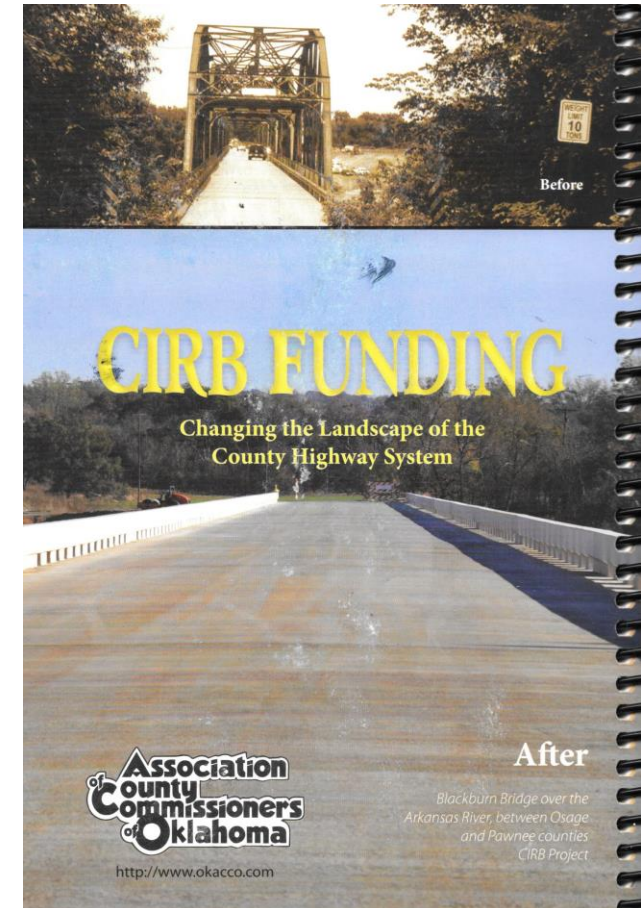
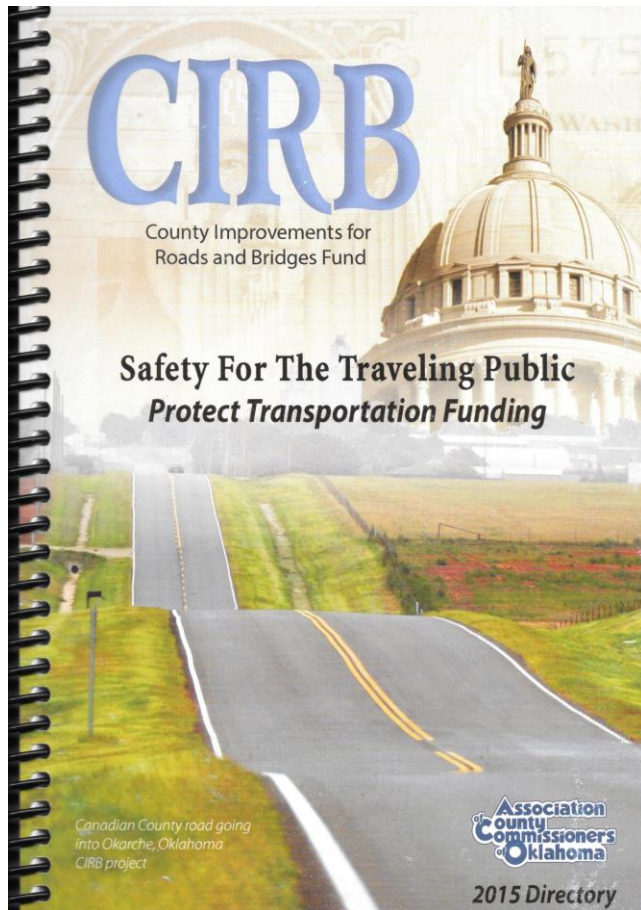


State of Oklahoma County Improvement for Roads and Bridges (CIRB)

Revolving Fund and Program Management

A 5-year View



Today's Discussion Topics

- Definitions
- Permissive vs Restrictive Language
 - Shall means May?
- Legislative Intent -- Custodians of State Highway Systems
 - Authority and Duties of State Highway Commission
 - Authority and Duties of Boards of Commissioners
- County Highway System
 - Past legislative efforts “repealed”
 - Need is most always greater than available resources
 - County vs State design criteria
 - Recommended Change
- CIRB Program Today
 - Current CIRB Funding Allocation
 - ODOT Requires CEDs to manage CIRB program
 - CED, & OCCEDB Program Today
 - Recommended Changes
- County Highway Emergency and Transportation Revolving Fund
 - If some counties control their CIRB funds how can we handle emergency needs?
 - Recommended Changes
- County Government's Compliance Requirement
 - ODOT's administrative rule requiring CED to manage CIRB program
 - County is subject only to unqualified state legislation

Definitions

Title 69. Roads, Bridges, and Ferries

Chapter 1 - Oklahoma Highway Code of 1968

Article Article 2 - Words and Phrases Defined

Section 213 - County Highway System

The system of highways the responsibility for which is lodged with the counties.

Section 242 - State Highway System

The system of state roads designated by the State Highway Commission, including necessary urban extension, the responsibility for which is lodged in the Department of Highways.

Section 219 - Governing Body

The legislative authority of any city or town for all streets and highways within the corporate limits of such city or town; and the board of county commissioners of each county as to all county highways; and the State Highway Commission of the State of Oklahoma as to all state highways.

Definitions

Oklahoma Statutes Citationized

Title 69. Roads, Bridges, and Ferries

Chapter 1 - Oklahoma Highway Code of 1968

Article Article 2 - Words and Phrases Defined

Section 217.1 - Force Account or Construction on Force Account Basis

Cite as: O.S. §, __ __

"Force account" or "construction on a force account basis" means the construction of a public project performed by a public body, in whole or in part, using permanent personnel on its own payroll, using the equipment of such public body, except for specialized equipment and a qualified operator of such specialized equipment, and without hiring outside supervision or utilizing outside direction unless it is determined such outside supervision or direction will contribute to the quality of the work being performed.

Permissive vs Restrictive Legislative Language

Nearly every jurisdiction has held that the word "shall" is confusing because it can also mean "may, will or must." Legal reference books like the *Federal Rules of Civil Procedure* no longer use the word "shall." Even the Supreme Court ruled that when the word "shall" appears in statutes, it means "may."

Must = mandatory

Must not = prohibited

May = optional

Should = recommended

<https://www.plainlanguage.gov/guidelines/>

Legislative Intent ??

