

1 ENGROSSED SENATE
2 BILL NO. 668

By: Aldridge of the Senate

3 and

4 Banz of the House
5
6

7 An Act relating to counties and county officers;
8 enacting the Oklahoma Energy Independence Act;
9 providing short title; authorizing the creation of
10 County Energy District Authorities; providing for
11 membership and procedures of authority; specifying
12 duties of the trustees of an authority; making
13 provisions applicable only to certain property;
14 providing for repayment of loans; providing for liens
15 on certain property; authorizing grants to nonprofit
16 organizations for certain purposes; requiring energy
17 audits under certain circumstances; amending 19 O.S.
18 2001, Section 1505, as last amended by Section 5,
19 Chapter 132, O.S.L. 2007 (19 O.S. Supp. 2008, Section
20 1505), which relates to procedures for requisition;
21 modifying dollar amount for disposal of certain
22 equipment; providing for codification; and declaring
23 an emergency.
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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 460.1 of Title 19, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Energy
Independence Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 460.2 of Title 19, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The board of county commissioners of a county, by
5 resolution, may establish a County Energy District Authority for the
6 county. The authority shall be a public trust as provided for in
7 Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes.

8 B. The authority shall consist of five (5) trustees as follows:

9 1. The three county commissioners of the county; and

10 2. Two persons appointed by the board of county commissioners.

11 The appointed members shall be residents of the county and shall not
12 be elected officials.

13 C. The chair of the board of county commissioners shall serve
14 as chair of the authority.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 460.3 of Title 19, unless there
17 is created a duplication in numbering, reads as follows:

18 The trustees of a County Energy District Authority shall
19 establish a time and place for regular meetings and may hold such
20 special meetings as may be required for the proper transaction of
21 business. Three trustees shall constitute a quorum for the
22 transaction of business and upon all questions requiring a vote of
23 the trustees, there must be a concurrence of three trustees for
24 approval.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 460.4 of Title 19, unless there
3 is created a duplication in numbering, reads as follows:

4 The trustees of a County Energy District Authority shall:

- 5 1. Manage and conduct the business and affairs of the
6 authority;
- 7 2. Make and execute all necessary contracts;
- 8 3. Secure funding through sources which may include:
 - 9 a. issuance of notes or bonds,
 - 10 b. public or private lenders, or
 - 11 c. grants or loans from other governmental entities when
12 such funds are available; and
- 13 4. Authorize the county to make loans or grants between a
14 willing and consenting property owner and the authority or a
15 financial institution for the following purposes:
 - 16 a. to finance the installation of distributed generation
17 renewable energy sources,
 - 18 b. to make energy efficient improvements or retrofits
19 that are permanently affixed to residential,
20 commercial, or industrial property,
 - 21 c. to conduct residential and commercial building energy
22 audits, and
 - 23 d. to establish financial incentive programs for energy
24 efficient improvements.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 460.5 of Title 19, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Energy Independence Act shall apply to
5 developed property on which property taxes are paid and on which the
6 owners of the property are current in the payment of the property
7 taxes.

8 B. Unless other repayment arrangements are agreed to, the
9 repayment of any loan made pursuant to the Oklahoma Energy
10 Independence Act shall be in the same manner and at the same time as
11 property taxes are paid.

12 C. Any loan made pursuant to the Oklahoma Energy Independence
13 Act shall constitute a lien on the property which is the subject of
14 the loan.

15 D. Only appliances or improvements that are permanently affixed
16 to the property shall be eligible for financing pursuant to the
17 Oklahoma Energy Independence Act.

18 SECTION 6. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 460.6 of Title 19, unless there
20 is created a duplication in numbering, reads as follows:

21 A County Energy District Authority may make grants to nonprofit
22 organizations to perform energy efficiency retrofits on tax exempt
23 property.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 460.7 of Title 19, unless there
3 is created a duplication in numbering, reads as follows:

4 County Energy District Authorities shall require that those
5 property owners participating in the program have an energy audit
6 conducted on the property to be improved to demonstrate the value of
7 the project and that the improvements at a minimum meet "Energy
8 Star" ratings.

