

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2338

BY: ROACH

AS INTRODUCED

AN ACT RELATING TO ROADS, BRIDGES AND FERRIES;
ESTABLISHING JUNKYARD REMOVAL AND CLEAN-UP PROGRAM;
ESTABLISHING PURPOSE OF PROGRAM; CREATING
DEFINITIONS; PROHIBITING JUNKYARDS ALONG HIGHWAYS;
AUTHORIZING THE OKLAHOMA DEPARTMENT OF
TRANSPORTATION AND THE OKLAHOMA TURNPIKE AUTHORITY
TO ENFORCE THE ACT AND ISSUE NOTICE OF VIOLATION OF
THE ACT; EMPOWERING THE OKLAHOMA TRANSPORTATION
COMMISSION AND THE OKLAHOMA TURNPIKE AUTHORITY TO
PRESCRIBE RULES, REGULATIONS AND POLICIES;
PROVIDING FOR THE USE OF CONVICT LABOR; REQUIRING
ANNUAL STATUS REPORT; AMENDING 69 O.S. 1991,
SECTION 1705, WHICH RELATES TO THE OKLAHOMA
TURNPIKE AUTHORITY; AUTHORIZING AND EMPOWERING THE
OKLAHOMA TURNPIKE AUTHORITY TO PRESCRIBE RULES,
REGULATIONS AND POLICIES; PROVIDING FOR
CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1265 of Title 69, unless there is created a duplication in numbering, reads as follows:

For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, the Oklahoma Department of Transportation and the Oklahoma Turnpike Authority are authorized to implement a pilot program to restrict the use and maintenance of and assist in the clean-up of private junkyards along the highways of this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1265.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Junk" means any rubbish, old or discarded building material, waste, trash, scrap metals, rope, rags, batteries, paper, rubber debris, or junked, dismantled or wrecked automobiles or machinery, or parts thereof;

2. "Junkyard" means a private yard or area, or an establishment which is maintained or used for storing, keeping, or dumping junk, and the term shall include garbage dumps and sanitary fills;

3. "Interstate system" means that portion of the National System of Interstate and Defense Highways located within this state, as officially designated, or as may hereafter be so designated by the Transportation Commission, pursuant to the provisions of Title 23, United States Code, "Highways";

4. "Primary system" means that portion of connected main highways as officially designated, or as may hereafter be so designated, by the Transportation Commission, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, United States Code, "Highways";

5. "Turnpike projects or highways" or "turnpike system" means that portion of the highways in this state operated and maintained by the Oklahoma Turnpike Authority as set forth in Section 1701 et seq. of this title;

6. "Commission" means the Transportation Commission of the Oklahoma Department of Transportation;

7. "Authority" means the Oklahoma Turnpike Authority; and

8. "Department" means the Oklahoma Department of Transportation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1265.2 of Title 69, unless there is created a duplication in numbering, reads as follows:

Any junkyard lawfully in existence on the effective date of this act which is within one thousand (1,000) feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway on the interstate, primary or turnpike system shall be removed and cleaned up in the manner required by the Commission or the Authority.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1265.3 of Title 69, unless there is created a duplication in numbering, reads as follows:

After the effective date of this act, it shall be unlawful for any person to construct or establish any junkyard or facility which would be in violation of the terms of this act. When the Department or the Authority shall determine that any junkyard is not removed or cleaned up as required by this act, the person shall be notified of such violation and the manner in which compliance with this act is required. The Department or the Authority shall work with the violators of this act and provide adequate information to the persons to help them remove and clean up the junkyard. The Department or the Authority may request the right to enter upon the property to assist in the removal and clean-up of the junkyard.

