

THE HOUSE OF REPRESENTATIVES
Wednesday, February 17, 2010

House Bill No. 2992

HOUSE BILL NO. 2992 - By: ENNS of the House.

An Act relating to counties and county officers; amending 19 O.S. 2001, Section 1238, which relates to assessments; modifying certain notice requirement; amending 19 O.S. 2001, Section 1248, which relates to assessments; updating certain terminology; requiring notice include the manner of payment; amending 19 O.S. 2001, Section 1250, which relates to assessments; removing county clerk bonding requirement; modifying certain notice requirement; requiring notice of titleholder within certain time period; providing penalty for nonpayment; providing lack of notice does not invalidate assessment; amending 19 O.S. 2001, Section 1257, which relates to assessments; modifying certain required issuance of bonds to permissive; amending 19 O.S. 2001, Section 1258, which relates to assessments; requiring payment within certain time period; and providing an effective date.

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

1 SECTION 1. AMENDATORY 19 O.S. 2001, Section 1238, is amended to read
2 as follows:

3 Section 1238. After the expiration of the time for objection or protest on the part of
4 the record title holders of property to an improvement, or if insufficient protest is filed,
5 the board of county commissioners shall adopt a resolution declaring that no such protest
6 has been filed, or that such protest, if filed, was insufficient and expressing the
7 determination of the board to proceed with the improvement. Such resolution shall
8 require the engineer to immediately file detailed plans, profiles, specifications, and
9 estimates of probable cost. After the filing of said plans, profiles, specifications, and

1 estimates, the board shall examine the same, and if found satisfactory, shall, by
2 resolution, adopt and approve the same. The resolution shall state the material to be
3 used and that the work or improvement will be constructed in accordance with the final
4 detailed plans, specifications, and profiles of the engineer. The resolution shall set forth
5 any reasonable terms and conditions that the board of county commissioners deems
6 proper to impose. The board, by resolution, shall also provide that the contractor shall
7 execute to the county a good and sufficient bond in an amount to be stated in the
8 resolution, conditioned for the full and faithful execution of the work and the
9 performance of the contract for the protection of the county and all record title holders of
10 property interested, against any loss or damage by reason of the negligence of the
11 contractor, improper execution of the work or improvement, or the use of inferior
12 material, and shall also require a bond, in an amount to be stated in said resolution, for
13 the maintenance of said improvements against any failure due to defective workmanship
14 or materials for a period of not less than one (1) year from the time of its completion and
15 acceptance. Such maintenance bond shall not be required where such road
16 improvements consist of oil and chips or graveling. The resolution shall also require the
17 execution of a good and sufficient bond for payment of labor and material conditioned in
18 accordance with the laws of this state. The resolution shall also direct the county clerk
19 after the filing of said final plans, profiles, specifications, and estimates to advertise for
20 sealed bids for furnishing the materials and performing the work necessary in making
21 the improvement. The notice for such bids shall state the roads, streets, avenues, or
22 ~~other~~ public places to be improved, the kind of improvements proposed, what bonds will

1 be required to be executed by the contractor, shall refer to the plans and specifications,
2 and shall state the date, time, and place where such sealed bids shall be filed, and the
3 date and place the same will be considered by the board. The notice shall state the
4 manner of payment to the contractor and whether the contractor will be paid in money,
5 in bonds or in a proportion of money and bonds for making the improvement. The notice
6 shall be published in accordance with the provisions of the Public Competitive Bidding
7 Act of 1974. No action or suit to question the adoption of said resolution, or the
8 sufficiency of the same or the final, detailed estimate of the engineer, shall be
9 commenced later than fifteen (15) days after the first publication of said notice.

10 The resolution provided for in this section shall be adopted not later than six (6)
11 months after the adoption of the resolution of necessity provided for in Section 1234 of
12 this title or within six (6) months after the filing of a proper petition for the construction
13 of the contemplated improvements.

