officers, members of
14 governing bodies and other persons designated to
15 act for an agency or political subdivision, but
16 the term does not mean a person or other legal
17 entity while acting in the capacity of an
18 independent contractor or an employee of an
19 independent contractor,

20 (2) from September 1, 1991, through June 30, 1996,
21 licensed physicians, licensed osteopathic
22 physicians and certified nurse-midwives providing
23 prenatal, delivery or infant care services to
24 State Department of Health clients pursuant to a

1 contract entered into with the State Department
2 of Health in accordance with paragraph 3 of
3 subsection B of Section 1-106 of Title 63 of the
4 Oklahoma Statutes but only insofar as services
5 authorized by and in conformity with the terms of
6 the contract and the requirements of Section 1-
7 233 of Title 63 of the Oklahoma Statutes, and

8 (3) any volunteer, full-time or part-time firefighter
9 when performing duties for a fire department
10 provided for in subparagraph j of paragraph 11 of
11 this section.

12 b. For the purpose of The Governmental Tort Claims Act,
13 the following are employees of this state, regardless
14 of the place in this state where duties as employees
15 are performed:

16 (1) physicians acting in an administrative capacity,

17 (2) resident physicians and resident interns

18 participating in a graduate medical education

19 program of the University of Oklahoma Health

20 Sciences Center, the College of Osteopathic

21 Medicine of Oklahoma State University, or the

22 Department of Mental Health and Substance Abuse

23 Services,
24

1 (3) faculty members and staff of the University of
2 Oklahoma Health Sciences Center and the College
3 of Osteopathic Medicine of Oklahoma State

4 University, while engaged in teaching duties,

5 (4) physicians who practice medicine or act in an
6 administrative capacity as an employee of an
7 agency of the State of Oklahoma,

8 (5) physicians who provide medical care to inmates
9 pursuant to a contract with the Department of
10 Corrections,

11 (6) any person who is licensed to practice medicine
12 pursuant to Title 59 of the Oklahoma Statutes,
13 who is under an administrative professional
14 services contract with the Oklahoma Health Care
15 Authority under the auspices of the Oklahoma
16 Health Care Authority Chief Medical Officer, and
17 who is limited to performing administrative
18 duties such as professional guidance for medical
19 reviews, reimbursement rates, service
20 utilization, health care delivery and benefit
21 design for the Oklahoma Health Care Authority,
22 only while acting within the scope of such
23 contract,

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1 (7) licensed medical professionals under contract
2 with city, county, or state entities who provide
3 medical care to inmates or detainees in the
4 custody or control of law enforcement agencies,
5 and

6 (8) licensed mental health professionals as defined
7 in Sections 1-103 and 5-502 of Title 43A of the
8 Oklahoma Statutes, who are conducting initial
9 examinations of individuals for the purpose of
10 determining whether an individual meets the
11 criteria for emergency detention as part of a
12 contract with the Department of Mental Health and
13 Substance Abuse Services.

14 Physician faculty members and staff of the University
15 of Oklahoma Health Sciences Center and the College of
16 Osteopathic Medicine of Oklahoma State University not
17 acting in an administrative capacity or engaged in
18 teaching duties are not employees or agents of the
19 state.

20 c. Except as provided in subparagraph b of this
21 paragraph, in no event shall the state be held liable
22 for the tortious conduct of any physician, resident
23 physician or intern while practicing medicine or
24 providing medical treatment to patients;

1 8. "Loss" means death or injury to the body or rights of a
2 person or damage to real or personal property or rights therein;

3 9. "Medically indigent" means a person requiring medically
4 necessary hospital or other health care services for the person or
5 the dependents of the person who has no public or private third-
6 party coverage, and whose personal resources are insufficient to
7 provide for needed health care;

8 10. "Municipality" means any incorporated city or town, and all
9 institutions, agencies or instrumentalities of a municipality;

10 11. "Political subdivision" means:

- 11 a. a municipality,
- 12 b. a school district,
- 13 c. a county,
- 14 d. a public trust where the sole beneficiary or
15 beneficiaries are a city, town, school district or
16 county. For purposes of The Governmental Tort Claims
17 Act, a public trust shall include:

- 18 (1) a municipal hospital created pursuant to Sections
19 30-101 through 30-109 of Title 11 of the Oklahoma
20 Statutes, a county hospital created pursuant to
21 Sections 781 through 796 of Title 19 of the
22 Oklahoma Statutes, or is created pursuant to a
23 joint agreement between such governing
24 authorities, that is operated for the public

1 benefit by a public trust created pursuant to
2 Sections 176 through 180.4 of Title 60 of the
3 Oklahoma Statutes and managed by a governing
4 board appointed or elected by the municipality,
5 county, or both, who exercises control of the
6 hospital, subject to the approval of the
7 governing body of the municipality, county, or
8 both,