Written permission from the landowner and the person residing on the property shall be required before the Department or the Authority enter onto the property.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1265.4 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Department or the Authority, working in conjunction with the Oklahoma Department of Corrections, may utilize convict labor in accordance with Section 222 et seq. of Title 57 of the Oklahoma Statutes to assist in the removal and clean-up of the junkyards. The use of convict labor under this act shall be deemed a public purpose.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1265.5 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Commission and the Authority are hereby empowered to prescribe reasonable rules, regulations and policies not inconsistent with this act for the implementation and administration of the junkyard removal and clean-up program required hereunder. The Authority shall be responsible for the implementation of this act along all turnpike projects or highways in this state. The Department and the Commission shall be responsible for the implementation of this act along all other highways as set forth in this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1265.6 of Title 69, unless there is created a duplication in numbering, reads as follows:

The Director of the Oklahoma Department of Transportation and the Director of the Oklahoma Turnpike Authority shall cause to be prepared and submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a

comprehensive annual status report on the effects and results of this program.

SECTION 8. AMENDATORY 69 O.S. 1991, Section 1705, is amended to read as follows:

Section 1705. The Authority is hereby authorized and empowered:

(a) To adopt bylaws for the regulation of its affairs and conduct of its business.

(b) To adopt an official seal and alter the same at pleasure.

(c) To maintain an office at such place or places within the state as it may designate.

(d) To sue and be sued in contract, reverse condemnation, equity, mandamus and similar actions in its own name, plead and be impleaded; provided, that any and all actions at law or in equity against the Authority shall be brought in the county in which the principal office of the Authority shall be located, or in the county of the residence of the plaintiff, or the county where the cause of action arose. All privileges granted to the Authority and duties enjoined upon the Authority by the provisions of Sections 1701 through 1734 of this title may be enforced in a court of competent jurisdiction in an action in mandamus.

(e) To construct, maintain, repair and operate turnpike projects and highways, with their access and connecting roads, at such locations and on such routes as it shall determine to be feasible and economically sound; provided, that until specifically authorized by the Legislature, the Authority shall be authorized to construct and operate toll turnpikes only at the following locations:

(1) The Turner Turnpike between Oklahoma City and Tulsa.

(2) The Southwestern (H. E. Bailey) Turnpike between Oklahoma City and Wichita Falls, Texas.

(3) The Northeastern (Will Rogers) Turnpike between Tulsa and Joplin, Missouri.

(4) The Eastern (Indian Nation) Turnpike between Tulsa and Paris, Texas, including all or any part thereof between McAlester and the Red River south of Hugo.

(5) The Cimarron Turnpike between Tulsa and Interstate Highway 35 north of Perry, including a connection to Stillwater.

(6) The Muskogee Turnpike between Broken Arrow and Interstate Highway 40 west of Webbers Falls.

(7) All or any part of an extension of the Muskogee Turnpike, beginning at a point on Interstate Highway 40 near the present south terminus of the Muskogee Turnpike, and extending in a southeasterly direction on an alignment near Stigler, Poteau and Heavener to the vicinity of the Arkansas State Line to furnish access to Hot Springs, Texarkana, Shreveport and New Orleans.

(8) A tollgate on the Turner Turnpike in the vicinity of Luther, Oklahoma, and in the vicinity of the intersection of State Highway 33 and Turner Turnpike in Creek County, Oklahoma, or in the vicinity of the intersection of State Highway 33 and Turner Turnpike or U.S. Highway 66 in Creek County, Oklahoma, from any monies available to the Turnpike Authority.

(9) Add on the Will Rogers Turnpike a northbound automatic tollgate onto State Highway 28 and a southbound on-ramp from State Highway 28.

(10) A turnpike or any part or parts thereof beginning in the vicinity of the City of Davis, and extending in a northeasterly direction, by way of the vicinity of the City of Ada, to a connection in the vicinity of Henryetta or in the vicinity of the intersection of State Highway 48 and Interstate 40.

(11) A turnpike or any part or parts thereof beginning at a point in the vicinity of Ponca City, or at a point on the Kansas-Oklahoma state boundary line east of the Arkansas River and west of the point where Oklahoma State Highway No. 18 intersects said state boundary line, and extending in a southeasterly direction

to a connection with the Tulsa Urban Expressway System in the general area of the Port of Catoosa.