Article 5 - State Highway System

[§ 501. Classes of Highways - Construction, Repair, and Maintenance - Ownership of Bridges on Roads Removed From System - Maps](#)

[§ 502. Roads Connecting Public Use Areas, State Parks, National Parks and State-Owned Institutions With Certain Highways or Streets - Roads Within Boundaries of State Parks and Memorials](#)

[§ 502.1. Maintenance of Roads Accepted by the Federal Highway Administration](#)

[§ 503. Notice Before Removal of Highways From State Highway System](#)

[§ 504. Maintenance of Streets, Roads, and State-Owned Parking Lots on Capitol Grounds and Adjacent Lands](#)

[§ 505. Title to Removed Bridge Due to Construction or Reconstruction of State Highway](#)

[§ 506. High Priority State Bridge Revolving Fund](#)

[§ 507. County Improvements for Roads and Bridges Revolving Fund](#)



???

Article 6 - County Road System

[§ 601. County Highway System - Authority and Duties of Boards of County Commissioners](#)

[§ 601.1. Plans and Specifications for New Roads and Bridges](#)

[§ 601.2. Exemptions](#)

[§ 601.3. Adoption of Annual Priority Plan and Budget for Construction of Road, Bridge, Culvert And Drainage Projects - Amendment](#)

Legislative Intent

Oklahoma Statutes Citationized

Title 69. Roads, Bridges, and Ferries

Chapter 1 - Oklahoma Highway Code of 1968

Article Article 1 - Legislative Intent

Section 101 - Declaration of Legislative Intent

- (a) Recognizing that safe and efficient highway transportation is a matter of important interest to all the people in the state, the Legislature hereby determines and declares that an integrated system of roads and highways is essential to the general welfare of the State of Oklahoma.
- (b) The provision of such a system of facilities, and its efficient management, operation and control, are recognized as urgent problems, and as the proper objectives of highway legislation.
- (c) Inadequate roads and streets obstruct the free flow of traffic; result in undue cost of motor vehicle operation; endanger the health and safety of the citizens of the state; depreciate property values; and impede generally economic and social progress of the state.
- (d) In designating the highway systems of this state, as hereinafter provided, the Legislature places a high degree of trust in the hands of those officials whose duty it shall be, within the limits of available funds, to plan, develop, operate, maintain and protect the highway facilities of this state, for present as well as for future use.

Legislative Intent

(e) To this end, it is the intent of the Legislature to make the State Highway Commission and its Director, and the Department of Highways of the State of Oklahoma acting through the Commission, custodian of the State Highway System and to provide sufficiently broad authority to enable the Commission and the Department to function adequately and efficiently in all areas of appropriate jurisdiction, subject to the limitations of the Constitution and the legislative mandate hereinafter imposed.

(f) The Legislature intends to declare, in general terms, the powers and duties of the Commission and its Director, leaving specific details to be determined by reasonable rules, regulations and policies which may be promulgated by the Commission. In short, the Legislature intends by a general grant of authority to the Commission to delegate sufficient power and authority to enable the Commission and the Department to carry out the broad objectives stated above.

(g) It is the further intent of the Legislature to bestow upon the boards of county commissioners similar authority with respect to the county highway system. The efficient management, operation and control of our county roads and other public thoroughfares are likewise a matter of vital public interest. The problem of establishing and maintaining adequate roads and highways, eliminating congestion, reducing accident frequency, providing parking facilities and taking all necessary steps to ensure safe and convenient transportation on these public ways is no less urgent.

Many Past Legislative efforts repealed

County Bridge and Road Improvement Act

[§ 657. Short Title](#)

[§ 658. Repealed](#)

[§ 659. County Bridge Standards - Demonstration Bridge Projects - Engineering Services](#)

[§ 660. Cooperative Agreements with Turnpike Authority for Bridges Crossing Turnpikes - Expenditures](#)

[§ 661. Priority of Replacement or Repair Projects - Selection - Apportionment of Funds](#)

[§ 662. Professional Engineer Approval - Reimbursement - Additional Supervision](#)

[§ 663. Repealed](#)

[§ 663.1. Repealed](#)

[§ 664. Repealed](#)

[§ 665. Certification of County Compliance With Agreements and Obligations](#)

[§ 666. Environmental Studies Not Required Prior to Bridge Replacement](#)

County Primary Road Improvement Act

[§ 670. Repealed](#)

[§ 671. Repealed](#)

[§ 671.1. Repealed](#)

[§ 672. Repealed](#)

[§ 672.1. Repealed](#)

[§ 673. Repealed](#)

[§ 674. Repealed](#)

[§ 675. Repealed](#)

[§ 676. Repealed](#)

Oklahoma Rural Road Inventory Act

[§ 677. Repealed](#)

[§ 678. Repealed](#)

[§ 679. Repealed](#)

[§ 680. Repealed](#)

County Road Improvement Act

[§ 685. Repealed](#)

[§ 686. Repealed](#)

[§ 687. Repealed](#)

[§ 687.1. Authority to Create Circuit Engineering Districts](#)

[§ 687.2. Circuit Engineering District Revolving Fund](#)

[§ 687.3. Emergency and Transportation Revolving Fund - County Loans for Compressed Natural Gas Vehicles](#)

[§ 688. Repealed](#)

[§ 689. Road Design Standards - County Responsibility - Option to Accept or Reject](#)

[§ 689.1. Repealed](#)

[§ 690. Repealed](#)

[§ 690.1. Repealed](#)

[§ 695. Repealed](#)

