

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1377

By: Sparks of the Senate

and

Frix of the House

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9 CONFERENCE COMMITTEE SUBSTITUTE

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

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

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

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

21 1. A proposal for action to vacate, alter, widen, change or
22 locate a road shall be upon a petition to the board of county
23 commissioners signed by at least twelve freeholders residing in the
24 vicinity of the road affected or by resolution of the board of

1 county commissioners. If there is a proposal to vacate a road or
2 section of road where all of the land adjacent to that road or
3 section of road is owned by, and provides ingress or egress to
4 property owned by only one landowner, then the petition shall only
5 require the signature of that landowner;

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

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

20 4. At such time it is determined that the petition has merit,
21 the board of county commissioners shall set a hearing date. The
22 county clerk shall then notify those landowners whose property is
23 immediately affected by the road, in such a way that the road may
24 cross their property, abut to their property, or in some manner

1 provide ingress or egress to their property. The notice shall be
2 given by regular mail at least twenty-one days (21) prior to the
3 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. A record of all such proceedings shall be made
10 by the county clerk~~r~~.

11 B. In a petition proposing that a road be altered, widened,
12 changed or located where the owners of the land to be taken agree in
13 writing to the proposed location or changes by providing an easement
14 to the county for such purpose, or donate the land required, the
15 board of county commissioners shall then cause to be prepared a cost
16 estimate for the proposed project. The cost estimate shall include
17 the cost to survey the road or the proposed changes. If the
18 estimated cost is reasonable and the road or the proposed changes
19 serve the general public by providing a better route or by
20 eliminating a hazard making the route safer, the board of county
21 commissioners may order and establish the road as a county highway,
22 or order the proposed changes to be made and make the appropriate
23 record thereof. However, no work shall be performed until a survey
24 is completed and easements secured. If the board determines that

1 the expense cannot be justified in whole or in part, the board may
2 order that the petitioners must bear the responsibility to
3 adequately fund the proposed action in whole or in part. If
4 easements are not granted freely, the easements shall be obtained in
5 the manner provided by law and shall be considered in the cost
6 estimate of the proposed action.

7 C. In a petition proposing that a road be vacated, the board of
8 county commissioners shall, upon receiving the petition, attest that
9 according to their records the road in question is within their
10 jurisdiction and is considered to be open for use by the general
11 public, through grant or ownership, by easement or dedication, by
12 adverse possession, or by open and notorious use, regardless of the
13 frequency of maintenance or lack thereof. In considering the
14 proposal to vacate the road, the board shall hear testimony provided
15 by the petitioners and others who may testify at the hearing as to
16 whether the road should be vacated. Unless it is proven by clear
17 and convincing evidence that a compelling public interest cannot be
18 achieved by any option other than keeping the roadway open, then the
19 board shall grant a petition to vacate a road or section of road
20 where all of the land adjacent to that road or section of road is
21 owned by, and provides ingress or egress to property owned by only
22 one landowner. If a petition is denied by the board, the denial
23 shall be subject to a de novo review by the district court where the
24 board must show by clear and convincing evidence that a compelling

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

23 D. Wherever in those counties the amount of Indian lands or
24 those exempt from taxation by reason of the operation of any federal

1 law is thirty percent (30%) or more of the total area of the county,
2 then the board of county commissioners may, upon its own initiative,
3 and if the public interests demand it, move to secure roads over,
4 adjacent to, or for the benefit of all such exempted lands as set
5 forth in this subsection. The board shall call upon the Director of
6 the Oklahoma Department of Transportation as a disinterested party
7 to undertake and make such surveys, plans and estimates and obtain
8 all other essential data and records as are required to make a full
9 and complete statement and report upon the interest involved, and to
10 make such recommendations as in the premises may seem proper. When
11 so prepared, the Department of Transportation shall then advance the
12 matter to the Department of the Interior of the United States, or to
13 any other federal department concerned, through its proper local
14 representative, if there be one, with the request that the matter be
15 considered and disposed of as speedily as possible. If the project
16 be so approved and authorized, then the work may proceed under the
17 special supervision and direct administration of the Department of
18 Transportation and subject to such special regulations as the
19 circumstances seem to require.

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

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