9 (2) a public trust created pursuant to Sections 176
10 through 180.4 of Title 60 of the Oklahoma
11 Statutes after January 1, 2009, the primary
12 purpose of which is to own, manage, or operate a
13 public acute care hospital in this state that
14 serves as a teaching hospital for a medical
15 residency program provided by a college of
16 osteopathic medicine and provides care to
17 indigent persons, and

18 (3) a corporation in which all of the capital stock
19 is owned, or a limited liability company in which
20 all of the member interest is owned, by a public
21 trust,

22 e. for the purposes of The Governmental Tort Claims Act
23 only, a housing authority created pursuant to the
24 provisions of the Oklahoma Housing Authority Act,

- 1 f. for the purposes of The Governmental Tort Claims Act
2 only, corporations organized not for profit pursuant
3 to the provisions of the Oklahoma General Corporation
4 Act for the primary purpose of developing and
5 providing rural water supply and sewage disposal
6 facilities to serve rural residents,
- 7 g. for the purposes of The Governmental Tort Claims Act
8 only, districts formed pursuant to the Rural Water,
9 Sewer, Gas and Solid Waste Management Districts Act,
- 10 h. for the purposes of The Governmental Tort Claims Act
11 only, master conservancy districts formed pursuant to
12 the Conservancy Act of Oklahoma,
- 13 i. for the purposes of The Governmental Tort Claims Act
14 only, a fire protection district created pursuant to
15 the provisions of Section 901.1 et seq. of Title 19 of
16 the Oklahoma Statutes,
- 17 j. for the purposes of The Governmental Tort Claims Act
18 only, a benevolent or charitable corporate volunteer
19 or full-time fire department for an unincorporated
20 area created pursuant to the provisions of Section 592
21 et seq. of Title 18 of the Oklahoma Statutes,
- 22 k. for purposes of The Governmental Tort Claims Act only,
23 an Emergency Services Provider rendering services
24 within the boundaries of a Supplemental Emergency

1 Services District pursuant to an existing contract
2 between the Emergency Services Provider and the State
3 Department of Health. Provided, however, that the
4 acquisition of commercial liability insurance covering
5 the activities of such Emergency Services Provider
6 performed within the State of Oklahoma shall not
7 operate as a waiver of any of the limitations,
8 immunities or defenses provided for political
9 subdivisions pursuant to the terms of The Governmental
10 Tort Claims Act,

11 l. for purposes of The Governmental Tort Claims Act only,
12 a conservation district created pursuant to the
13 provisions of the Conservation District Act,

14 m. for purposes of The Governmental Tort Claims Act,
15 districts formed pursuant to the Oklahoma Irrigation
16 District Act,

17 n. for purposes of The Governmental Tort Claims Act only,
18 any community action agency established pursuant to
19 Sections 5035 through 5040 of Title 74 of the Oklahoma
20 Statutes,

21 o. for purposes of The Governmental Tort Claims Act only,
22 any organization that is designated as a youth
23 services agency, pursuant to Section 2-7-306 of Title
24 10A of the Oklahoma Statutes,

1 p. for purposes of The Governmental Tort Claims Act only,
2 any judge presiding over a drug court, as defined by
3 Section 471.1 of Title 22 of the Oklahoma Statutes,
4 and

5 q. for purposes of The Governmental Tort Claims Act only,
6 any child-placing agency licensed by this state to
7 place children in foster family homes, and

8 r. a circuit engineering district created pursuant to
9 Section 687.1 of Title 69 of the Oklahoma Statutes,

10 and all their institutions, instrumentalities or agencies;

11 12. "Scope of employment" means performance by an employee
12 acting in good faith within the duties of the employee's office or
13 employment or of tasks lawfully assigned by a competent authority
14 including the operation or use of an agency vehicle or equipment
15 with actual or implied consent of the supervisor of the employee,
16 but shall not include corruption or fraud;

17 13. "State" means the State of Oklahoma or any office,
18 department, agency, authority, commission, board, institution,
19 hospital, college, university, public trust created pursuant to
20 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
21 the beneficiary, or other instrumentality thereof; and

22 14. "Tort" means a legal wrong, independent of contract,
23 involving violation of a duty imposed by general law or otherwise,
24 resulting in a loss to any person, association or corporation as the

1 proximate result of an act or omission of a political subdivision or
2 the state or an employee acting within the scope of employment.

3 SECTION 2. AMENDATORY 69 O.S. 2001, Section 687.1, as
4 amended by Section 1, Chapter 113, O.S.L. 2007 (69 O.S. Supp. 2009,
5 Section 687.1), is amended to read as follows:

6 Section 687.1 A. The board of county commissioners of any
7 county in this state may create a circuit engineering district with
8 any other county or counties. The objectives of the circuit
9 engineering district shall be:

10 1. To allow county governments to make the most efficient use
11 of their powers by enabling them to cooperate with each other and
12 other units of government on a basis of mutual advantage and thereby
13 to provide services and facilities in a manner and pursuant to forms
14 of governmental organization that will accord best with geographic,
15 economic, population and other factors influencing the needs and
16 development of county government;

17 2. To provide research and research support to county
18 government;

19 3. To provide assistance to county governments in performing
20 the functions delegated by law including, but not limited to, the
21 operation of road maintenance, construction, inspection, and
22 equipment purchases and management;

23 4. To conduct public discussion groups, forums, panels,
24 lectures, and other similar programs;

1 5. To present courses of instruction and education;

2 6. To obtain, develop and present scientific and all other
3 types of information relative to the operation of the public
4 transportation system in this state;

5 7. For long-range planning and growth of the transportation
6 system within the circuit engineering district and other circuit
7 engineering districts within this state; and

8 8. To provide services to counties in a coordinated manner that
9 will improve the quality of the transportation system and be cost
10 effective.