County Highway System

Title 69. Roads, Bridges, and Ferries

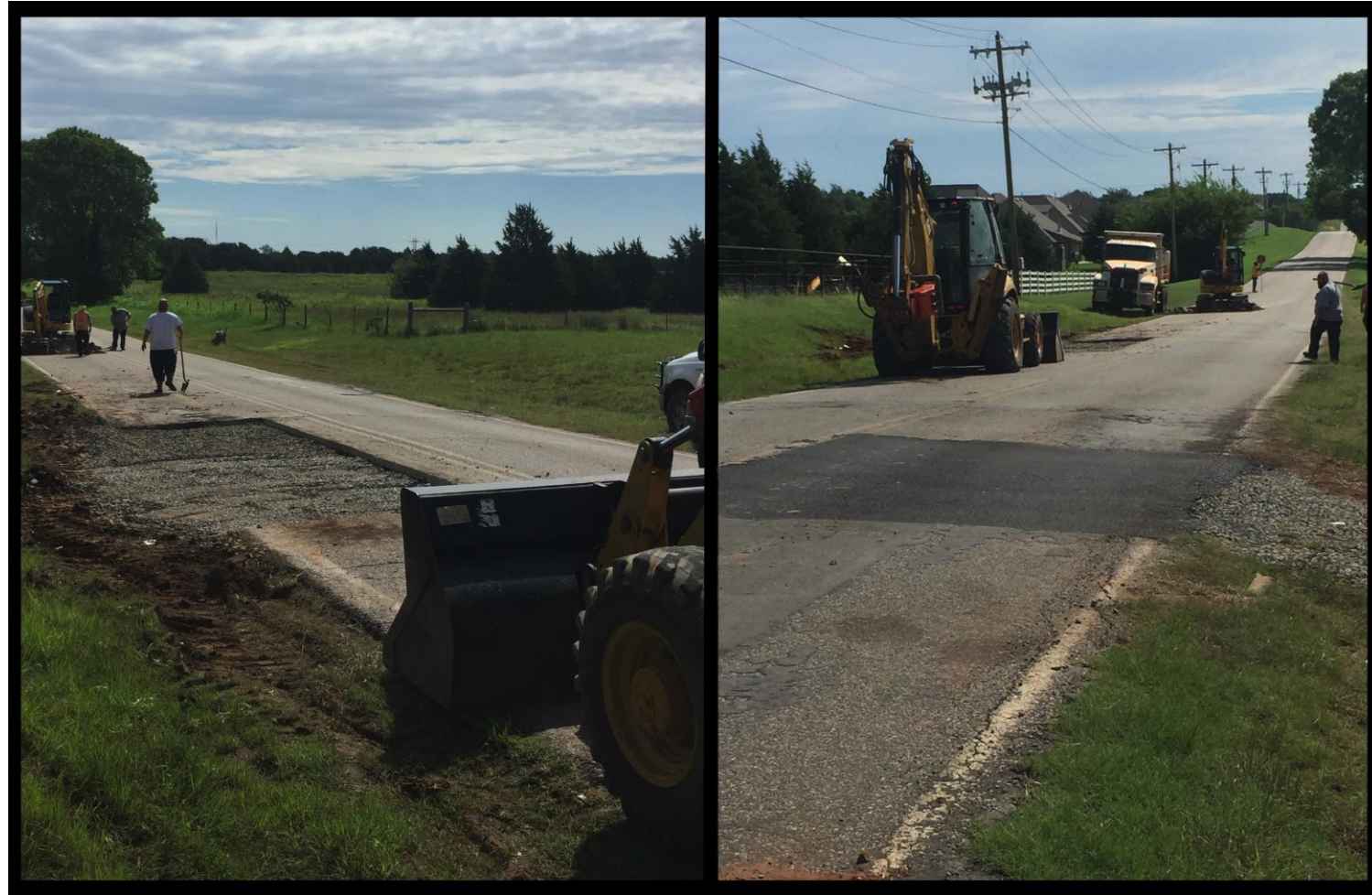
Section 601 - County Highway System - Authority and Duties of Boards of County Commissioners

A. The county highway system shall be composed of all public roads within any county, less any part of any road or roads which may be designated as a state highway by the State Transportation Commission. It shall be the duty of the board of county commissioners in each county to construct and maintain as county highways those roads which best serve the most people of the county. For this purpose the board of county commissioners is authorized to use any funds which are in the county highway fund, subject to statutory restrictions on the use of any of such funds, together with any money or item of value derived from any agreement entered into between the county and the Transportation Commission, the federal government, this state, any other county or political subdivision of this state or other governmental entity, or any citizen or group of citizens who have made donations for that purpose. The boards of county commissioners of the various counties shall have exclusive jurisdiction over the designation, construction and maintenance and repair of all of the county highways and bridges therein. All interlocal cooperation agreements made pursuant to this section between counties and those political subdivisions or citizens of a county shall be submitted to the district attorney of each of the counties subject to the agreement for approval. All other interlocal cooperation agreements shall be submitted and approved in accordance with Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes.

County Highway System Force Account



County Highway System Force Account



County Highway System Force Account



County Highway System Force Account



County Highway System

Road Construction using County Force Account Basis



One Mile County Highway repaired, deep patched, milled, filled, overlaid and striped approximately \$200,000.00



County Highway System

The cost to maintain 1 mile of gravel road is approximately \$8K to \$12K per mile per year



Base Stabilization



Ditch Management



Year 12

County Highway System

The cost to maintain 1 mile of asphalt road is
\$22K to \$38K per mile per year



25 year re-stabilization



Crack Seal



12-15 year overlay

County Highway System

📁 Title 69. Roads, Bridges, and Ferries

📁 Chapter 1 - Oklahoma Highway Code of 1968

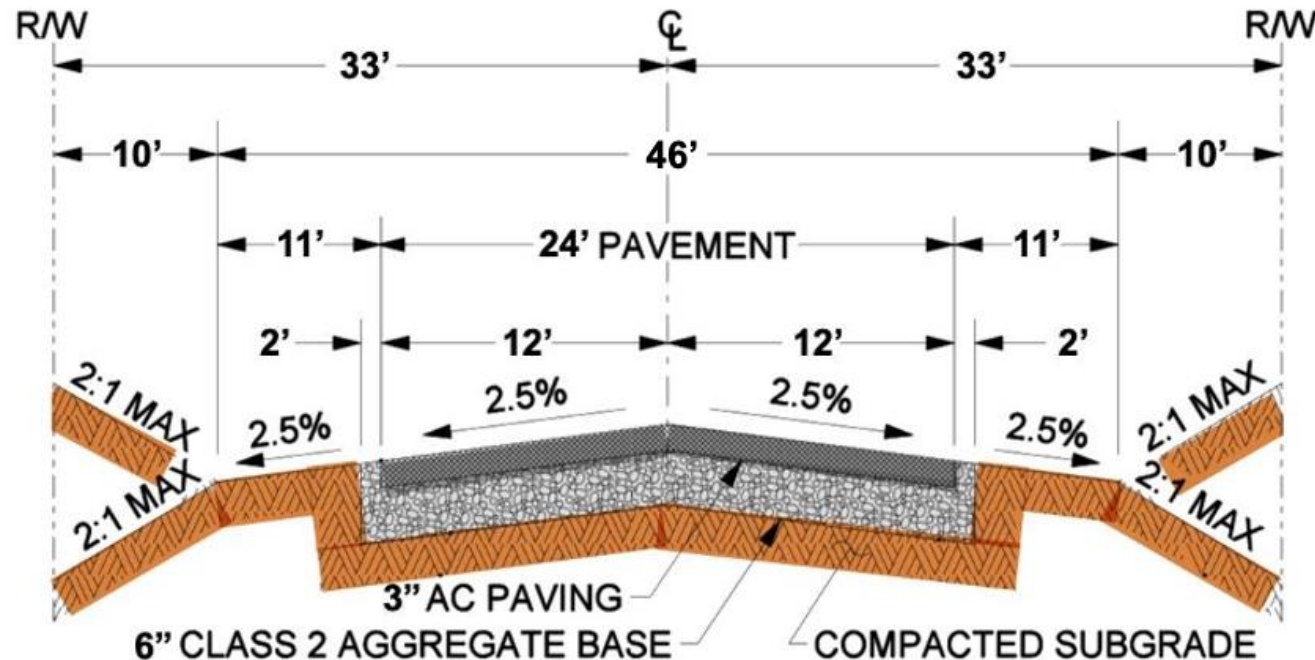
📁 Article Article 6 - County Road System

