

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 810 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/11/09 S3/17/09

A Bill

SENATE BILL 897

5 By: Senator Glover
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8 **For An Act To Be Entitled**

9 AN ACT TO PROVIDE A PROCEDURE FOR COUNTIES THAT
10 DO NOT HAVE ROAD MAINTENANCE AGREEMENTS TO USE SO
11 THAT THEY ARE COMPENSATED FOR ANTICIPATED DAMAGE
12 CAUSED BY THE TRANSPORTATION OF HEAVY LOADS OF
13 MATERIALS AND PRODUCTION FLUIDS FROM OIL AND GAS
14 EXPLORATION TO LOCAL PUBLIC ROADS; AND FOR OTHER
15 PURPOSES.
16

17 **Subtitle**

18 THE PRESERVATION OF LOCAL PUBLIC ROADS
19 ACT.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. Arkansas Code Title 14, Chapter 16, is amended to add an*
25 *additional subchapter to read as follows:*

26 *Subchapter 8*

27 *- Preservation of Local Public Roads Act.*
28

29 *14-16-801. Title.*

30 *This subchapter shall be known and may be cited as the "Preservation of*
31 *Local Public Roads Act".*
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33 *14-16-802. Purpose.*

34 *The purpose of this subchapter is to provide a procedure for addressing*
35 *the anticipated damage to county roads caused by disposal hauling operations*



1 related to oil or gas exploration and to provide compensation for the
2 anticipated damage to the roads from disposal haulers.

3
4 14-16-803. Definitions.

5 As used in this subchapter:

6 (1) "Designated local road truck route" means a local public
7 road established by the county judge as the route to be used by disposal
8 haulers to transport materials and production fluids related to oil or gas
9 exploration to and from a disposal facility;

10 (2) "Disposal facility" means a surface or injection well
11 disposal facility designated for the disposal of materials and production
12 fluids related to oil or gas exploration that is located on or off of a local
13 public road in the state;

14 (3) "Disposal hauler" means the driver, owner, or operator of a
15 motor vehicle that is engaged in hauling materials or production fluids
16 related to oil or gas exploration to a disposal facility;

17 (4) "Disposal operator" means the owner, manager, or operator of
18 a disposal facility;

19 (5)(A) "Local public road" means any public road that lies
20 between the disposal facility and a road, street, or highway that is part of
21 the state highway system.

22 (B) "Local public road" does not include a road, street,
23 or highway that is part of the state highway system; and

24 (6) "Road maintenance agreement" means an agreement between the
25 county and a disposal operator regarding compensation for damages caused by
26 disposal haulers to any designated local road truck route.

27
28 14-16-804. Evaluation by county judge.

29 (a) Notwithstanding any other procedure or authority available under
30 law, if a county does not have a road maintenance agreement, the county judge
31 may use the procedures under this section to evaluate the use and anticipated
32 damage caused to local public roads in the county by disposal haulers.

33 (b) As part of the evaluation process, the county judge may:

34 (1) Receive and consider input from disposal operators on the
35 designated local road truck route;

36 (2) Estimate the number of loads and damages to be sustained

1 upon the designated local road truck route by disposal haulers;

2 (3) Estimate the total dedicated road revenues available to the
3 county on average per-mile basis for all of the local public roads in his or
4 her respective county; and

5 (4) Estimate the additional revenue that may be necessary to
6 repair and maintain the designated local road truck route because of
7 anticipated damages.

8 (c) A county judge who has performed an evaluation under this section
9 may file a report of the evaluation determinations with the quorum court.

10
11 14-16-805. Recommendation for assessment ordinance.

12 (a) A county judge who has performed an evaluation under § 14-16-804
13 may submit to the quorum court a recommendation that an assessment be made by
14 the county in the form of a proposed assessment ordinance as provided under
15 this section.

16 (b)(1) The proposed assessment ordinance shall include the amount that
17 the county judge recommends to be assessed on a per-load basis for each load
18 that is transported by a disposal hauler to a disposal facility.

19 (2) The maximum amount of the assessment in the proposed
20 assessment ordinance is five dollars (\$5.00) per load of materials or
21 production fluids from oil or gas exploration.

22 (c) The proposed assessment ordinance shall include a penalty as
23 provided under § 14-16-808.

24
25 14-16-806. Assessment ordinance – Collection.

26 (a) If a quorum court enacts the proposed assessment ordinance
27 recommended by the county judge under § 14-16-805, the assessment ordinance:

28 (1) Is limited to a maximum amount of five dollars (\$5.00) per
29 load of materials or production fluids from oil or gas exploration; and

30 (2) Shall include a penalty as provided under § 14-16-808.

31 (b)(1) If a quorum court enacts an assessment ordinance under this
32 subchapter, the assessment shall be collected by the disposal operator and
33 remitted to the county treasurer on a monthly basis as provided in the
34 ordinance.

35 (2) All revenue generated by this assessment shall be used
36 exclusively to maintain and repair the designated local road truck route.

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2 14-16-807. Oversight.

3 (a) If a county judge makes recommendations under this subchapter, the
4 county judge shall annually review his or her evaluation and recommendations
5 as provided under this subchapter.

6 (b) If there is a significant change in conditions, the county judge
7 shall file a revised evaluation and revised recommendations for consideration
8 by the quorum court using the same procedures under which the original
9 evaluation and recommendations were made under this subchapter.

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11 14-16-808. Penalties.

12 The quorum court may provide penalties for the violation of an
13 ordinance enacted under this subchapter to include a fine to be levied:

14 (1) For the failure of a disposal hauler to follow the
15 designated local road truck route; and

16 (2) Against a disposal operator who fails to comply with § 14-
17 16-806(b).

18
19 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly of the State of Arkansas that while oil or gas exploration
21 has stimulated Arkansas's economy, the hauling operations for the disposal of
22 materials and production fluids from oil or gas operations require the
23 hauling of heavy loads that cause damage to roads; that the costs of
24 repairing, resurfacing, and maintaining roads has increased dramatically in
25 the last two (2) years, while many counties are facing declining revenue
26 collections; and that this act is immediately necessary to provide a uniform
27 procedure for counties that do not have road maintenance agreements with
28 disposal haulers and disposal operators to use to ensure that adequate
29 revenue is available to make repairs necessary to local public roads.
30 Therefore, an emergency is declared to exist and this act being immediately
31 necessary for the preservation of the public peace, health, and safety shall
32 become effective on:

33 (1) The date of its approval by the Governor;

34 (2) If the bill is neither approved nor vetoed by the Governor,
35 the expiration of the period of time during which the Governor may veto the
36 bill; or

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(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ Glover

APPROVED: 4/3/2009