11 B. The authority of the circuit engineering district shall be
12 as follows:

13 1. To comply with and carry out the provisions of the
14 Interlocal Cooperation Act;

15 2. To advise and assist its members with how to implement and
16 make an effective transportation plan for the best interest of each
17 member of the circuit engineering district;

18 3. To prepare such programs of research as may be necessary and
19 advisable in carrying out its purposes;

20 4. To contract for services with persons, firms or units of
21 government to carry out the purposes of the circuit engineering
22 district;

23 5. To provide periodic reports for the circuit engineering
24 district or for its members as may be required by federal or state

1 | legislation or regulations pertaining thereto, and as are within the
2 | scope and range of the purpose of the circuit engineering district;

3 | 6. To acquire and hold property for its use and to incur
4 | expenses to carry out its functions;

5 | 7. To receive gifts, contributions and donations to carry out
6 | the purposes for which it is formed;

7 | 8. To assess its members for the services rendered in carrying
8 | out its functions;

9 | 9. To apply for, contract for, administer, receive and expend
10 | funds or grants from any participating member, the State of
11 | Oklahoma, the federal government, or any other source; and

12 | 10. To publish studies in connection with its work which may be
13 | of benefit to its members or other agencies within and outside of
14 | the circuit engineering district.

15 | C. Circuit engineering districts may, by affirmative vote of
16 | their board, determine that the association representing the county
17 | commissioners of Oklahoma be designated to negotiate for services,
18 | required by law or necessity, on behalf of the circuit engineering
19 | districts.

20 | D. The circuit engineering district may, from time to time, as
21 | its board of directors deems necessary, cause to be formed legal
22 | trusts which shall be formed to promote and develop specific
23 | projects. The primary goal of each trust created pursuant to this
24 | subsection shall be the economic growth and development within the

1 district. However, the trust shall be limited to functions within
2 the category for which it is specifically organized. The trust
3 shall be totally responsible for its contractual obligations and
4 holdings, holding the circuit engineering district harmless for
5 claims or liabilities created by the trust.

6 E. The board of directors of the circuit engineering district
7 shall elect a liaison officer. The liaison officer shall be a
8 nonvoting member of each trust formed pursuant to subsection D of
9 this section. The liaison shall be permitted to attend all meetings
10 and enter into all discussions of the trust's board of trustees, and
11 shall report all actions to the board of directors of the circuit
12 engineering district.

13 F. The circuit engineering district shall conduct an
14 independent audit upon completion of each fiscal year.

15 G. The board of directors may employ an attorney to provide
16 legal research, advice and opinions on contracts and other matters
17 which may come before the board of directors.

18 H. The State Auditor and Inspector shall prescribe the
19 necessary rules, forms and procedures to provide for the efficient
20 and timely means by which the pool purchase of supplies and
21 equipment may be accomplished on behalf of the participating
22 counties. The rules, forms and procedures developed by the State
23 Auditor and Inspector for pool purchasing may be utilized by the
24 Oklahoma Department of Transportation County Advisory Board in

1 coordination with the circuit engineering districts for the purpose
2 of pool purchasing utilizing funds from the County Road Machinery
3 and Equipment Revolving Fund. For the purpose of obtaining access
4 to pricing and bids available on a national level, counties shall be
5 eligible to participate in such pool purchasing in a manner as
6 determined by the State Auditor and Inspector.

7 I. Circuit engineering districts may participate in the County
8 Road Machinery and Equipment Revolving Fund pursuant to the
9 provisions of Section 302.1 of this title.

10 J. Circuit engineering districts are authorized to organize a
11 statewide board consisting of the chairpersons duly elected by each
12 of their respective circuit engineering districts. The statewide
13 board organized pursuant to this section shall:

14 1. Have the power to conduct business, including the
15 development of policies and procedures, incur expenses, and contract
16 for services so long as such business furthers the provisions of
17 this act;

18 2. Coordinate activities between circuit engineering districts;

19 3. Administer the Statewide Circuit Engineering District
20 Revolving Fund, created pursuant to Section 687.2 of this title; and

21 4. Have authority to promulgate rules to carry out the
22 provisions of this act.

23 K. A circuit engineering district created pursuant to this
24 section shall be deemed a political subdivision of the state.