9 SECTION 8. AMENDATORY 19 O.S. 2001, Section 1505, as
10 last amended by Section 5, Chapter 132, O.S.L. 2007 (19 O.S. Supp.
11 2008, Section 1505), is amended to read as follows:

12 Section 1505. The following procedures shall be used by
13 counties for the requisition, purchase, lease-purchase, rental, and
14 receipt of supplies, materials, and equipment for the maintenance,
15 operation, and capital expenditures of county government unless
16 otherwise provided for by law.

17 A. The procedure for requisitioning items for county offices
18 shall be as follows:

19 1. The requesting department shall prepare a requisition form
20 in triplicate. The requisition shall contain any specifications for
21 an item as deemed necessary by the requesting department. The form
22 shall be prescribed by the State Auditor and Inspector;

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

4 3. Upon receipt of the requisition, the county purchasing
5 agent, within two (2) working days, shall begin the bidding and
6 purchasing process as provided for in this section. Nothing in this
7 section shall prohibit the transfer of supplies, materials, or
8 equipment between county departments upon a written agreement
9 between county officers.

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

13 1. The county purchasing agent shall request written
14 recommendations from all county officers pertaining to commonly used
15 supplies, materials, and equipment. From such recommendations and
16 available requisition, purchase, or inventory records, the county
17 purchasing agent shall prepare a list of items commonly used by
18 county officers. The county purchasing agent shall request from the
19 Purchasing Division of the Department of Central Services all
20 contracts quoting the price the state is paying for the items. The
21 county purchasing agent shall either request the Purchasing Division
22 of the Department of Central Services to make the purchase for the
23 county or solicit bids for unit prices on the items for periods of
24 not to exceed twelve (12) months in the manner described in

1 paragraph 2 of this subsection. If the county purchasing agent
2 receives a requisition for an item for which the county purchasing
3 agent does not have a current bid, the county purchasing agent shall
4 request from the Purchasing Division of the Department of Central
5 Services all contracts quoting the price the state is paying for the
6 item. The county purchasing agent shall either request the
7 Purchasing Division of the Department of Central Services to make
8 the purchase for the county or solicit bids in the manner described
9 in paragraph 2 of this subsection. Nothing in this paragraph shall
10 prohibit bids from being taken on an item currently on a twelve-
11 month bid list, at any time deemed necessary by the county
12 purchasing agent. Whenever the county purchasing agent deems it
13 necessary to take a bid on an item currently on a twelve-month bid
14 list, the reason for the bid shall be entered into the minutes of
15 the board of county commissioners;

16 2. Bids shall be solicited by mailing a notice to all persons
17 or firms who have made a written request of the county purchasing
18 agent that they be notified of such bid solicitation and to all
19 other persons or firms who might reasonably be expected to submit
20 bids. Notice of solicitation of bids shall also be published one
21 time in a newspaper of general circulation in the county. Notices
22 shall be mailed and published at least ten (10) days prior to the
23 date on which the bids are opened. Proof of the mailing shall be
24 made by the affidavit of the person mailing the request for bids and

1 shall be made a part of the official records of the county
2 purchasing agent. Whenever any prospective supplier or vendor
3 dealing in or listing for sale any particular item or article
4 required to be purchased or acquired by sealed bids fails to enter
5 or offer a sealed bid for three successive bid solicitations, the
6 name of the supplier or vendor may be dropped from the mailing lists
7 of the board of county commissioners;

8 3. The sealed bids received from vendors and the state contract
9 price received from the Purchasing Division of the Department of
10 Central Services shall be given to the county clerk by the county
11 purchasing agent. The county clerk shall forward the sealed bids
12 and state contract price, if any, to the board of county
13 commissioners;

14 4. The board of county commissioners, in an open meeting, shall
15 open the sealed bids and compare them to the state contract price.
16 The board of county commissioners shall select the lowest and best
17 bid based upon the availability of material and transportation cost
18 to the job site within thirty (30) days of the meeting. For any
19 special item not included on the list of commonly used items, the
20 requisitioning official shall review the bids and submit a written
21 recommendation to the board before final approval. The board of
22 county commissioners shall keep a written record of the meeting as
23 required by law, and any time the lowest bid was not considered to
24 be the lowest and best bid, the reason for such conclusion shall be

1 recorded. Whenever the board of county commissioners rejects the
2 written recommendation of the requisitioning official pertaining to
3 a special item, the reasons for the rejection shall be entered in
4 their minutes and stated in a letter to the requisitioning official
5 and county purchasing agent;