📄 Section 601.1 - Plans and Specifications for New Roads and Bridges

Laws 1975, HB 1431, c. 239, § 1,
emerg. eff. May 30, 1975.


Cite as: O.S. §, __ __

The board of county commissioners in each county may cause to be prepared, and may adopt by resolution, standard plans and specifications for the establishment and construction of new roads or bridges to be dedicated to the use and benefit of the public. Such roads or bridges must meet such specifications before being accepted and becoming public roads.



County Highway System

Title 69. Roads, Bridges, and Ferries

 Section 601.3 - Adoption of Annual Priority Plan and Budget for Construction of Road, Bridge, Culvert And Drainage Projects - Amendment **SB 291, c. 174, § 2, emerg. eff. May 16, 2005**

A. On or before September 30 of each year the board of county commissioners shall adopt an annual priority plan and budget for the construction of road, bridge, culvert and drainage projects during the next federal fiscal year and the four (4) years succeeding the next federal fiscal year, based upon available existing and estimated future funds administered by the Department of Transportation for county bridges and roads. The plan shall be filed by the board of county commissioners with the Department of Transportation and the county clerk.

B. The board of county commissioners may amend annual priority plans and budgets, but any amendment shall be filed with the Department of Transportation and county clerk.

Section 601.6 - Public Notice Prior to Accepting Bids on Publicly-let Road or Bridge Projects in County

Cite as: 69 O.S. § 601.6 (OSCN 2020) **SB 2173, c. 256, § 5, emerg. eff. July 1, 2010**

The board of county commissioners in every county in this state must notify the Department of Transportation at least twenty-one (21) days prior to accepting bids on any publicly let road or bridge work projects in the county. The Department shall make this information available to the public on their website.

County Highway System

Title 69. Roads, Bridges, and Ferries

Chapter 1 - Oklahoma Highway Code of 1968

County Road Improvement Act

Article Article 6 - County Road System

Section 689 - Road Design Standards - County Responsibility - Option to Accept or Reject

Cite as: 69 O.S. § 689 (OSCN 2020), County Road Improvement Act

To participate in what program? The CIRB program in section 507 is under article 5 of the State Road System, and this program funding identified in Section 687 was repealed

A. The Department of Transportation is hereby directed, in cooperation with the Oklahoma Cooperative Circuit Engineering Districts Board, to cause to be developed appropriate local road design standards **for use in constructing projects pursuant to this program.** The standards, upon their adoption by the Transportation Commission and by those counties wishing **to participate in this program,** shall be used **for the design and construction of all projects funded pursuant to this program.** However, when funds available pursuant to this program are used to match federal funds, projects shall meet appropriate minimum design standards for local roads and other applicable federal requirements. All plans and specifications for federal-aid projects shall be subject to the approval of the Department. To every extent possible, negotiations with the Federal Highway Administration should be undertaken to allow application of the County Roads Design Guidelines Manual.

B. **Plans, surveys, and engineering shall be the responsibility of the county in which the project is located.** Only registered professional engineers, approved by the Department of Transportation, experienced in the design and construction of highway and related facilities, shall be used for such services.

C. **Prior to award of the contract by the Transportation Commission, the county shall be given the option of accepting or rejecting the bid submitted by the successful bidder.**

Title 69. Roads, Bridges and Ferries

SUPERSEDED

SUPERSEDED

SUPERSEDED

SUPERSEDED

Superseded Effective July 01,1997

Chapter 1

Oklahoma Highway Code of 1968

Article 6. County Road System

County Road Improvement Act

§687. Establishment of Program to Aid Counties in Making Improvements on County Road System - Apportionment of Funds - Prioritizing.

A. The Department of Transportation shall establish a program to aid counties in making improvements on the county road system in each county.

B. Funds appropriated to or otherwise accruing to the County Road Improvement Revolving Fund shall be apportioned on the basis of a formula developed by the Department of Transportation. Such formula shall be similar to that currently used for the distribution of County Bridge Program funds, but also taking into consideration the effect of terrain and traffic volume as related to county road improvement and maintenance costs.

...

The funds so apportioned may be used for the following purposes:

1. Construction projects for the improvement of county roads.

...

D. Each county in this state shall prioritize projects located in such county to be funded from the County Road Improvement Revolving Fund. Each county shall consider the following factors in establishing priorities:

1. Project need based on traffic conditions and hazardous conditions.
2. Availability of federal matching funds.
3. Availability of other county funds.
4. County accrued surplus in this fund.

*This was the funding program
discussed in section 689*

Recommend Changes to section 689 (County) Road Design Standards

- Eliminate “funding program” references to superseded funding allocation
- Eliminate conflated language in sections 601.1 & 689
- Require ODOT to let County project contracts using Fed Highway Funds
- Establish need for minimum design requirements when using Fed Funds
- Provide Counties the option to approve/remove engineers & firms from ODOT maintained approved vendor list
- Specify that the “County Road Design Standards” described in section 689 are only applicable and required when County projects use Federal Highway Funds.

Proposed Legislative Change Language

Title 69. Roads, Bridges, and Ferries

Section 689 - Road Design Standards - County Responsibility - Option to Accept or Reject

A. The Department of Transportation is hereby directed, in cooperation with the Oklahoma Cooperative Circuit Engineering Districts Board, to ~~cause to be developed~~ and maintain a appropriate County Roads Design Guidelines Manual ~~local road design standards~~ for use in constructing projects on the County Highway System using federal highway funds ~~pursuant to this program~~. The standards, ~~upon their adoption by the Transportation Commission and by those counties wishing to participate in this program,~~ must shall be used for the design and construction of all projects ~~funded pursuant to this program. However,~~ when any funds available to the county ~~pursuant to this program~~ are used to match federal funds, Such projects must shall meet appropriate minimum design standards of ~~for local roads and other~~ applicable federal requirements. All plans and specifications for federal-aid projects must shall be subject to the approval of the Department. To every extent possible, negotiations with the Federal Highway Administration should be undertaken to allow application of the County Roads Design Guidelines Manual.

