

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2992

By: Enns

4  
5  
6 AS INTRODUCED

7 An Act relating to counties and county officers;  
8 amending 19 O.S. 2001, Section 1238, which relates to  
9 assessments; modifying certain notice requirement;  
10 amending 19 O.S. 2001, Section 1248, which relates to  
11 assessments; updating certain terminology; requiring  
12 notice include the manner of payment; amending 19  
13 O.S. 2001, Section 1250, which relates to  
14 assessments; removing county clerk bonding  
15 requirement; modifying certain notice requirement;  
16 requiring notice of titleholder within certain time  
17 period; providing penalty for nonpayment; providing  
18 lack of notice does not invalidate assessment;  
19 amending 19 O.S. 2001, Section 1257, which relates to  
20 assessments; modifying certain required issuance of  
21 bonds to permissive; amending 19 O.S. 2001, Section  
22 1258, which relates to assessments; requiring payment  
23 within certain time period; and providing an  
24 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

1 county commissioners shall adopt a resolution declaring that no such  
2 protest has been filed, or that such protest, if filed, was  
3 insufficient and expressing the determination of the board to  
4 proceed with the improvement. Such resolution shall require the  
5 engineer to immediately file detailed plans, profiles,  
6 specifications, and estimates of probable cost. After the filing of  
7 said plans, profiles, specifications, and estimates, the board shall  
8 examine the same, and if found satisfactory, shall, by resolution,  
9 adopt and approve the same. The resolution shall state the material  
10 to be used and that the work or improvement will be constructed in  
11 accordance with the final detailed plans, specifications, and  
12 profiles of the engineer. The resolution shall set forth any  
13 reasonable terms and conditions that the board of county  
14 commissioners deems proper to impose. The board, by resolution,  
15 shall also provide that the contractor shall execute to the county a  
16 good and sufficient bond in an amount to be stated in the  
17 resolution, conditioned for the full and faithful execution of the  
18 work and the performance of the contract for the protection of the  
19 county and all record title holders of property interested, against  
20 any loss or damage by reason of the negligence of the contractor,  
21 improper execution of the work or improvement, or the use of  
22 inferior material, and shall also require a bond, in an amount to be  
23 stated in said resolution, for the maintenance of said improvements  
24 against any failure due to defective workmanship or materials for a

1 period of not less than one (1) year from the time of its completion  
2 and acceptance. Such maintenance bond shall not be required where  
3 such road improvements consist of oil and chips or graveling. The  
4 resolution shall also require the execution of a good and sufficient  
5 bond for payment of labor and material conditioned in accordance  
6 with the laws of this state. The resolution shall also direct the  
7 county clerk after the filing of said final plans, profiles,  
8 specifications, and estimates to advertise for sealed bids for  
9 furnishing the materials and performing the work necessary in making  
10 the improvement. The notice for such bids shall state the roads,  
11 streets, avenues, or ~~other~~ public places to be improved, the kind of  
12 improvements proposed, what bonds will be required to be executed by  
13 the contractor, shall refer to the plans and specifications, and  
14 shall state the date, time, and place where such sealed bids shall  
15 be filed, and the date and place the same will be considered by the  
16 board. The notice shall state the manner of payment to the  
17 contractor and whether the contractor will be paid in money, in  
18 bonds or in a proportion of money and bonds for making the  
19 improvement. The notice shall be published in accordance with the  
20 provisions of the Public Competitive Bidding Act of 1974. No action  
21 or suit to question the adoption of said resolution, or the  
22 sufficiency of the same or the final, detailed estimate of the  
23 engineer, shall be commenced later than fifteen (15) days after the  
24 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  
24 proper receipts for such payments and credit the same upon the road

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

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

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

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

17 Section 1257. The board of county commissioners of any county,  
18 after the expiration of thirty (30) days from the publication of the  
19 assessing resolution, within which period the whole of any  
20 assessment may be paid without interest, ~~shall~~ may provide by  
21 resolution for the issuance of negotiable bonds in the aggregate  
22 amount of such assessments then remaining unpaid. The bonds shall  
23 bear a date of thirty (30) days after the publication of the  
24 resolution levying the assessments, and be of such denominations as

1 the board of county commissioners and the bond attorney shall  
2 determine. The bonds shall in no event become a liability of the  
3 county issuing the same. The bonds shall be payable on or before  
4 October 1 next succeeding the September 1 on which the last  
5 installment of assessments shall mature, with interest at the rate  
6 of not to exceed thirteen percent (13%) per annum, payable October 1  
7 next succeeding the due date of the first installment of  
8 assessments, and semiannually thereafter, until maturity, and  
9 fifteen percent (15%) per annum after maturity. Said bonds shall be  
10 designated as Road Improvement Bonds, and shall recite the roads,  
11 streets, alleys, avenues, lanes, or parts thereof, or other public  
12 places, for the improvement of which they have been issued and that  
13 they are payable, in cash, from the assessments which have been  
14 levied upon the lots and tracts of land benefited by said  
15 improvement and from the accumulation of the interest and penalty  
16 provided for. Said bonds shall be signed by the county  
17 commissioners of such county and attested by the county clerk, and  
18 shall have an impression of the corporate seal of the county  
19 thereon. The bonds and interest shall be payable at such place,  
20 either within or without the State of Oklahoma, as shall be  
21 designated therein. Said bonds shall be issued in series, and the  
22 bonds of each series shall be numbered consecutively beginning with  
23 number one, and said bonds of each series shall be payable, in cash,  
24 in their numerical order. Such bonds shall be registered by the

1 county clerk and treasurer of such county in a book to be provided  
2 for that purpose and each bond shall bear a certificate of such  
3 registration. Upon the books of such treasurer shall be noted the  
4 name of the holder thereof and his address, and any subsequent  
5 holder may cause the same to be registered in the name thereof upon  
6 submission of proper proof of ownership. The county shall have the  
7 right to call in and pay said bonds or any number thereof in the  
8 following manner: Whenever there shall be sufficient funds in the  
9 hands of the county treasurer after the payment of all interest due  
10 and to become due within the next six (6) months, such treasurer  
11 shall on or before March 10 and September 10 of any year give notice  
12 by registered mail addressed to the last registered holder of the  
13 bonds called, at the address appearing upon his registry that there  
14 have accumulated funds sufficient to pay the designated bonds, and  
15 interest thereon to April 1 next or October 1 next, and directing  
16 the presentation of such bond or bonds for payment and cancellation.  
17 The bond or bonds will cease to bear interest after said April 1  
18 next or said October 1 next, and upon the payment and cancellation  
19 of said bond or bonds, proper entry thereof shall be made upon the  
20 books of the clerk and treasurer. It is hereby made the duty of  
21 such county treasurer upon the accumulation of sufficient funds as  
22 provided to pay one or more bonds to call and pay such bond or  
23 bonds, and in the event of failure to do so, he shall be liable for  
24 all such damages as may result therefrom. The provisions of this

1 section may be enforced by appropriate proceedings in mandamus  
2 against such treasurer.

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

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

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

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

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22 52-2-9530 CJB 01/13/10

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