

ESB 668

THE HOUSE OF REPRESENTATIVES
Thursday, April 2, 2009

ENGROSSED

Senate Bill No. 668

ENGROSSED SENATE BILL NO. 668 - By: ALDRIDGE of the Senate and BANZ AND SCOTT of the House.

An Act relating to counties and county officers; enacting the Oklahoma Energy Independence Act; providing short title; authorizing the creation of County Energy District Authorities; providing for membership and procedures of authority; specifying duties of the trustees of an authority; making provisions applicable only to certain property; providing for repayment of loans; providing for liens on certain property; authorizing grants to nonprofit organizations for certain purposes; requiring energy audits under certain circumstances; amending 19 O.S. 2001, Section 1505, as last amended by Section 5, Chapter 132, O.S.L. 2007 (19 O.S. Supp. 2008, Section 1505), which relates to procedures for requisition; modifying dollar amount for disposal of certain equipment; providing for codification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 460.1 of Title 19, unless there is created a duplication in numbering,
3 reads as follows:

4 This act shall be known and may be cited as the “Oklahoma Energy Independence
5 Act”.

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

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

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

- 8 1. The three county commissioners of the county; and
- 9 2. Two persons appointed by the board of county commissioners.

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

11 C. The chair of the board of county commissioners shall serve as chair of the
12 authority.

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

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

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

4 The trustees of a County Energy District Authority shall:

5 1. Manage and conduct the business and affairs of the authority;

6 2. Make and execute all necessary contracts;

7 3. Secure funding through sources which may include:

8 a. issuance of notes or bonds,

9 b. public or private lenders, or

10 c. grants or loans from other governmental entities when such funds are
11 available; and

12 4. Authorize the county to make loans or grants between a willing and consenting
13 property owner and the authority or a financial institution for the following purposes:

14 a. to finance the installation of distributed generation renewable energy
15 sources,

16 b. to make energy efficient improvements or retrofits that are
17 permanently affixed to residential, commercial, or industrial property,

18 c. to conduct residential and commercial building energy audits, and

19 d. to establish financial incentive programs for energy efficient
20 improvements.

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

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

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

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

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

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

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

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

1 County Energy District Authorities shall require that those property owners
2 participating in the program have an energy audit conducted on the property to be
3 improved to demonstrate the value of the project and that the improvements at a
4 minimum meet “Energy Star” ratings.

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

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

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

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

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

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

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

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

1 month bid list, the reason for the bid shall be entered into the minutes of the board of
2 county commissioners;

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

15 3. The sealed bids received from vendors and the state contract price received from
16 the Purchasing Division of the Department of Central Services shall be given to the
17 county clerk by the county purchasing agent. The county clerk shall forward the sealed
18 bids and state contract price, if any, to the board of county commissioners;

19 4. The board of county commissioners, in an open meeting, shall open the sealed
20 bids and compare them to the state contract price. The board of county commissioners
21 shall select the lowest and best bid based upon the availability of material and
22 transportation cost to the job site within thirty (30) days of the meeting. For any special

1 item not included on the list of commonly used items, the requisitioning official shall
2 review the bids and submit a written recommendation to the board before final approval.
3 The board of county commissioners shall keep a written record of the meeting as required
4 by law, and any time the lowest bid was not considered to be the lowest and best bid, the
5 reason for such conclusion shall be recorded. Whenever the board of county
6 commissioners rejects the written recommendation of the requisitioning official
7 pertaining to a special item, the reasons for the rejection shall be entered in their
8 minutes and stated in a letter to the requisitioning official and county purchasing agent;

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

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

- 1 a. the county purchasing agent shall determine if potential vendors are
2 willing to commit to a firm price for a reduced period of time, and, if
3 such is the case, the bid procedure described in this subsection shall be
4 followed, or
- 5 b. if vendors are not willing to commit to a firm price for a reduced
6 period, the purchasing agent shall solicit and record at least three
7 quotes of current prices available to the county and authorize the
8 purchase of goods based on the lowest and best quote as it becomes
9 necessary to acquire such goods. The quotes shall be recorded on a
10 form prescribed by the State Auditor and Inspector and shall be
11 attached to the purchase order and filed with the county clerk's copy of
12 the purchase order. Any time the lowest quote was not considered to
13 be the lowest and best quote, the reason for this conclusion shall be
14 recorded by the county purchasing agent and transmitted to the county
15 clerk, or
- 16 c. if three quotes are not available, a memorandum to the county clerk
17 from the county purchasing agent shall describe the basis upon which
18 a purchase is authorized. The memorandum shall state the reasons
19 why the price for such a purchase is the lowest and best under the
20 circumstances. The county clerk shall then attach the memorandum to
21 the county clerk's copy of the purchase order and file both in the office
22 of the county clerk.