B. Plans, surveys, and engineering must shall be the responsibility of the county in which the project is located. Only registered professional engineers, approved by the Department of Transportation and the county, experienced in the design and construction of highway and related facilities, must shall be used for such services.

C. Prior to award of the contract by the Transportation Commission, the county shall be given the option of accepting or rejecting the bid submitted by the successful bidder.

State Highway System

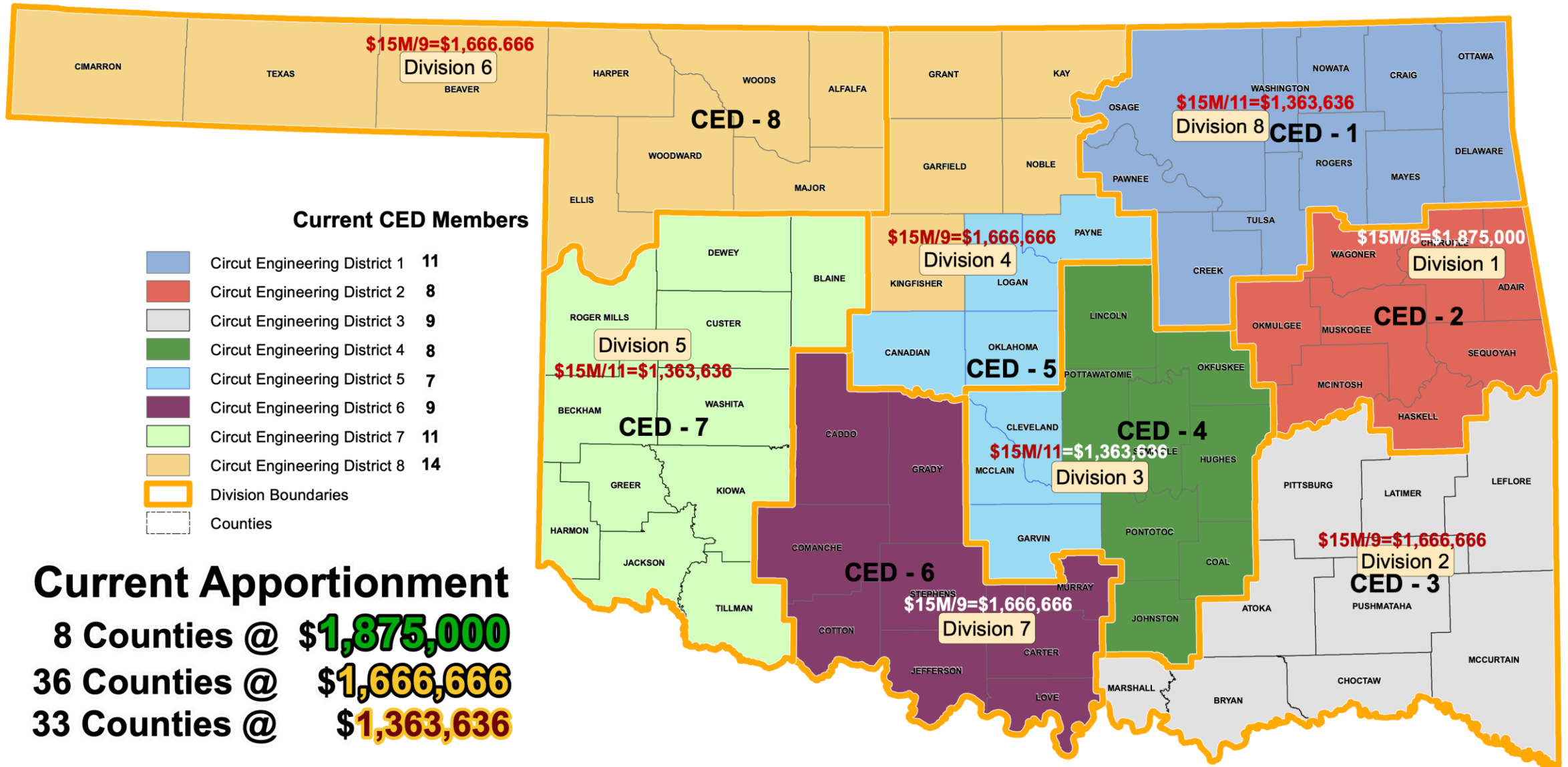
Title 69. Roads, Bridges, and Ferries

Section 507 - County Improvements for Roads and Bridges Revolving Fund

B. The funds apportioned pursuant to subsection L of Section 1104 of Title 47 of the Oklahoma Statutes shall be in equal amounts to the various Transportation Commission districts. The funds shall be used for the sole purpose of construction or reconstruction of county roads or bridges on the county highway system that are of the highest priority as defined by the Transportation Commission. Counties may accumulate annual funding for a period of up to five (5) years for a specific project, with such funding to be held by the Transportation Commission to the credit of the county project. The Transportation Commission shall promulgate rules for the administration of the process and the development of criteria for determining the level of priority for projects and include such projects in a five-year construction plan that will be updated annually. Projects in the five-year construction plan shall be contracted as provided by law and awarded by the Transportation Commission.

