

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.

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

As Engrossed: S3/11/09

A Bill

SENATE BILL 897

5 By: Senator Glover
6
7

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

Subtitle

17 THE PRESERVATION OF LOCAL PUBLIC ROADS
18 ACT.
19
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:

Subchapter 8

— Preservation of Local Public Roads Act.

14-16-801. Title.

29 This subchapter shall be known and may be cited as the “Preservation of
30 Local Public Roads Act”.
31
32

14-16-802. Legislative findings.

33 The General Assembly finds that:
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35 (1)(A) Oil and gas exploration has stimulated Arkansas’ economy.

36 (B) However, hauling operations for the disposal of



1 materials and production fluids from oil and gas exploration often consist of
2 heavy loads that may cause excessive road damage and dust;

3 (2)(A) The State Highway Commission receives compensation from
4 oil and gas exploration activities for damage caused to the state highway
5 system during the transportation of loads that exceed the weight limits
6 allowed on the roads and highways.

7 (B) However, the routes for the transportation of disposal
8 materials and production fluids from oil and gas exploration to facilities
9 that are designated for the disposal of the materials and production fluids
10 may be located in areas that are accessible only by public roads that lie
11 between the state highway system and the disposal facility;

12 (3) During the last two (2) years, the costs for repairing,
13 resurfacing, and maintaining roads have substantially increased while many
14 counties have experienced a decline in revenue;

15 (4) As the chief executive officer of a county, the county judge
16 has the constitutional, statutory, and public duty and responsibility for the
17 maintenance and operation of roads within the county that are not part of the
18 state highway system; and

19 (5) Some county judges have procured road maintenance agreements
20 with the entities engaged in transportation operations, and county judges are
21 encouraged to resolve their road issues in an equitable manner to the county,
22 the entities engaged in oil and gas exploration, and the entities engaged in
23 the hauling of materials and production fluids from oil and gas exploration.

24
25 14-16-803. Purpose.

26 The purpose of this subchapter is to provide a procedure for addressing
27 the anticipated damage to county roads caused by the heavy hauling operations
28 related to oil and gas exploration and to provide compensation for the
29 anticipated damage to the roads that the heavy loads cause.

30
31 14-16-804. Definitions.

32 As used in this subchapter:

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

1 (2) “Disposal facility” means a surface or injection well
2 disposal facility designated for the disposal of materials and production
3 fluids related to oil and gas exploration that is located on or off of a
4 local public road in the state;

5 (3) “Disposal hauler” means the driver, owner, or operator of a
6 motor vehicle that is engaged in hauling materials or production fluids
7 related to oil and gas exploration to a disposal facility;

8 (4) “Disposal operator” means the owner, manager, or operator of
9 a disposal facility;

10 (5)(A) “Local public road” means any public road that lies
11 between the disposal facility and a road, street, or highway that is part of
12 the state highway system.

13 (B) “Local public road” does not include a road, street,
14 or highway that is part of the state highway system; and

15 (6) “Road maintenance agreement” means an agreement between the
16 county and a disposal operator regarding compensation for damages caused to
17 local public roads that are maintained by the county, including without
18 limitation any designated local road truck route.

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20 14-16-805. Evaluation by county judge.

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

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

26 (1) Receive and consider input from disposal operators on the
27 designated local road truck route to be used exclusively by disposal
28 operators and disposal haulers for travel to and from disposal facilities;

29 (2) Estimate of the number of loads and damages to be sustained
30 upon the designated local road truck route;

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

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

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

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4 14-16-806. Recommendation for assessment ordinance.

5 (a) A county judge who has performed an evaluation under § 14-16-805
6 may submit to the quorum court a recommendation that an assessment be made by
7 the county in the form of a proposed assessment ordinance as provided under
8 this section.

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

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

15 (c) The proposed assessment ordinance shall include a penalty as
16 provided under § 14-16-809.

17
18 14-16-807. Assessment ordinance — Collection.

19 (a) If a quorum court enacts the proposed assessment ordinance
20 recommended by the county judge under § 14-16-806, the assessment ordinance:

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

23 (2) Shall include a penalty as provided under § 14-16-809.

24 (b) If a quorum court enacts an assessment ordinance under this
25 subchapter, the assessment shall be collected by the disposal operator and
26 remitted to the county treasurer on a monthly basis as provided in the
27 ordinance.

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29 14-16-808. Oversight.

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

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

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2 14-16-809. Penalties.

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

5 (1) For the failure of a disposal hauler or disposal operator to
6 follow the designated local road truck route; and

7 (2) Against a disposal operator who fails to comply with § 14-
8 16-807(b).

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

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

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

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

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31 */s/ Glover*
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