STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 651 By: Stipe of the Senate

and

Tyler of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to roads, bridges and ferries; amending 69 O.S. 1991, Sections 1701, 1706 and 1722, which relate to the Oklahoma Turnpike Authority; modifying powers of the Authority; deeming certain entry neither a trespass nor an entry under certain conditions; requiring notice; removing certain requirement for entry onto certain lands; providing that location and removal of certain public utilities be under the control and supervision of the Oklahoma Turnpike Authority; providing for notice and stating contents; providing exclusion of facilities from turnpike right-of-way; requiring owners to pay cost and expenses for removal and relocation of facilities and providing exception; stating procedure upon failure of owners to take certain action; stating limitation on liability of the Oklahoma Turnpike Authority; providing for penalty; and declaring an emergency.

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

SECTION 1. AMENDATORY 69 O.S. 1991, Section 1701, is amended to read as follows:

Section 1701. In order to facilitate vehicular traffic throughout the state and remove the present handicaps and hazards on the congested highways in the state, and to provide for the construction of modern express highways embodying reasonable safety devices including ample shoulder widths, long sight distances, the bypassing of cities and towns, and grade separations at intersecting highways and railroads, the Oklahoma Turnpike Authority (hereinafter created) is hereby authorized and empowered to construct, maintain, repair, and operate turnpike projects (as hereinafter defined) at such locations as shall be approved by the Transportation Commission, and to issue turnpike

revenue bonds of the Authority payable solely from revenues to pay the cost of such projects. The Authority is further authorized and empowered to construct, maintain, repair, and operate intercity rail transit projects as it shall determine to be feasible and economically sound.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 1706, is amended to read as follows:

Section 1706. (a) The Oklahoma Turnpike Authority may and it shall be its duty to construct grade separations at intersections of any turnpike project with state and federal highways, and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The Authority may construct grade separations at intersections of turnpike projects with county highways and city streets and it shall construct grade separations at intersections of any turnpike project with county highways used as mail or school bus routes, or section lines which are well used and are necessary for convenience of people living in these areas. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the Authority as a part of the cost of such turnpike project.

(b) If the Authority shall find it necessary to change the location of any portion of any state or county highway or street of a municipality, it shall cause the same to be reconstructed in substantially the same type and in as good condition as the original highway. Provided, however, that all changes and adjustments of the lines and grades of state highways shall be subject to the approval of the Transportation Commission. The cost of such reconstruction and any damage incurred in changing the location of any such highway or street shall be ascertained and paid by the Authority as a part of the cost of such turnpike project.

(c) In addition to the foregoing powers, the Authority and its authorized agents and employees may enter upon any lands, waters, and premises in the state for the purpose of making surveys,

soundings, drillings, and examinations as it may deem necessary or convenient for the purposes of ~~this article and such entry shall not be deemed a trespass nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending~~ establishing, locating, relocating, constructing, and maintaining turnpikes or relocations thereof and facilities necessary and incidental thereto. Such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; however, notice shall be given to the owner of or person residing on the premises, personally or by registered mail, at least ten (10) days prior to such entry. The Authority shall make reimbursement for any actual damages resulting to such lands, waters, and premises as a result of such activities. ~~If any landowner, lessee or tenant shall refuse the Authority permission to make such surveys, the Authority may acquire a right of entry for such surveys by the condemnation procedure herein prescribed.~~ In the event of disagreement as to the amount of damage, either the person or the Authority may file a petition with the district court for the appointment of commissioners to appraise the damages and proceed to have the same determined as in condemnation proceedings.

(d) The State of Oklahoma hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the Authority to be necessary for the construction or operation of any turnpike project; and the State of Oklahoma shall be paid reasonable compensation for the land or property used, such compensation to be determined in the manner now provided by law for condemnation proceedings.

SECTION 3. AMENDATORY 69 O.S. 1991, Section 1722, is amended to read as follows:

Section 1722. (a) ~~Nothing herein shall authorize the Authority to take or disturb property of facilities belonging to any public utility or to a common carrier, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made~~

~~for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the Authority.~~ 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) 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 ~~Oklahoma~~ 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 ~~Oklahoma~~ Corporation Commission as the case may be. A copy of the plans and specifications approved by the railroad or the ~~Oklahoma~~ Corporation Commission shall be filed as an exhibit with the petition for condemnation.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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