CIRB apportionment with current 15 Million Dollars a year to 8 ODOT Divisions

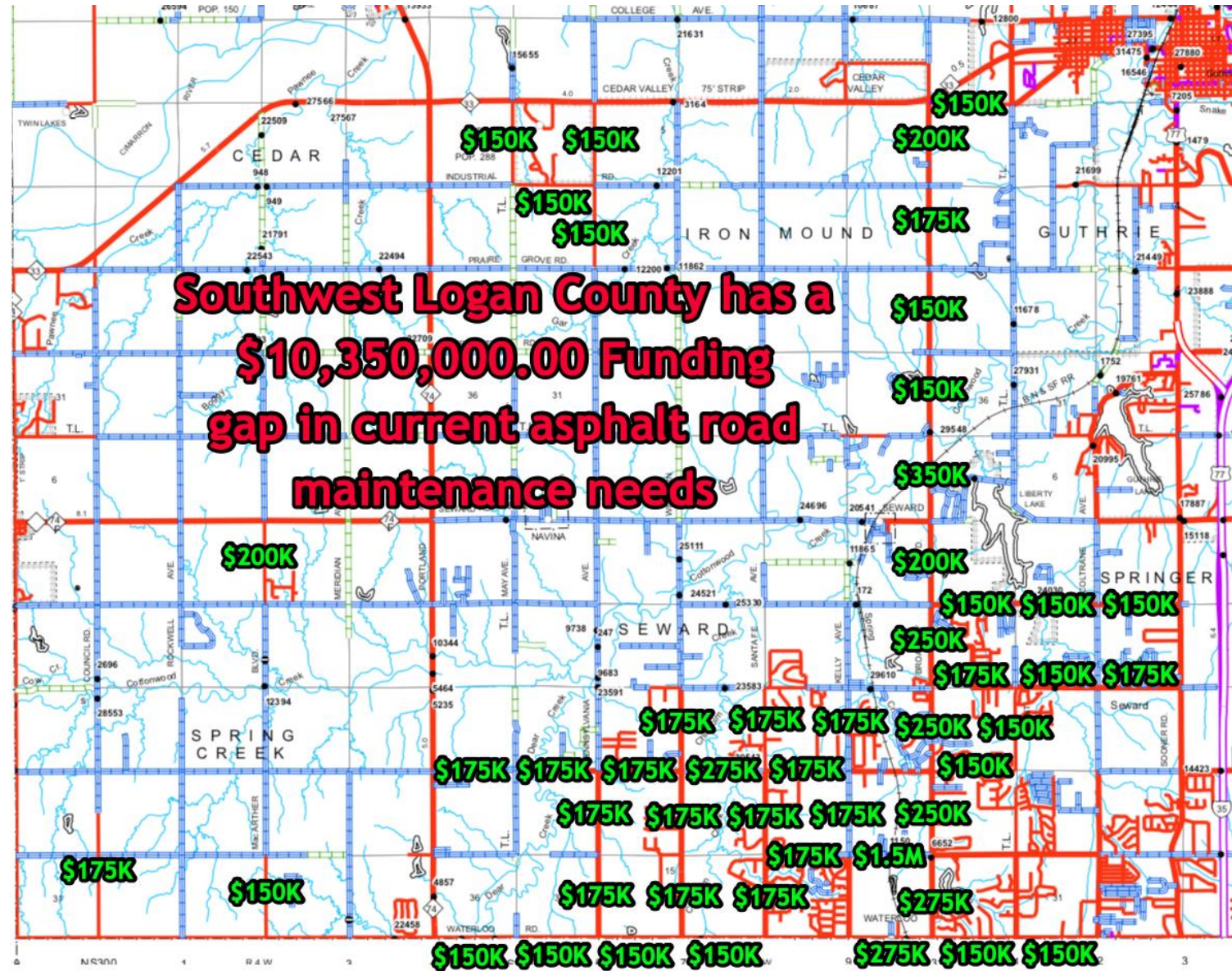
If Even Split $\$120\text{M} / 77 = \$1,558,441$



State Highway System

5 YEAR CIRB WORK PLAN						
FISCAL YEAR 2021-2025				AdvCon\$ Federal\$ State\$	Other\$ CIRB\$ Tribe\$	TOTAL\$
LOGAN	CO RD	FY 2022	GRADE, DRAIN & SURFACE	\$0	\$0	
DIV. 4	3.00 MI	1.00 MI	PHASE III GRADE, DRAIN & WIDENING COLTRANE RD. FROM WATERLOO RD TO SIMMONS	\$0	\$3,512,025	\$3,512,025
25089(04)				\$0	\$0	\$2,000,000
LOGAN	COBRGE	FY 2023	BRIDGE & APPROACHES	\$0	\$0	
DIV. 4	0.07 MI.		BR & APPR ON EW-71, 2.0 MILES NORTH & 5.9 MILES EAST OF CRESCENT	\$0	\$1,004,487	\$1,004,487
31251(04)			CT BEAMS	\$0	\$0	
LOGAN	CO RD	FY 2024	GRADE & DRAIN	\$0	\$0	
DIV. 4	2.00 MI.		LUTHER RD FROM WATERLOO, 2.0 MILES NORTH TO CHARTER OAK	\$654,532	\$2,785,411	\$3,439,943
29367(04)			PHASE III (2 BRIDGES)	\$0	\$0	
LOGAN	CO RD	FY 2025	GRADE, DRAIN & SURFACE	\$0	\$0	
DIV. 4	0.48 MI.		WATERLOO RD - EAST & WEST OF RECONSTRUCTED I-35 INTERCHANGE	\$0	\$1,813,000	\$1,813,000
33978(04)			WITH OKLAHOMA COUNTY	\$0	\$0	
Logan County 5 Year Totals:				\$654,532	\$9,114,923	\$9,769,455

County Highway System



Move CIRB to County Highway portion of Title 69

Restore County Commissioners exclusive jurisdiction

- Eliminate conflicting responsibility for County Highway System
- Eliminate conflicting legislative & regulatory 5-year planning directives
- Expand options for County road and bridge construction & maintenance
- Preserve the current CIRB program & project management if desired
- Expand options allowing County managed Force Account Basis projects
- Allocate funding monthly based on asset management resource model
- Allocate funding to Counties instead of ODOT Divisions
- Re-establish needed cooperative effort between ODOT, CEDs, OCCEDB, ACCO, and the 77 Counties, and the 231 County (Commissioners) Elected Officials

Proposed Legislative Change Language

Title 69. Roads, Bridges, and Ferries

Section ~~507~~ 687 - County Improvements for Roads and Bridges Revolving Fund

. . .

B. The funds apportioned pursuant to subsection L of Section 1104 of Title 47 of the Oklahoma Statutes shall be allocated monthly using the same method as those monies that are apportioned under the provisions of subparagraph b of paragraph 4 of subsection A of Section 500.6 of Title 68 of the Oklahoma Statutes ~~in equal amounts~~ to the various 77 Counties ~~Transportation Commission districts~~. The funds ~~must~~ shall be used for the sole purpose of construction or reconstruction of county roads or bridges on the county highway system that are of the highest priority as determined ~~defined~~ by the applicable Board of County Commissioners ~~Transportation Commission~~. Counties may accumulate monthly ~~annual~~ funding for ~~a period of up to five (5) years for~~ a specific project, or projects, with such funding to be held by the Transportation Commission to the credit of the various county project or projects. The Transportation Commission ~~must~~ shall ~~promulgate rules for the administration of the process and the development of criteria for determining the level of priority for projects and~~ include such projects in a five-year construction plan as described in Section 601.3 of Title 69 of the Oklahoma Statutes ~~that will be updated annually~~. Projects in the five-year construction plan ~~must~~ shall be contracted as provided by law and awarded by either the Transportation Commission as required in Section 689 of Title 69 of the Oklahoma Statutes, or by the applicable Board of County Commissioners.