14 SECTION 2. AMENDATORY 19 O.S. 2001, Section 1248, is amended to read
15 as follows:

16 Section 1248. As soon as the assessing ordinance is adopted, the county clerk shall
17 prepare a book which shall be known as the road assessment record in which ~~he~~ the clerk
18 shall enter the names of each person holding title to the land to be assessed as
19 ascertained from the records of the county, or in case the name of the record title holder
20 is not known, a statement to that effect and description of the lot, tract, or subdivision,
21 with a blank space for entering the amount of the assessment and with a suitable column

1 for entering the payments which may be made from time to time on account of such
2 assessment.

3 SECTION 3. AMENDATORY 19 O.S. 2001, Section 1250, is amended to read
4 as follows:

5 Section 1250. The assessments provided for and levied pursuant to the provisions
6 of Sections 1230 through 1262 of this title shall be payable as the installments become
7 due, together with the interest on said installments, to the county clerk who shall give
8 proper receipts for such payments and credit the same upon the road assessment record.
9 ~~The county clerk shall be required to execute a good and sufficient bond, with sureties,~~
10 ~~and in an amount to be approved by the board of county commissioners, payable to the~~
11 ~~county, conditioned for the faithful performance of the duties enjoined upon him as~~
12 ~~provided by Sections 1230 through 1262 of this title as collector of said assessments.~~ It
13 shall be the duty of the county clerk to keep an accurate account of all such collections
14 made by ~~him~~ the clerk and to pay to the county treasurer daily the amounts of such
15 assessments collected by ~~him~~ the clerk. The amounts so collected and paid to the county
16 treasurer shall constitute a separate, special fund to be used and applied to the payment
17 of such bonds and the interest thereon, as provided by Sections 1257 through 1260 of this
18 title. It shall be the duty of the county clerk, not less than thirty (30) days and not more
19 than forty (40) days before the maturity of any installment of such assessments, to
20 publish in two successive issues of a daily newspaper or in one issue of a weekly
21 newspaper, published in the county and of general circulation in said county, a notice
22 advising the record title holder of the land affected by such assessment of the date when

1 such installment and interest will be due, and designating the road, street, streets, or
2 ~~other~~ public places, or parts thereof, for the improvement of which such assessments
3 have been levied, and that unless such assessments shall be promptly paid, said
4 installment and interest shall bear interest at the rate of ~~twelve percent (12%)~~ fifteen
5 percent (15%) per annum until paid, and proceedings taken according to law to collect
6 said installment and interest. It shall also be the duty of the county clerk, not less than
7 thirty (30) days before the maturity of any installment of such assessments, to send a
8 notice by mail advising the record titleholder of the land affected by such assessment of
9 the date when such installment and interest will be due, and designating the road,
10 street, streets, or public places, or parts thereof, for the improvement of which such
11 assessments have been levied, and that unless such assessments shall be promptly paid,
12 said installment and interest shall bear interest at the rate of fifteen percent (15%) per
13 annum until paid, and proceedings taken according to law to collect said installment and
14 interest. Failure of the owner to receive any notice shall not invalidate any of the
15 proceedings authorized in this title and shall not invalidate any installment or interest
16 that may be due. It shall be the duty of the county clerk, promptly after the date of
17 maturity of any such installment and interest and on or before the fifteenth day of
18 September in each year, to certify such installment and interest due to the county
19 treasurer of the county in which the improvement district is located, which installment
20 and interest shall be placed by said county treasurer upon the November delinquent tax
21 list of the same year prepared by the treasurer of said county and collected as other
22 delinquent taxes are collected. It shall be the duty of the county treasurer to collect such

1 installments of assessment, together with interest and penalty, so certified to ~~him~~ the
2 treasurer by the county clerk, as provided for in this section, but any taxpayer shall have
3 the right to pay his ad valorem taxes to the county treasurer regardless of the
4 delinquency of such assessments. Within thirty (30) days from the receipt of such
5 delinquent assessments, interest and penalty collected by the county treasurer shall be
6 disbursed in accordance with the provisions of Sections 1230 through 1262 of this title.
7 Failure of the county clerk to publish notice of the maturing of any installment and
8 interest shall in no way affect the validity of the proceedings to collect such installment
9 and interest pursuant to the provisions of this section. All payments to the county
10 treasurer on account of such assessments shall be certified by ~~him~~ the treasurer to the
11 county clerk to be credited on the road assessment record.