(12) All or any part of an Oklahoma City toll expressway system connecting the residential, industrial and State Capitol Complex in the north part of Oklahoma City with the residential, industrial and Will Rogers World Airport Complex in the south and southwest parts of Oklahoma City.

(13) A turnpike (The Industrial Parkway) or any part or parts thereof beginning at a point on the Oklahoma-Kansas state boundary line between the point where U.S. Highway 66 intersects said boundary line and the northeast corner of Oklahoma and ending by means of a connection or connections with Shreveport, Louisiana, and Houston, Texas, in southeastern Oklahoma and at no point to exceed thirty (30) miles west of the Missouri or Arkansas border.

(14) A turnpike or any part or parts thereof beginning in the vicinity of Velma or County Line to a point intersecting with Interstate 35 in the area south of Davis.

(15) A turnpike or any part or parts thereof beginning in the vicinity of Oklahoma City and extending westward to the vicinity of Kingfisher, Woodward and to the western boundary of the Oklahoma Panhandle.

(16) A new turnpike or parts thereof from the Kansas State Line south to McAlester, in the vicinity of U.S. Highway 69.

(17) A tollgate on the Muskogee Turnpike in the vicinity of Porter, Oklahoma, a tollgate on the Will Rogers Turnpike in the vicinity of Adair, Oklahoma, a tollgate on the Turner Turnpike in the vicinity of Luther, Oklahoma, and a tollgate on the H. E. Bailey Turnpike at Elgin, Oklahoma, from any monies available to the Turnpike Authority.

(18) A tollgate on the Turner Turnpike in the vicinity of Wellston, Oklahoma, from any monies available to the Turnpike Authority.

(19) A tollgate on the Muskogee Turnpike in the vicinity of Brushy Mountain, Oklahoma, and in the vicinity of Elm Grove, Oklahoma, from any monies available to the Turnpike Authority.

(20) All or any part of an Oklahoma City Outer Loop expressway system beginning in the vicinity of I-35 and the Turner Turnpike and extending west into Canadian County and then south to I-40; and then south and east to I-35 in the vicinity of Moore and Norman; and then extending east and north to I-40 east of Tinker Field; and then extending north to the Turner Turnpike to complete the Outer Loop.

(21) All or any part of the Tulsa south bypass expressway system beginning in the vicinity of the Turner Turnpike near Sapulpa and extending south and east to U.S. 75 in the vicinity of 96th Street to 121st Street; and then east across the Arkansas River to a connection with the Mingo Valley Expressway with spur to Southeast Tulsa County; and then north to connect with I-44 in the vicinity of the Will Rogers Turnpike gate.

(22) A new turnpike or any parts thereof from the vicinity of the connection between State Highway 33 and U.S. 69 easterly to the Arkansas State Line.

(23) A four-lane extension of the Muskogee Turnpike from Interstate Highway 40 west of Webbers Falls to the Poteau vicinity.

All access roads, interchanges, or lead roads connecting such turnpikes with existing highways must be built by funds furnished by the Authority.

The minimum and maximum wages for the construction of the roads, highways and projects provided for in Sections 1701 through 1734 of this title shall be in accordance with the schedules of wages used or adopted by the Commission in construction of state highways.

The Authority is hereby authorized to enter into contracts or agreements with agencies and instrumentalities of other states or the national government for construction, maintenance and operation of interstate turnpikes or highways.

The Authority is hereby required to construct and install automatic tollgates on the Will Rogers Turnpike at State Highway No. 28 near Adair.

(f) To issue turnpike revenue bonds of the Authority, payable solely from revenues, including the revenues accruing to the trust fund created by Sections 1701 through 1734 of this title, for the purpose of paying all or any part of the cost of any one or more turnpike projects. Provided that any bonds issued for the construction of the proposed turnpike referred to in subparagraphs (10), (20), (21) and (22) of paragraph (e) of this section shall be issued as one issue for all four of the proposed turnpikes and shall be financed, constructed and operated under one bond indenture.

(g) To fix and revise from time to time tolls for the use of any turnpike projects.