6 5. The county purchasing agent shall notify the successful
7 bidders and shall maintain a copy of the notification. The county
8 purchasing agent shall prepare and maintain a vendors list
9 specifying the successful bidders and shall notify each county
10 officer of the list. The county purchasing agent may remove any
11 vendor from such list who refuses to provide goods or services as
12 provided by contract if the removal is authorized by the board of
13 county commissioners. The county purchasing agent may make
14 purchases from the successful bidders for a price at or below the
15 bid price. If a vendor who is the low bidder cannot or will not
16 sell goods or services as required by a county bid contract, the
17 county purchasing agent may purchase from the next low bidder or
18 take quotations as provided in paragraph 6 of this subsection,
19 provided, however, such purchase does not exceed Five Thousand
20 Dollars (\$5,000.00); and

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

23 a. the county purchasing agent shall determine if
24 potential vendors are willing to commit to a firm

1 price for a reduced period of time, and, if such is
2 the case, the bid procedure described in this
3 subsection shall be followed, or

4 b. if vendors are not willing to commit to a firm price
5 for a reduced period, the purchasing agent shall
6 solicit and record at least three quotes of current
7 prices available to the county and authorize the
8 purchase of goods based on the lowest and best quote
9 as it becomes necessary to acquire such goods. The
10 quotes shall be recorded on a form prescribed by the
11 State Auditor and Inspector and shall be attached to
12 the purchase order and filed with the county clerk's
13 copy of the purchase order. Any time the lowest quote
14 was not considered to be the lowest and best quote,
15 the reason for this conclusion shall be recorded by
16 the county purchasing agent and transmitted to the
17 county clerk, or

18 c. if three quotes are not available, a memorandum to the
19 county clerk from the county purchasing agent shall
20 describe the basis upon which a purchase is
21 authorized. The memorandum shall state the reasons
22 why the price for such a purchase is the lowest and
23 best under the circumstances. The county clerk shall
24 then attach the memorandum to the county clerk's copy

1 of the purchase order and file both in the office of
2 the county clerk.

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

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

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

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

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

19 Dated this _____ day of _____, 20__.

20 _____

21 County Clerk/Deputy

22 of _____ County.

23 In instances where it is impossible to ascertain the exact amount of
24 the indebtedness sought to be incurred at the time of recording the

1 encumbrance, an estimated amount may be used. No purchase order
2 shall be valid unless signed by the county purchasing agent and
3 certified by the county clerk; and

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

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

15 a. the county purchasing agent shall prepare a purchase
16 order in quadruplicate and submit it with a copy of
17 the requisition to the county clerk,

18 b. the county clerk shall then encumber the amount stated
19 on the purchase order and assign a sequential number
20 to the purchase order,

21 c. if there is an unencumbered balance in the
22 appropriation made for that purpose by the county
23 excise board, the county clerk shall so certify in the
24 following form:

1 I hereby certify that the amount of this encumbrance
2 has been entered against the designated appropriation
3 accounts and that this encumbrance is within the
4 authorized available balance of said appropriation.

5 Dated this _____ day of _____, 20__.

6 _____
7 County Clerk/Deputy

8 of _____ County.

9 In instances where it is impossible to ascertain the
10 exact amount of the indebtedness sought to be incurred
11 at the time of recording the encumbrance, an estimated
12 amount may be used. No purchase order shall be valid
13 unless signed by the county purchasing agent and
14 certified by the county clerk, and

- 15 d. the county clerk shall file a copy of the purchase
16 order and return the original purchase order and two
17 copies to the county purchasing agent who shall file a
18 copy, retain the other copy for the county road and
19 bridge inventory officer if the purchase order is for
20 the purchase of equipment, supplies, or materials for
21 the construction or maintenance of roads and bridges,
22 and submit the original purchase order to the
23 receiving officer of the requesting department.

