

THE HOUSE OF REPRESENTATIVES
Monday, March 1, 2010

Committee Substitute for
House Bill No. 2646

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2646 - By: JORDAN of the House and NEWBERRY of the Senate.

An Act relating to local transportation funding; amending 11 O.S. 2001, Section 36-113, as amended by Section 1, Chapter 387, O.S.L. 2003 (11 O.S. Supp. 2009, Section 36-113), which relates to certain agreements between the Department of Transportation and municipalities; modifying provisions related to construction or improvement of municipal streets or roads; providing for construction, improvement, repair or maintenance of certain municipal streets by counties; prescribing conditions related to municipal populations; providing certain mileage not to be used for formula; amending 19 O.S. 2001, Section 339, as last amended by Section 2, Chapter 255, O.S.L. 2006 (19 O.S. Supp. 2009, Section 339), which relates to powers of county commissioners; modifying provisions related to use of county-owned equipment; deleting reference to population limit; amending 69 O.S. 2001, Section 603, which relates to certain contracts; authorizing contracts related to municipal streets based on certain agreement; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 36-113, as amended by
2 Section 1, Chapter 387, O.S.L. 2003 (11 O.S. Supp. 2009, Section 36-113), is amended to
3 read as follows:

4 Section 36-113. A. The Department of Transportation may, or the board of county
5 commissioners of any county or federally recognized tribal government shall, by
6 agreement with the governing body of a municipality having a population less than five

1 thousand (5,000), construct, improve, repair or maintain any of the streets of the
2 municipality.

3 ~~B. Subject to the provisions of Section 339 of Title 19 of the Oklahoma Statutes, the~~
4 The board of county commissioners may construct, improve, repair, or maintain any of
5 the streets of a municipality having a population of less than five thousand (5,000)
6 persons subject to agreement between the governing bodies of the county and the
7 municipality without regard to whether the municipality has passed a sales tax with
8 proceeds earmarked to construct, improve, repair or maintain any of the streets or
9 roadways of such municipality.

10 ~~C. Subject to the provisions of Section 339 of Title 19 of the Oklahoma Statutes, the~~
11 The board of county commissioners may construct, improve, repair or maintain any of the
12 streets of a municipality having a population of greater than five thousand (5,000)
13 persons but less than fifteen thousand (15,000) persons if the county municipality has
14 passed a sales tax with the proceeds earmarked to construct, improve, repair or maintain
15 any of the streets or roadways of such county municipality.

16 D. The board of county commissioners may construct, improve, repair, or maintain
17 any of the streets of a municipality having a population in excess of fifteen thousand
18 (15,000) persons if there are at least three municipalities located within the county and if
19 each municipality has a population in excess of fifteen thousand (15,000) persons. The
20 agreements entered into pursuant to the provisions of this subsection may be performed
21 without regard to whether the municipality has passed a sales tax with proceeds

1 earmarked to construct, improve, repair or maintain any of the streets or roadways of
2 such municipality.

3 E. If a county constructs, improves, repairs or maintains any municipal street or
4 road pursuant to the provisions of this section, such municipal road mileage shall not be
5 included in the computation of mileage for purposes of any state tax revenues
6 apportioned to the county.

7 SECTION 2. AMENDATORY 19 O.S. 2001, Section 339, as last amended by
8 Section 2, Chapter 255, O.S.L. 2006 (19 O.S. Supp. 2009, Section 339), is amended to
9 read as follows:

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

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

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

20 3. To construct and repair bridges and to open, lay out and vacate highways;
21 provided, however, that when any state institution, school or department shall own, lease
22 or otherwise control land on both sides of any established highway, the governing board

1 or body of the same shall have the power to vacate, alter or relocate the highway
2 adjoining the property in the following manner:

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

19 4. To recommend or sponsor an employee or prospective employee for job-related
20 training and certification in an area that may require training or certification to comply
21 with state or federal law as such training or certification is provided by the Department

1 of Transportation, the Federal Highway Administration, or any other state agency,
2 technology center school, or university;

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

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

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

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

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

21 10. To purchase, rent, or lease-purchase uniforms, safety devices and equipment for
22 the officers and employees of the county and provide incentive awards for safety-related

1 job performance. However, no employee shall be recognized more than once per calendar
2 year and the award shall not exceed the value of Two Hundred Fifty Dollars (\$250.00);
3 further, no elected official shall be eligible to receive a safety award. The county
4 commissioners may pay for any safety training or safety devices and safety equipment
5 out of the general county funds or any county highway funds available to the county
6 commissioners;

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

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

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

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

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

17 16. To utilize county-owned equipment, labor and supplies at their disposal on
18 property owned by the county, public schools, two-year colleges or technical branches of
19 colleges that are members of The Oklahoma State System of Higher Education, the state
20 and municipalities ~~with a population less than five thousand (5,000) or with a population~~
21 ~~less than fifteen thousand (15,000) if the municipality or county has passed a sales tax~~
22 ~~with the proceeds earmarked for construction, maintenance, improvement or repair of~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 ~~any of the streets or roadways in the county~~ according to the provisions of Section 36-113
2 of Title 11 of the Oklahoma Statutes. Cooperative agreements may be general in terms
3 of routine maintenance or specific in terms of construction and agreed to and renewed on
4 an annual basis. Work performed pursuant to Section 36-113 of Title 11 of the
5 Oklahoma Statutes shall comply with the provisions of this section;

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

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

13 19. To accept donations of right-of-way or right-of-way easements pursuant to
14 Section 381 et seq. of Title 60 of the Oklahoma Statutes;

15 20. To establish by resolution the use of per diem for specific purposes in
16 accordance with the limitations provided by Sections 500.8 and 500.9 of Title 74 of the
17 Oklahoma Statutes;

18 21. To apply to the Department of Environmental Quality for a waste tire permit to
19 bale waste tires for use in approved engineering projects; and

20 22. To enter into the National Association of Counties (NACo) Prescription Drug
21 Discount Program.

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

5 C. When any lease or lease purchase is made on behalf of the county by the board
6 pursuant to the provisions of this section, the county shall be allowed to have trade in
7 values for transactions involving the Oklahoma Central Purchasing Act.

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

16 E. When the board of county commissioners approve an express trust, pursuant to
17 Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes, for the purpose of
18 operating a county jail, the trustees of the public trust may appoint commissioned peace
19 officers, certified by the Council on Law Enforcement Education and Training, to provide
20 security for inmates that are required to be transported outside of the detention facility,
21 and investigate violations of law within the detention facility. Other personnel necessary

1 to operate the jail may be employed and trained or certified as may be required by
2 applicable state or federal law.

3 SECTION 3. AMENDATORY 69 O.S. 2001, Section 603, is amended to read as
4 follows:

5 Section 603. The board of county commissioners of any county may, under the
6 direction of the Commission, contract for grading, draining or hardsurfacing any street
7 within any municipality where such street is a continuation of or a connecting link in the
8 State or county Highway System or if the county and the municipality have entered into
9 an agreement pursuant to Section 36-113 of Title 11 of the Oklahoma Statutes for the
10 construction, improvement, repair or maintenance of municipal streets.

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

14 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 02-25-10 -
15 DO PASS, As Amended and Coauthored.