Any common carrier having authority at the time of opening any turnpike project to operate upon a highway approximately paralleling the turnpike project shall be granted without further showing authority to operate over the turnpike project to all municipalities which such carrier is serving at the time the turnpike project is opened to traffic. But nothing herein shall be construed as granting any new operation rights to any common carriers.

(h) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties.

(i) To acquire in the name of the Authority by purchase or otherwise on such terms and conditions and in such manner as it may deem proper, or by exercise of the right of condemnation in manner hereinafter provided, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of Sections 1701 through 1734 of this title; provided, that all public property damaged in carrying out the powers granted by Sections 1701 through

1734 of this title shall be restored or repaired and placed in its original condition as nearly as practicable.

(j) To designate, except as is provided for herein, the location, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated.

(k) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation; provided, that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of Sections 1701 through 1734 of this title or from revenues; provided, further, no attorney employed by the Authority, nor any member of any law firm of which he may be connected, shall ever be paid any fee or compensation for any special or extraordinary services.

(l) To receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, provided, the acceptance of such grants will not reduce the amount of federal aid for the construction, repair, or maintenance of farm-to-market roads and other highways and bridges in this state; and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

(m) To adopt such rules and regulations, and to do any and all things necessary to comply with rules, regulations, or requirements of the Bureau of Public Roads, Multistate Economic Development

Regional Commission, as defined in Sections 1151 through 1153, inclusive, of Title 74 of the Oklahoma Statutes, Ozarka Region Commission or any other federal agency administering any law enacted by the Congress of the United States to aid or encourage the construction of highways.

(n) To do all things necessary or convenient to carry out the powers expressly granted in Sections 1701 through 1734 of this title. On all turnpike projects alternate bids for paving work shall be taken on asphalt concrete and portland cement concrete and the design standards for such paving shall comply with the design standards of the American Association of State Highway and Transportation Officials as modified by the Oklahoma Department of Transportation. All contracts for construction work on turnpike projects shall be let to the lowest responsible bidder, or bidders, after notice by publication in a newspaper published in the county where the work is to be done in two consecutive weekly issues of the newspaper. In all cases where more than eight (8) miles of construction is let at the same time, such advertisement shall provide for bids on sections of the turnpike not to exceed eight (8) miles. Subject to the following restrictions and limitations: the Authority shall, when contracting for construction work, divide such work into paving projects, bridge projects, including underpasses and overpasses, and earthmoving or miscellaneous projects, according to the type of work to be done and each project shall be let under a separate contract or contracts and no contract or project shall include more than one of such types of construction work. Each contract for construction work shall contain a provision that ninety percent (90%) of all labor employed on the project shall be residents of Oklahoma. Provided, however, that no tie bids shall be accepted, and provided, further, that contracts for bridges may include earthwork and structures for the approaches thereto, and

provided, further, that any one bridge or tunnel and the approaches thereto may be included in one contract.

(o) To adopt and prescribe reasonable rules, regulations, and policies not inconsistent with Sections 1 through 7 of this act for the implementation and administration of the junkyard removal and clean-up program required thereunder.

(p) It shall be unlawful for any member, officer or employee of the Authority to transact with the Authority, either directly or indirectly, any business for profit of such member, officer, or employee; and any person, firm, or corporation knowingly participating therein shall be equally liable for violation of this provision.

The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift, or consideration to such member, officer, or employee.

Violation of this provision shall constitute a felony and shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment.

~~(p)~~ (q) In the event of a national emergency, the Authority, subject to any vested rights or claims, may enter into contracts with the federal government or any authorized agency thereof to allow the federal government or agency thereof to use such turnpikes partly or exclusively during the existence of such emergency, provided, that the federal government agrees in such contract to pay, during the term of such contract, an amount sufficient, when added to any tolls collected, to meet all operating and maintenance expenses, interest payments, and the minimum sinking fund and reserve requirements of the trust agreement for the turnpike covered by the contract.

~~(g)~~ (r) All meetings of the Authority shall be open public meetings, and all records shall be public records, except when considering personnel or litigation.

SECTION 9. This act shall become effective September 1, 1992.

43-2-7849

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