Title 69. Roads, Bridges, and Ferries

Article Article 6 - County Road System

Section 687.1 - Authority to Create Circuit Engineering Districts

- A. The board of county commissioners of any county in this state **may create** a circuit engineering district with any other county or counties. The **objectives** of the circuit engineering district **shall be**:
1. **To allow county governments** to make the most efficient use of their powers by enabling them to **cooperate** with each other and other units of government **on a basis of mutual advantage** and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of county government;
 2. **To provide research** and research support to county government;
 3. **To provide assistance** to county governments in performing the functions delegated by law including, but not limited to, the operation of road maintenance, construction, inspection, and equipment purchases and management;
 4. **To conduct public discussion groups**, forums, panels, lectures, and other similar programs;
 5. **To present courses of instruction and education;**
 6. **To obtain, develop and present** scientific and all other types of **information** relative to the operation of the public transportation system in this state;
 7. **For long-range planning and growth** of the transportation system within the circuit engineering district and other circuit engineering districts within this state; and
 8. **To provide services to counties** in a coordinated manner that will **improve the quality of the transportation system and be cost effective.**

B. The authority of the circuit engineering district shall be as follows:

1. To comply with and carry out the provisions of the Interlocal Cooperation Act;
2. To advise and assist its members with how to implement and make an effective transportation plan for the best interest of each member of the circuit engineering district;
3. To prepare such programs of research as may be necessary and advisable in carrying out its purposes;
4. To contract for services with persons, firms or units of government to carry out the purposes of the circuit engineering district;
5. To provide periodic reports for the circuit engineering district or for its members as may be required by federal or state legislation or regulations pertaining thereto, and as are within the scope and range of the purpose of the circuit engineering district;
6. To acquire and hold property for its use and to incur expenses to carry out its functions;
7. To receive gifts, contributions and donations to carry out the purposes for which it is formed;
8. To assess its members for the services rendered in carrying out its functions;
9. To apply for, contract for, administer, receive and expend funds or grants from any participating member, the State of Oklahoma, the federal government, or any other source; and
10. To publish studies in connection with its work which may be of benefit to its members or other agencies within and outside of the circuit engineering district.

C. Circuit engineering districts may, by affirmative vote of their board, determine that the association representing the county commissioners of Oklahoma be designated to negotiate for services, required by law or necessity, on behalf of the circuit engineering districts.

D. The State Auditor and Inspector shall perform an operational audit of each circuit engineering district upon completion of each fiscal year. The State Auditor and Inspector is authorized to promulgate rules outlining the necessary reporting requirements and forms for each circuit engineering district to ensure compliance.

E. The board of directors may employ an attorney to provide legal research, advice and opinions on contracts and other matters which may come before the board of directors.

F. Circuit engineering districts may participate in the County Road Machinery and Equipment Revolving Fund pursuant to the provisions of Section 302.1 of this title.

G. Circuit engineering districts are authorized to organize a statewide board consisting of the chairpersons duly elected by each of their respective circuit engineering districts. The statewide board organized pursuant to this section shall:

1. Have the power to conduct business, including the development of policies and procedures, incur expenses, and contract for services so long as such business furthers the provisions of 687.1 et seq. of this title;

2. Coordinate activities between circuit engineering districts;

3. Administer the Statewide Circuit Engineering District Revolving Fund, created pursuant to Section 687.2 of this title; and

4. Have authority to promulgate rules to carry out the provisions of 687.1 et seq. of this title.

.....
H. A circuit engineering district created pursuant to this section shall be deemed a political subdivision of the state.

I. A district may hire up to one registered professional engineer per three counties within each circuit engineering district.

Oklahoma Statutes Citationized

Title 69. Roads, Bridges, and Ferries

Chapter 1 - Oklahoma Highway Code of 1968

County Road Improvement Act

Article Article 6 - County Road System

Section 687.2 - Circuit Engineering District Revolving Fund

Superceded

Superceded
Effective: 07/01/2007

Superceded

Cite as: O.S. §, __ __

There is hereby created in the State Treasury **a revolving fund for the State Auditor and Inspector** to be designated the "**Circuit Engineering District Revolving Fund**". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Auditor and Inspector pursuant to the provisions of Section 227.3 of Title 74 of the Oklahoma Statutes and any other monies designated by law for deposit thereto. All monies accruing to the credit of the fund are hereby appropriated and **may be budgeted and expended by the Auditor and Inspector solely for the purpose of funding circuit engineering districts.**

Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

But, what about County Highway System Emergency projects?

Title 69. Roads, Bridges, and Ferries

County Road Improvement Act

Article Article 6 - County Road System

Section 687.3 - **Emergency and Transportation Revolving Fund** - County Loans for Compressed Natural Gas Vehicles

A. There is hereby created in the State Treasury a revolving fund to be designated the "Emergency and Transportation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by any donations, deposits designated by law, or appropriations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by any qualified county or counties pursuant to subsection B of this section **for the purpose of funding emergency or transportation projects of a county** that are reimbursable and subsection C of this section for the purpose of funding loans to purchase compressed natural gas vehicles or convert fleet vehicles to compressed natural gas. No more than fifty percent (50%) of the fund's balance at the beginning of each fiscal year shall be expended pursuant to subsection C of this section. The fund shall be invested in whatever instruments are authorized by law for investments by the State Treasurer and the interest earned by any investment of monies from the fund shall be credited to the Statewide Circuit Engineering District Revolving Fund created pursuant to Section 687.2 of this title for expenditure as provided by law. Expenditures from the Emergency and Transportation Revolving Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The Statewide Circuit Engineering Board shall develop and adopt rules governing the application and qualification procedures for counties seeking funding pursuant to subsection A of this section. Such rules shall also specify criteria in determining reimbursable projects and the procedures for reimbursement of the fund upon completion of projects.

C. 1. The Statewide Circuit Engineering Board shall develop and adopt rules governing application and qualification procedures for counties requesting a loan pursuant to subsection A of this section to purchase compressed natural gas vehicles or convert existing fleet vehicles to compressed natural gas.

2. Loans shall be provided at no interest for a maximum term of five (5) years.

3. Counties that borrow funds for the purpose of purchasing compressed natural gas vehicles shall provide documentation showing that an amount of gas- or diesel-powered vehicles equal to or greater than those purchased have been sold or disposed of.

