

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1265

By: Smith (David)

AS INTRODUCED

An Act relating to roads, bridges and ferries;
amending 69 O.S. 1991, Section 1205, which relates
to acquisition policy of certain right-of-ways;
providing exception to costs of removing and
relocating utilities; amending 69 O.S. 1991,
Section 1403, which relates to location and removal
of public utilities on state highways; exempting
certain municipalities from costs of removing and
relocating utility facilities; and providing an
effective date.

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

SECTION 1. AMENDATORY 69 O.S. 1991, Section 1205, is
amended to read as follows:

Section 1205. The policy which the Commission shall follow in
the acquisition of all rights-of-way shall be as follows:

(a) For construction on the Interstate Highway System within the
limits of municipalities having a population of five thousand
(5,000) or more, federal aid funds, if available, may be used for
the acquisition of rights-of-way, and shall, if available, be used
to pay the cost of the removing or relocating of utility facilities
located in either privately owned or public rights-of-way, and in

such event the municipality in which such construction is to be performed shall furnish funds to the state necessary to match the federal funds, except as provided in Section 1403 of this title.

(b) For construction on the Interstate Highway System in all locations other than within the limits of municipalities having a population of five thousand (5,000) or over, and where control of access is required, the state shall furnish all rights-of-way and may use federal aid funds, if available, for such purpose, and when federal aid funds are available for such purpose, shall pay the cost of removing or relocating utility facilities located on either privately owned or public rights-of-way.

(c) For all construction projects within the limits of municipalities, other than projects on the Interstate Highway System, as described in the Federal Aid Highway Act of 1956, the municipality or county involved and the Department shall equally share the cost of all necessary rights-of-way, clear of all obstructions, including structures of any kind or nature and utility lines, poles, pipelines or other facilities above or below the surface of the ground. If federal aid funds are available for the project, the municipality or county and the Department shall equally share the local portion of the costs for acquiring and clearing the right-of-way, including the cost of removing and relocating utility facilities located on privately owned rights-of-way, except as provided in Section 1403 of this title.

(d) In any municipality where the Commission has determined it to be necessary to construct a highway through or within the corporate limits, and further determines that the construction will not benefit the municipality involved, or that the construction will benefit state-owned property or institutions, the Commission may, in its discretion, pay for or participate in the cost of rights-of-way for such project.

(e) For all reconstruction or widening projects on existing improved roads of permanent-type surface in rural areas, the Department shall pay fifty percent (50%) of the cost of any additional rights-of-way required to meet right-of-way standard-width requirements, and the remaining fifty percent (50%) shall be furnished or paid for by local units of government; provided, however, that no right-of-way shall be acquired under the terms of this article, except by due process of law.

~~(f) Repealed by Laws 1971, c. 355, Section 8, effective July 1, 1972.~~

~~(g)~~ (f) For new construction on unsurfaced roads where the construction follows a section line or an existing unimproved road, all rights-of-way shall be furnished by local units of government free of cost to the Department; provided, should the new or additional rights-of-way, either contiguous or adjacent to the section line or existing unimproved road, be acquired only on one side of the section line or road, then one-half of the cost shall be borne by the state.

~~(h)~~ (g) For all new construction diagonally across country or not following on a section line road or other existing unimproved road, the rights-of-way shall be paid for by the Department.

~~(i)~~ (h) In securing the necessary rights-of-way in rural areas, the state shall pay for all damages to buildings, improvements, fences and all other appurtenances thereto, or their moving and relocating.

~~(j)~~ (i) In any county where a proposed alignment for a highway project on the primary system shall not come within one-half (1/2) mile of the limits of any municipality within the county, or contribute to the highway transportation system or to the economy of the county, the Commission may in its discretion increase the amount of the state's participation in the cost of rights-of-way for such projects.

~~(k)~~ (j) The term "utility facility" as used herein means any publicly, privately, municipally or cooperatively owned facility or system which is used to provide water, power, light, gas, sewer, telegraph, telephone and communications, or like utility service, to the public in the State of Oklahoma, or some portion thereof.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 1403, is amended to read as follows:

Section 1403. (a) The location and removal of all telephone, telegraph, electric light and power transmission lines, poles, wires and conduits, water, sewers and all pipelines erected, constructed or in place upon, across or under any state highway shall be under the control and supervision of the Commission; and the location and removal of any facility placed under rights granted hereunder on county highways shall be under the jurisdiction of the particular board of county commissioners involved insofar as same affects the public travel or interferes with the construction and maintenance of such highway.

(b) Whenever the authority having jurisdiction over a particular highway plans an improvement or construction or reconstruction thereof, and before such work is started, it shall serve a written notice upon the person, firm or corporation owning or maintaining any such facility, which notice shall contain a plan or chart indicating the places on the right-of-way where such facilities may be maintained. The notice shall state the time when the work of improving such highway is proposed to commence, and a reasonable time shall be allowed to the owner of the facility to remove and relocate its property; provided, however, that the effect of any change ordered by the public authority shall not be to exclude the facilities from the right-of-way of highways.

(c) The removal and relocation of all such facilities shall be made at the cost and expense of the owners thereof, unless otherwise provided by law or order of the Commission, and in the event of the

failure of such owners to remove the same at the time set out in the notice, they may be removed by such public authority and the cost thereof collected from such owners, and such authority shall not be liable in any way to any person for the locating or relocating of such facilities at the places prescribed. Any corporation or association, or the officers or agents of such corporation or association, or any other person who shall erect or maintain any such lines, poles, wires, conduits, pipelines, equipment or other facilities within the right-of-way of such highways in a manner not in complete accordance with the orders of the respective public authority shall be deemed guilty of a misdemeanor.

(d) The Department may promulgate such rules and regulations as it may deem necessary for the planting of trees and shrubbery and parking along such state highways.

(e) Rural water districts, nonprofit water corporations, and municipal public water systems in municipalities with a population of ten thousand (10,000) or less, according to the latest Federal Decennial Census, or their beneficial trusts shall be exempt from the payment of the costs and expenses for the removal and relocation of water and sewer pipelines and all such facilities constructed or in place in the public right-of-way when the removal and relocation of such facilities is necessary for the improvement, construction or reconstruction of any road or highway which is part of the state highway system or turnpike project as defined in Sections 501 (a) and 1705 of this title. Such costs and expenses, including any unpaid on the effective date of this act, shall be paid by the public authority having jurisdiction over the particular road or highway.

(f) Municipalities with a population of ten thousand (10,000) or less, according to the latest Federal Decennial Census, shall be exempt from the payment of costs and expenses for the removal and relocation of utility facilities constructed or in place in the

public right-of-way, or located on privately owned rights-of-way,
when the removal and relocation of such utility facilities is
necessary for the improvement, construction, or reconstruction of
any road or highway system or turnpike project as defined in
Sections 501 and 1705 of this title.

SECTION 3. This act shall become effective September 1, 1993.

44-1-5365

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