

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1377

By: Sparks

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5  
6 AS INTRODUCED

7 An Act relating to section line roads; amending 69  
8 O.S. 2011, Section 646, which relates to condemnation  
9 procedure; modifying process for vacating certain  
10 section line roads; and providing an effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 69 O.S. 2011, Section 646, is  
13 amended to read as follows:

14 Section 646. A. The board of county commissioners may open,  
15 establish, reserve or condemn roads on section lines and may vacate,  
16 alter, widen, change or lay out other new roads according to the  
17 following procedure:

18 1. A proposal for action to vacate, alter, widen, change or  
19 locate a road shall be upon a petition to the board of county  
20 commissioners signed by at least twelve freeholders residing in the  
21 vicinity of the road affected or by resolution of the board of  
22 county commissioners. If there is a proposal to vacate a road or  
23 section of road where all of the land adjacent to that road or  
24 section of road is owned by, and provides ingress or egress to

1 property owned by only one landowner, then the petition shall only  
2 require the signature of that landowner;

3 2. The petition shall state the proposed action and clearly  
4 show on a map of the area the location and terminals of the road.  
5 If the petition is in proper form, the board of county commissioners  
6 shall promptly investigate the proposal to determine if the petition  
7 has merit;

8 3. The board of county commissioners may conclude, upon  
9 investigation, that action concerning the road is unnecessary and  
10 impractical and deny the petition. Should the board determine that  
11 the petition has merit, the board shall set the date of the hearing  
12 and provide notice as prescribed by this section. The board shall  
13 assume the petition has merit if the proposal is to vacate a road or  
14 section of road where all of the land adjacent to that road or  
15 section of road is owned by, and provides ingress or egress to  
16 property owned by only one landowner;

17 4. At such time it is determined that the petition has merit,  
18 the board of county commissioners shall set a hearing date. The  
19 county clerk shall then notify those landowners whose property is  
20 immediately affected by the road, in such a way that the road may  
21 cross their property, abut to their property, or in some manner  
22 provide ingress or egress to their property. No such notice shall  
23 be required if the proposal is to vacate a road or section of road  
24 where all of the land adjacent to that road or section of road is

1 owned by, and provides ingress or egress to property owned by only  
2 one landowner. The notice shall be given by regular mail at least  
3 twenty-one days (21) prior to the hearing date; and

4 5. Legal notice to the public shall be given by advertisement  
5 in a newspaper of general circulation in the county setting forth  
6 the facts and the date when the hearing will be held and the  
7 petition acted upon. The notice shall be published once per week  
8 for three (3) consecutive weeks at least twenty-one (21) days prior  
9 to the hearing date. No such notice shall be required if the  
10 proposal is to vacate a road or section of road where all of the  
11 land adjacent to that road or section of road is owned by, and  
12 provides ingress or egress to property owned by only one landowner.

13 A record of all such proceedings shall be made by the county clerk~~r~~.

14 B. In a petition proposing that a road be altered, widened,  
15 changed or located where the owners of the land to be taken agree in  
16 writing to the proposed location or changes by providing an easement  
17 to the county for such purpose, or donate the land required, the  
18 board of county commissioners shall then cause to be prepared a cost  
19 estimate for the proposed project. The cost estimate shall include  
20 the cost to survey the road or the proposed changes. If the  
21 estimated cost is reasonable and the road or the proposed changes  
22 serve the general public by providing a better route or by  
23 eliminating a hazard making the route safer, the board of county  
24 commissioners may order and establish the road as a county highway,

1 or order the proposed changes to be made and make the appropriate  
2 record thereof. However, no work shall be performed until a survey  
3 is completed and easements secured. If the board determines that  
4 the expense cannot be justified in whole or in part, the board may  
5 order that the petitioners must bear the responsibility to  
6 adequately fund the proposed action in whole or in part. If  
7 easements are not granted freely, the easements shall be obtained in  
8 the manner provided by law and shall be considered in the cost  
9 estimate of the proposed action.

10 C. In a petition proposing that a road be vacated, the board of  
11 county commissioners shall, upon receiving the petition, attest that  
12 according to their records the road in question is within their  
13 jurisdiction and is considered to be open for use by the general  
14 public, through grant or ownership, by easement or dedication, by  
15 adverse possession, or by open and notorious use, regardless of the  
16 frequency of maintenance or lack thereof. In considering the  
17 proposal to vacate the road, the board shall hear testimony provided  
18 by the petitioners and others who may testify at the hearing as to  
19 whether the road should be vacated. The board shall grant a  
20 petition to vacate a road or section of road where all of the land  
21 adjacent to that road or section of road is owned by, and provides  
22 ingress or egress to property owned by only one landowner. Upon a  
23 decision by the board to vacate the road, the board shall issue an  
24 order to void any easement pertaining to the road, if such easement

1 exists, and require that the road be closed in such a manner as to  
2 prevent the use of the road by the general public. The decision of  
3 the board to vacate or not to vacate the road shall be final for  
4 that petition. However, a new petition may be filed at any time.  
5 Except as provided in Section 649 of this title, no road in use by  
6 the general public shall be closed, obstructed or vacated in any  
7 manner except as provided by this section. Every person who shall  
8 close, obstruct or attempt to vacate a road in a manner other than  
9 the manner set forth in this section shall be guilty of a  
10 misdemeanor and upon conviction shall be fined not less than Fifty  
11 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). In  
12 addition, such person shall be liable for the cost incurred by the  
13 county to remove, repair or otherwise return the road to open travel  
14 by the public. Nothing in this section shall prohibit the temporary  
15 closing of any road by law enforcement or emergency personnel in the  
16 performance of their official duty, public utilities with regard to  
17 routine maintenance and construction, or other such entities as  
18 authorized by the board of county commissioners.

19 D. Wherever in those counties the amount of Indian lands or  
20 those exempt from taxation by reason of the operation of any federal  
21 law is thirty percent (30%) or more of the total area of the county,  
22 then the board of county commissioners may, upon its own initiative,  
23 and if the public interests demand it, move to secure roads over,  
24 adjacent to, or for the benefit of all such exempted lands as set

1 | forth in this subsection. The board shall call upon the Director of  
2 | the Oklahoma Department of Transportation as a disinterested party  
3 | to undertake and make such surveys, plans and estimates and obtain  
4 | all other essential data and records as are required to make a full  
5 | and complete statement and report upon the interest involved, and to  
6 | make such recommendations as in the premises may seem proper. When  
7 | so prepared, the Department of Transportation shall then advance the  
8 | matter to the Department of the Interior of the United States, or to  
9 | any other federal department concerned, through its proper local  
10 | representative, if there be one, with the request that the matter be  
11 | considered and disposed of as speedily as possible. If the project  
12 | be so approved and authorized, then the work may proceed under the  
13 | special supervision and direct administration of the Department of  
14 | Transportation and subject to such special regulations as the  
15 | circumstances seem to require.

16 | SECTION 2. This act shall become effective November 1, 2018.

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