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

5 a. the purchasing agent shall cause such items being sold
6 to be appraised in the manner determined in Section
7 421.1 of this title,

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

11 c. the county clerk shall then encumber the amount of the
12 appraised value and any additional funds obligated by
13 the county on the purchase order and assign a
14 sequential number to the purchase order,

15 d. the county clerk shall certify that the amount of the
16 encumbrance is equal to the appraised value of the
17 item being sold plus any additional funds obligated by
18 the county. In effect the recording of the
19 encumbrance is an estimate that is authorized by law.
20 No purchase order shall be valid unless signed by the
21 county purchasing agent and certified by the county
22 clerk,

23 e. the county clerk shall file a copy of the purchase
24 order and return the original purchase order and two

1 copies to the county purchasing agent who shall file a
2 copy, retain a copy for the county road and bridge
3 inventory officer if the purchase order is for the
4 purchase of equipment, supplies or materials for the
5 construction or maintenance of roads and bridges, and
6 submit the original purchase order to the receiving
7 officer of the requesting department, and

8 f. a purchase shall not be bid until such time that the
9 appraised item or items are sold. Any item or items
10 purchased shall not exceed the appraised value plus
11 any additional funds obligated by the county or the
12 actual selling price of the item or items, whichever
13 is the lesser amount.

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

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

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

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

21 4. If a purchase order is on file, the receiving officer shall
22 obtain a delivery ticket, bill of lading, or other delivery document
23 and compare it with the purchase order. If any item is back
24

1 ordered, the back order and estimated date of delivery shall be
2 noted in the receiving report;

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

8 6. The receiving officer shall file the original receiving
9 report and submit:

- 10 a. the original purchase order and a copy of the
11 receiving report to the county purchasing agent, and
- 12 b. a copy of the receiving report with the delivery
13 documentation to the county clerk;

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

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

19 9. The invoice shall state the name and address of the vendor
20 and must be sufficiently itemized to clearly describe each item
21 purchased, the unit price when applicable, the number or volume of
22 each item purchased, the total price, the total purchase price, and
23 the date of the purchase;

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

- 3 a. requisition,
- 4 b. purchase order,
- 5 c. invoice with noncollusion affidavit as required by
6 law,
- 7 d. receiving report, and
- 8 e. delivery document.

9 The documents shall be available for public inspection during
10 regular business hours; and

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

14 F. The following procedures are for the processing of purchase
15 orders:

16 1. Purchase orders may be allowed and paid at the first meeting
17 of the board of county commissioners five (5) days after
18 presentation for payment, provided that purchase orders for the
19 salaries of the county officers and their full-time assistants,
20 deputies and employees may be allowed and paid immediately after
21 filing;

22 2. The board of county commissioners shall consider the
23 purchase orders so presented and act upon the purchase orders, by
24 allowing in full or in part or by holding for further information or

1 disallowing the same. The disposition of purchase orders shall be
2 indicated by the board of county commissioners, showing the amounts
3 allowed or disallowed and shall be signed by at least two members of
4 the board of county commissioners. Any claim held over for further
5 information shall be acted upon by allowing or disallowing same at
6 any future meeting of the board held within seventy-five (75) days
7 from the date of filing of the purchase order. Any purchase order
8 not acted upon within the seventy-five (75) days from the date of
9 filing shall be deemed to have been disallowed, but such
10 disallowance shall not prevent the refiling of the purchase order at
11 the proper time; and

12 3. Whenever any allowance, either in whole or in part, is made
13 upon any purchase order presented to the board of county
14 commissioners and is accepted by the person making the claim, such
15 allowance shall be a full settlement of the entire purchase order
16 and provided that the cashing of warrant shall be considered as
17 acceptance by the claimant.

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

20 1. For consumable road or bridge items or materials, a monthly
21 report of the road and bridge projects completed during such period
22 shall be prepared and kept on file by the consuming department. The
23 report shall contain a record of the date, the place, and the
24 purpose for the use of the road or bridge items or materials. For

1 purposes of identifying county bridges, the board of county
2 commissioners shall number each bridge subject to its jurisdiction;
3 and

4 2. For disposal of all equipment which originally cost more
5 than ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars
6 (\$500.00), resolution of disposal shall be submitted by the officer
7 on a form prescribed by the State Auditor and Inspector's Office to
8 the board of county commissioners. The approval of the resolution
9 of disposal shall be entered into the minutes of the board.

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

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

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1 encumbering, and consideration for payment by the board of county
2 commissioners.

3 SECTION 9. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7 Passed the Senate the 11th day of March, 2009.

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Presiding Officer of the Senate

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11 Passed the House of Representatives the ____ day of _____,
12 2009.

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Presiding Officer of the House
of Representatives

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