

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

2ND CONFERENCE COMMITTEE  
SUBSTITUTE FOR ENGROSSED  
HOUSE BILL NO. 2238

By: Leist and Pettigrew of  
the House

and

Shurden and Price of the  
Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to roads, bridges and ferries; amending 69 O.S. 1991, Section 501, as amended by Section 1 of Enrolled House Bill No. 2804 of the 2nd Session of the 46th Oklahoma Legislature, which relates to classes of highways and ownership of highways removed from system; modifying procedure for removing highways and bridges from the State Highway System; requiring the Oklahoma Department of Transportation make certain improvements prior to returning certain highways and bridges to county system; amending 69 O.S. 1991, Section 1722, as amended by Section 3, Chapter 282, O.S.L. 1997 (69 O.S. Supp. 1997, Section 1722), which relates to property or facilities of public utilities located in rights-of-way; exempting certain water districts and systems from removal and relocation expenses under certain circumstances; requiring removal and relocation expenses to be paid by certain public authority; and providing an effective date.

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

SECTION 1. AMENDATORY 69 O.S. 1991, Section 501, as amended by Section 1 of Enrolled House Bill No. 2804 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 501. A. The highway system of this state shall be divided into two classes to be known as the State Highway System and county highway system. The State Highway System shall be designated by the Commission and shall be composed of intercounty and interstate highways.

B. When the Commission shall have taken over any highway, or part thereof, as a state highway, the Commission shall become responsible for the construction, repair and maintenance of such highway and for this purpose shall be authorized to use any state highway funds, together with any money derived from any agreement entered into between the Commission and the federal government, any county, or any citizen or group of citizens who have made donations for that purpose.

C. ~~When from the date of this act any segment of the State Highway System is removed from such the system, any bridge located on such removed segment shall remain the property of the State Highway Commission unless the board of county commissioners in which such segment is located shall within six (6) months designate such removed segment of highway as a part of the county highway system, regardless of the source of the funds with which said bridge was constructed. In the alternative the county commissioners may designate that the bridge is to be used on the county highway system at some other location within two (2) years from the time the segment of highway on which the bridge was originally located is removed from the State Highway System. The Transportation Commission shall not interpret this subsection as an authorization for closing any road used as a service road for regular local traffic~~ all right, title, and interest to the road, right-of-way, and any signs or facilities shall revert to the appropriate county or municipal authority. The Department of Transportation shall determine the specific right-of-way to be conveyed and prepare and execute a conveyance of title document which shall be forwarded to the local authority to be filed with the county clerk.

D. Prior to returning a state highway back to the county highway system, the Oklahoma Department of Transportation shall make any necessary improvements to the road to meet the minimum design guidelines as set forth in the current State of Oklahoma County Road Design Guidelines Manual, and provide a driving surface that has no less than a good rating according to the current County Road Surface Management System. Prior to returning

a state highway bridge back to the County Bridge System, the Oklahoma Department of Transportation shall make any necessary improvements to the bridge so that it will achieve a minimum H-20 twenty (20) ton computed operating rating according to the National Bridge Inventory System and a Minimum Scour Rating of 3, NBI Item 113.

E. The Commission shall provide and maintain a map of the state which shall show all the highways which have been designated as part of the State Highway System and, when practical, status of improvement thereon. In addition, the Commission shall include on such map the principal access road to every city and town not served by the State Highway System and which has a United States Post Office or with a population in excess of one hundred (100) persons according to the latest Federal Decennial Census.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 1722, as amended by Section 3, Chapter 282, O.S.L. 1997 (69 O.S. Supp. 1997, Section 1722), is amended to read as follows:

Section 1722. ~~(a)~~ A. The location and removal of all telephone, telegraph, fiber optic, electric light and power transmission lines, poles, cables, wires and conduits, sewers and all pipelines erected, constructed or in place upon, across or under any turnpike shall be under the control and supervision of the Oklahoma Turnpike Authority, insofar as same affects the public travel or interferes with the construction and maintenance of such turnpike. Whenever the Authority plans a turnpike project or 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 constructing or improving such turnpike 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 Authority shall not be to exclude the facilities from the turnpike right-of-way. 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 the Authority, and in no event shall such relocation result in a taking of the owner's property rights without just compensation as provided in Section 1708 of this title. 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 the Authority, and in the event of the failure of such owners to remove the same at the time set out in the notice, the facilities may be removed by the Authority and the cost thereof collected from such owners, and the 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, cables, wires and conduits, sewers, pipelines, equipment or other facilities within the right-of-way of any turnpike in a manner not in complete accordance with the requirements of the Authority shall be deemed guilty of a misdemeanor.

~~(b)~~ B. With respect to any railroad property or right-of-way, any powers of condemnation may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed project nor any part thereof, including any bridges, abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or right-of-way, plans and specifications of the proposed project showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and

specifications for such overhead or undergrade structure and appurtenance shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the Corporation Commission whose decision, arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the grade. Such overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the Corporation Commission as the case may be. A copy of the plans and specifications approved by the railroad or the Corporation Commission shall be filed as an exhibit with the petition for condemnation.

C. 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 turnpike. 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 turnpike.

SECTION 3. This act shall become effective November 1, 1998.

46-2-11521 JAF