

EHB 2992

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THE STATE SENATE
Wednesday, March 17, 2010

ENGROSSED

House Bill No. 2992

ENGROSSED HOUSE BILL NO. 2992 - By: Enns of the House and Anderson of the Senate.

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:

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

Section 1238. After the expiration of the time for objection or protest on the part of the record title holders of property to an improvement, or if insufficient protest is filed, the board of county commissioners shall adopt a resolution declaring that no such protest has been filed, or that such protest, if filed, was insufficient and expressing the determination of the board to

1 proceed with the improvement. Such resolution shall require the
2 engineer to immediately file detailed plans, profiles,
3 specifications, and estimates of probable cost. After the filing of
4 said plans, profiles, specifications, and estimates, the board shall
5 examine the same, and if found satisfactory, shall, by resolution,
6 adopt and approve the same. The resolution shall state the material
7 to be used and that the work or improvement will be constructed in
8 accordance with the final detailed plans, specifications, and
9 profiles of the engineer. The resolution shall set forth any
10 reasonable terms and conditions that the board of county
11 commissioners deems proper to impose. The board, by resolution,
12 shall also provide that the contractor shall execute to the county a
13 good and sufficient bond in an amount to be stated in the
14 resolution, conditioned for the full and faithful execution of the
15 work and the performance of the contract for the protection of the
16 county and all record title holders of property interested, against
17 any loss or damage by reason of the negligence of the contractor,
18 improper execution of the work or improvement, or the use of
19 inferior material, and shall also require a bond, in an amount to be
20 stated in said resolution, for the maintenance of said improvements
21 against any failure due to defective workmanship or materials for a
22 period of not less than one (1) year from the time of its completion
23 and acceptance. Such maintenance bond shall not be required where

1 such road improvements consist of oil and chips or graveling. The
2 resolution shall also require the execution of a good and sufficient
3 bond for payment of labor and material conditioned in accordance
4 with the laws of this state. The resolution shall also direct the
5 county clerk after the filing of said final plans, profiles,
6 specifications, and estimates to advertise for sealed bids for
7 furnishing the materials and performing the work necessary in making
8 the improvement. The notice for such bids shall state the roads,
9 streets, avenues, or ~~other~~ public places to be improved, the kind of
10 improvements proposed, what bonds will be required to be executed by
11 the contractor, shall refer to the plans and specifications, and
12 shall state the date, time, and place where such sealed bids shall
13 be filed, and the date and place the same will be considered by the
14 board. The notice shall state the manner of payment to the
15 contractor and whether the contractor will be paid in money, in
16 bonds or in a proportion of money and bonds for making the
17 improvement. The notice shall be published in accordance with the
18 provisions of the Public Competitive Bidding Act of 1974. No action
19 or suit to question the adoption of said resolution, or the
20 sufficiency of the same or the final, detailed estimate of the
21 engineer, shall be commenced later than fifteen (15) days after the
22 first publication of said notice.

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

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

8 Section 1248. As soon as the assessing ordinance is adopted,
9 the county clerk shall prepare a book which shall be known as the
10 road assessment record in which ~~he~~ the clerk shall enter the names
11 of each person holding title to the land to be assessed as
12 ascertained from the records of the county, or in case the name of
13 the record title holder is not known, a statement to that effect and
14 description of the lot, tract, or subdivision, with a blank space
15 for entering the amount of the assessment and with a suitable column
16 for entering the payments which may be made from time to time on
17 account of such assessment.

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

20 Section 1250. The assessments provided for and levied pursuant
21 to the provisions of Sections 1230 through 1262 of this title shall
22 be payable as the installments become due, together with the
23 interest on said installments, to the county clerk who shall give

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

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

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

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

20 Section 1257. The board of county commissioners of any county,
21 after the expiration of thirty (30) days from the publication of the
22 assessing resolution, within which period the whole of any
23 assessment may be paid without interest, ~~shall~~ may provide by

1 resolution for the issuance of negotiable bonds in the aggregate
2 amount of such assessments then remaining unpaid. The bonds shall
3 bear a date of thirty (30) days after the publication of the
4 resolution levying the assessments, and be of such denominations as
5 the board of county commissioners and the bond attorney shall
6 determine. The bonds shall in no event become a liability of the
7 county issuing the same. The bonds shall be payable on or before
8 October 1 next succeeding the September 1 on which the last
9 installment of assessments shall mature, with interest at the rate
10 of not to exceed thirteen percent (13%) per annum, payable October 1
11 next succeeding the due date of the first installment of
12 assessments, and semiannually thereafter, until maturity, and
13 fifteen percent (15%) per annum after maturity. Said bonds shall be
14 designated as Road Improvement Bonds, and shall recite the roads,
15 streets, alleys, avenues, lanes, or parts thereof, or other public
16 places, for the improvement of which they have been issued and that
17 they are payable, in cash, from the assessments which have been
18 levied upon the lots and tracts of land benefited by said
19 improvement and from the accumulation of the interest and penalty
20 provided for. Said bonds shall be signed by the county
21 commissioners of such county and attested by the county clerk, and
22 shall have an impression of the corporate seal of the county
23 thereon. The bonds and interest shall be payable at such place,

1 either within or without the State of Oklahoma, as shall be
2 designated therein. Said bonds shall be issued in series, and the
3 bonds of each series shall be numbered consecutively beginning with
4 number one, and said bonds of each series shall be payable, in cash,
5 in their numerical order. Such bonds shall be registered by the
6 county clerk and treasurer of such county in a book to be provided
7 for that purpose and each bond shall bear a certificate of such
8 registration. Upon the books of such treasurer shall be noted the
9 name of the holder thereof and his address, and any subsequent
10 holder may cause the same to be registered in the name thereof upon
11 submission of proper proof of ownership. The county shall have the
12 right to call in and pay said bonds or any number thereof in the
13 following manner: Whenever there shall be sufficient funds in the
14 hands of the county treasurer after the payment of all interest due
15 and to become due within the next six (6) months, such treasurer
16 shall on or before March 10 and September 10 of any year give notice
17 by registered mail addressed to the last registered holder of the
18 bonds called, at the address appearing upon his registry that there
19 have accumulated funds sufficient to pay the designated bonds, and
20 interest thereon to April 1 next or October 1 next, and directing
21 the presentation of such bond or bonds for payment and cancellation.
22 The bond or bonds will cease to bear interest after said April 1
23 next or said October 1 next, and upon the payment and cancellation

1 of said bond or bonds, proper entry thereof shall be made upon the
2 books of the clerk and treasurer. It is hereby made the duty of
3 such county treasurer upon the accumulation of sufficient funds as
4 provided to pay one or more bonds to call and pay such bond or
5 bonds, and in the event of failure to do so, he shall be liable for
6 all such damages as may result therefrom. The provisions of this
7 section may be enforced by appropriate proceedings in mandamus
8 against such treasurer.

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

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

13 Section 1258. The proceeds from the sale of the bonds pursuant
14 to the provisions of Section 1257 of this title shall be deposited
15 in separate accounts established for each improvement and disbursed
16 only for the cost associated with the respective improvement.
17 Payment to the contractor shall be in parcels on the completion of
18 the work or improvement or any part thereof, not less than one
19 block, to an amount equal to the improvement so completed and
20 accepted. Any funds not disbursed shall be utilized by the county
21 commissioners to recall outstanding bonds. Payment to the
22 contractor in money shall be paid no more than sixty (60) days after
23 the due date for payment of assessments, including special

1 assessments and each installment of such assessments and the
2 interest on such assessments.

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

4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-15-10
5 - DO PASS.