Proposed Changes to Section 687.3 Large & Emergency County Highway Projects

- Clarify ETR funds to be used only for Emergency County Highway Projects
- Keep language requiring OCCEDB to develop criteria for loans of ETR funds
- Eliminate language to loan funds for Natural Gas Vehicles
- Direct interest on revolving funds to be paid back into revolving fund
- Provide a dedicated bank of funds for multi-million-dollar County projects
- Eliminate need to pool CIRB funds in ODOT Divisions managed by CEDs
- Free up CIRB funds allowing Counties greater flexibility in exercising their exclusive jurisdiction over the designation, construction, maintenance, and repair of the roads and bridges that make up their County Highway system.

Proposed Legislative Change Language

Title 69. Roads, Bridges, and Ferries

Section 687.3 - Emergency and Transportation Revolving Fund ~~-County Loans for Compressed Natural Gas Vehicles~~

A. There is hereby created in the State Treasury a revolving fund to be designated the "Emergency and Transportation Revolving Fund". The fund must ~~shall~~ be a continuing fund, not subject to fiscal year limitations, and must ~~shall~~ consist of all monies received by any donations, deposits designated by law, or appropriations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by any qualified county or counties ~~pursuant to subsection B of this section for the purpose of funding emergency or transportation projects of a county that are reimbursable and subsection C of this section for the purpose of funding loans to purchase compressed natural gas vehicles or convert fleet vehicles to compressed natural gas. No more than fifty percent (50%) of the fund's balance at the beginning of each fiscal year shall be expended pursuant to subsection C of this section.~~ The fund must ~~shall~~ be invested in whatever instruments are authorized by law for investments by the State Treasurer and the interest earned by any investment of monies from the fund must ~~shall~~ be credited to the Emergency and Transportation ~~Statewide Circuit Engineering District~~ Revolving Fund ~~created pursuant to Section 687.2 of this title for expenditure as provided by law.~~ Expenditures from the Emergency and Transportation Revolving Fund must ~~shall~~ be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The Statewide Circuit Engineering Board must ~~shall~~ develop and adopt rules governing the application and qualification procedures for counties seeking emergency funding pursuant to subsection A of this section. Such rules must ~~shall~~ also specify criteria in determining reimbursable projects and the procedures for reimbursement of the fund upon completion of projects.

~~C. 1. The Statewide Circuit Engineering Board shall develop and adopt rules governing application and qualification procedures for counties requesting a loan pursuant to subsection A of this section to purchase compressed natural gas vehicles or convert existing fleet vehicles to compressed natural gas.~~

~~2. Loans~~ must ~~shall~~ be provided at no interest for a maximum term of five (5) years.

~~3. Counties that borrow funds for the purpose of purchasing compressed natural gas vehicles shall provide documentation showing that an amount of gas or diesel-powered vehicles equal to or greater than those purchased have been sold or disposed of.~~

OKLAHOMA DEPARTMENT OF TRANSPORTATION
CIRCUIT ENGINEERING DISTRICT AGREEMENT NO. EC-1747F

ATTACHMENT D – SCOPE OF WORK

D4 - PROGRAM MANAGEMENT
DUTIES AND RESPONSIBILITIES

State Agency
Administrative Rule

The **DEPARTMENT** requires the support of the Circuit Engineering District (CED) for program and project management and other professional and administrative services required for the successful completion of County Improvements for Roads and Bridges (CIRB) projects as included in the 5 Year Construction Work Plan. The CED will function as an extension of the **DEPARTMENT**'s resources by providing qualified technical and professional personnel to perform the duties and responsibilities assigned under the terms of this agreement. Nothing in this statement should be construed to imply that the CED or any of its employees are employees of the **DEPARTMENT**. The CED will minimize the **DEPARTMENT**'s need to apply its own resources. The **DEPARTMENT**, at its option, may elect to expand, reduce, or delete the extent of each work element described in this Scope of Work.

SECTION 1: GENERAL

1.1 The **DEPARTMENT** may request services of the CED which are not enumerated in this Scope of Work, on an as-needed basis. Any services other than those specifically enumerated in this Scope of Work must be approved in a written task order in compliance with Section 1 of the agreement or in a written modification to the agreement. There is no guarantee that any or all of the services outside this Scope of Work will be assigned during the term of the agreement. Further, the CED is providing these services on a nonexclusive basis. The **DEPARTMENT**, at its option, may elect to have any of the services set forth in this Basic Services Scope of Work performed by **DEPARTMENT** staff.

1.2 The CED personnel that will be providing these services for agreement will office in the Circuit Engineering District office.

ODOT requires Circuit Engineering Districts (CEDs) to provide ODOT with CIRB administrative, project, and program management as an outsourced service and thereby avoiding ODOT's statutorily mandated responsibility to work directly with the 77 individual counties in establishing their 5-year construction plans.

This state agency administrative rule effectively outsources their program management responsibility without corresponding statutory authority.

In doing so, ODOT forces the CEDs, and all 231 County Commissioners by proxy, to function as contracted agents of that state agency's legislative requirement to develop priority criteria for the CIRB program in order to participate in the CIRB program.

County Government is Required to Comply with Specific State Statutes Only

**Office of Attorney General
State of Oklahoma
Attorney General Opinion
2015-4**

A county is an involuntary political subdivision of the State without inherent powers. A county is subject to unqualified legislative control except as restrained by the Constitution:

“A county being an involuntary, subordinate political subdivision of the state, created to aid in the administration of governmental affairs of said state, and possessed of a portion of the sovereignty, has no inherent powers but derives those powers solely from the state. All of the powers intrusted to it are the powers of the sovereignty which created it. Its duties are likewise the duties of the sovereignty.”

-- OK AG Opinion 2003-9

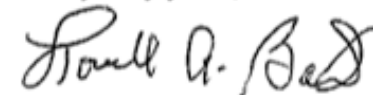
“And counties have only such authority as is granted by statute.”
-- OK AG Opinion 2003-29

“Thus, a county, being an involuntary political subdivision of the State without inherent powers of its own, derives all of its power from the State.”
-- OK AG Opinion 2014-12

Unqualified Legislative Control (State Law, Statute)
vs.
State Agency Regulation (Administrative Rule)

“The power and authority of the board of county commissioners to adopt [state agency] regulations must come from the State of Oklahoma in the form of a statute enacted by the legislature. In the absence of any Oklahoma statute providing the county a lawful requirement to do what is being requested, Logan county lacks the ability to do what is being requested by the [state agency]. If the [state agency] or its attorneys believe that this statutory authority exist to do all that is requested the county to do, please have it identify the statute which provides that authority.”

Very truly yours,



Lowell A. Barto
Assistant District Attorney

Questions ??

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