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

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

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

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

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

12 Dated this _____ day of _____, 20__.

13 _____
14 County Clerk/Deputy

15 of _____ County.

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

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

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

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

- 6 a. the county purchasing agent shall prepare a purchase order in
7 quadruplicate and submit it with a copy of the requisition to the county
8 clerk,
- 9 b. the county clerk shall then encumber the amount stated on the
10 purchase order and assign a sequential number to the purchase order,
- 11 c. if there is an unencumbered balance in the appropriation made for
12 that purpose by the county excise board, the county clerk shall so
13 certify in the following form:

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

18 Dated this _____ day of _____, 20__.

19 _____

20 County Clerk/Deputy

21 of _____ County.

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

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

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

16 a. the purchasing agent shall cause such items being sold to be appraised
17 in the manner determined in Section 421.1 of this title,
18 b. the county purchasing agent shall prepare a purchase order in
19 quadruplicate and submit it with a copy of the requisition to the county
20 clerk,

- 1 c. the county clerk shall then encumber the amount of the appraised
2 value and any additional funds obligated by the county on the
3 purchase order and assign a sequential number to the purchase order,
4 d. the county clerk shall certify that the amount of the encumbrance is
5 equal to the appraised value of the item being sold plus any additional
6 funds obligated by the county. In effect the recording of the
7 encumbrance is an estimate that is authorized by law. No purchase
8 order shall be valid unless signed by the county purchasing agent and
9 certified by the county clerk,
10 e. the county clerk shall file a copy of the purchase order and return the
11 original purchase order and two copies to the county purchasing agent
12 who shall file a copy, retain a copy for the county road and bridge
13 inventory officer if the purchase order is for the purchase of equipment,
14 supplies or materials for the construction or maintenance of roads and
15 bridges, and submit the original purchase order to the receiving officer
16 of the requesting department, and
17 f. a purchase shall not be bid until such time that the appraised item or
18 items are sold. Any item or items purchased shall not exceed the
19 appraised value plus any additional funds obligated by the county or
20 the actual selling price of the item or items, whichever is the lesser
21 amount.

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

- 1 1. A receiving officer for the requesting department shall be responsible for
2 receiving all items delivered to that department;
- 3 2. Upon the delivery of an item, the receiving officer shall determine if a purchase
4 order exists for the item being delivered;
- 5 3. If no such purchase order has been provided, the receiving officer shall refuse
6 delivery of the item;
- 7 4. If a purchase order is on file, the receiving officer shall obtain a delivery ticket,
8 bill of lading, or other delivery document and compare it with the purchase order. If any
9 item is back ordered, the back order and estimated date of delivery shall be noted in the
10 receiving report;
- 11 5. The receiving officer shall complete a receiving report in quadruplicate which
12 shall state the quantity and quality of goods delivered. The receiving report form shall
13 be prescribed by the State Auditor and Inspector. The person delivering the goods shall
14 acknowledge the delivery by signature, noting the date and time;
- 15 6. The receiving officer shall file the original receiving report and submit:
- 16 a. the original purchase order and a copy of the receiving report to the
17 county purchasing agent, and
- 18 b. a copy of the receiving report with the delivery documentation to the
19 county clerk;
- 20 7. The county purchasing agent shall file the original purchase order and a copy of
21 the receiving report;

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

4 9. The invoice shall state the name and address of the vendor and must be
5 sufficiently itemized to clearly describe each item purchased, the unit price when
6 applicable, the number or volume of each item purchased, the total price, the total
7 purchase price, and the date of the purchase;

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

- 10 a. requisition,
- 11 b. purchase order,
- 12 c. invoice with noncollusion affidavit as required by law,
- 13 d. receiving report, and
- 14 e. delivery document.

15 The documents shall be available for public inspection during regular business hours;
16 and

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

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

20 1. Purchase orders may be allowed and paid at the first meeting of the board of
21 county commissioners five (5) days after presentation for payment, provided that

1 purchase orders for the salaries of the county officers and their full-time assistants,
2 deputies and employees may be allowed and paid immediately after filing;

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

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

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

21 1. For consumable road or bridge items or materials, a monthly report of the road
22 and bridge projects completed during such period shall be prepared and kept on file by

1 the consuming department. The report shall contain a record of the date, the place, and
2 the purpose for the use of the road or bridge items or materials. For purposes of
3 identifying county bridges, the board of county commissioners shall number each bridge
4 subject to its jurisdiction; and

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

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

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

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

1 SECTION 9. It being immediately necessary for the preservation of the public
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
3 this act shall take effect and be in full force from and after its passage and approval.
4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 04-
5 01-09 - DO PASS, As Coauthored.