12 SECTION 4. AMENDATORY 19 O.S. 2001, Section 1257, is amended to read
13 as follows:

14 Section 1257. The board of county commissioners of any county, after the
15 expiration of thirty (30) days from the publication of the assessing resolution, within
16 which period the whole of any assessment may be paid without interest, ~~shall~~ may
17 provide by resolution for the issuance of negotiable bonds in the aggregate amount of
18 such assessments then remaining unpaid. The bonds shall bear a date of thirty (30) days
19 after the publication of the resolution levying the assessments, and be of such
20 denominations as the board of county commissioners and the bond attorney shall
21 determine. The bonds shall in no event become a liability of the county issuing the same.
22 The bonds shall be payable on or before October 1 next succeeding the September 1 on

1 which the last installment of assessments shall mature, with interest at the rate of not to
2 exceed thirteen percent (13%) per annum, payable October 1 next succeeding the due
3 date of the first installment of assessments, and semiannually thereafter, until maturity,
4 and fifteen percent (15%) per annum after maturity. Said bonds shall be designated as
5 Road Improvement Bonds, and shall recite the roads, streets, alleys, avenues, lanes, or
6 parts thereof, or other public places, for the improvement of which they have been issued
7 and that they are payable, in cash, from the assessments which have been levied upon
8 the lots and tracts of land benefited by said improvement and from the accumulation of
9 the interest and penalty provided for. Said bonds shall be signed by the county
10 commissioners of such county and attested by the county clerk, and shall have an
11 impression of the corporate seal of the county thereon. The bonds and interest shall be
12 payable at such place, either within or without the State of Oklahoma, as shall be
13 designated therein. Said bonds shall be issued in series, and the bonds of each series
14 shall be numbered consecutively beginning with number one, and said bonds of each
15 series shall be payable, in cash, in their numerical order. Such bonds shall be registered
16 by the county clerk and treasurer of such county in a book to be provided for that purpose
17 and each bond shall bear a certificate of such registration. Upon the books of such
18 treasurer shall be noted the name of the holder thereof and his address, and any
19 subsequent holder may cause the same to be registered in the name thereof upon
20 submission of proper proof of ownership. The county shall have the right to call in and
21 pay said bonds or any number thereof in the following manner: Whenever there shall be
22 sufficient funds in the hands of the county treasurer after the payment of all interest due

1 and to become due within the next six (6) months, such treasurer shall on or before
2 March 10 and September 10 of any year give notice by registered mail addressed to the
3 last registered holder of the bonds called, at the address appearing upon his registry that
4 there have accumulated funds sufficient to pay the designated bonds, and interest
5 thereon to April 1 next or October 1 next, and directing the presentation of such bond or
6 bonds for payment and cancellation. The bond or bonds will cease to bear interest after
7 said April 1 next or said October 1 next, and upon the payment and cancellation of said
8 bond or bonds, proper entry thereof shall be made upon the books of the clerk and
9 treasurer. It is hereby made the duty of such county treasurer upon the accumulation of
10 sufficient funds as provided to pay one or more bonds to call and pay such bond or bonds,
11 and in the event of failure to do so, he shall be liable for all such damages as may result
12 therefrom. The provisions of this section may be enforced by appropriate proceedings in
13 mandamus against such treasurer.

14 The bonds issued under this section shall have the same Oklahoma tax status as is
15 given by the federal government.

16 SECTION 5. AMENDATORY 19 O.S. 2001, Section 1258, is amended to read
17 as follows:

18 Section 1258. The proceeds from the sale of the bonds pursuant to the provisions of
19 Section 1257 of this title shall be deposited in separate accounts established for each
20 improvement and disbursed only for the cost associated with the respective
21 improvement. Payment to the contractor shall be in parcels on the completion of the
22 work or improvement or any part thereof, not less than one block, to an amount equal to

1 the improvement so completed and accepted. Any funds not disbursed shall be utilized
2 by the county commissioners to recall outstanding bonds. Payment to the contractor in
3 money shall be paid no more than sixty (60) days after the due date for payment of
4 assessments, including special assessments and each installment of such assessments
5 and the interest on such assessments.

6 SECTION 6. This act shall become effective November 1, 2010.

7 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 02-
8 16-10 - DO PASS.