

ENROLLED HOUSE  
BILL NO. 2566

By: Cooksey of the House

and

Jolley of the Senate

An Act relating to counties and county officers;  
amending 19 O.S. 2001, Section 421.1, as last amended  
by Section 2, Chapter 99, O.S.L. 2004 (19 O.S. Supp.  
2007, Section 421.1), which relates to county  
commissioners; providing for sale of certain  
property; amending 19 O.S. 2001, Sections 868.4 and  
868.12, which relate to county planning commissions  
and boards of adjustment in certain counties;  
eliminating certain fees; allowing for certain fees;  
removing certain restrictions on zoning regulations;  
and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 2001, Section 421.1, as  
last amended by Section 2, Chapter 99, O.S.L. 2004 (19 O.S. Supp.  
2007, Section 421.1), is amended to read as follows:

Section 421.1 A. The board of county commissioners is hereby  
authorized to use any tools, apparatus, machinery or equipment  
belonging to the county, the original cost of which exceeded Two  
Hundred Fifty Dollars (\$250.00), as a trade-in on a cash purchase or  
lease purchase of any other tools, apparatus, machinery or  
equipment.

B. To establish an appraised value for an item to be sold at  
public auction, the purchasing agent may refer to an industry-  
recognized appraisal manual for used construction equipment to  
estimate the value of the item being sold, or obtain appraisal

quotes from at least two vendors in the business of selling items like the one being sold.

C. Except when such items are disposed of pursuant to subsection F of this section, the following procedures shall be used for the sale, by the board of county commissioners, of any tools, apparatus, machinery or equipment, the original cost of which exceeded Two Hundred Fifty Dollars (\$250.00), belonging to the county:

1. The board of county commissioners shall give notice of such sale by publication in a newspaper of general paid circulation in the county for two (2) successive weekly issues;

2. Bids for such tools, apparatus, machinery or equipment on sale shall be in writing, sealed and delivered to the county clerk of such county;

3. At the next regular meeting of the board of county commissioners after the expiration of fifteen (15) days from the date of first publication of notice of the sale, the board of county commissioners shall open such bids and award such tools, apparatus, machinery or equipment to the highest and best bidder with the option of rejecting all bids; and

4. The board of county commissioners may hold a public auction in lieu of advertising for sealed bids as provided above. Such auction shall be advertised as provided herein.

D. A board of county commissioners may sell any materials, tools, apparatus, machinery or equipment to a state agency, if the agency is subject to The Oklahoma Central Purchasing Act, or to a political subdivision of the state if the political subdivision is subject to such act or a similar competitive bidding procedure. The board of county commissioners may purchase materials, tools, apparatus, machinery or equipment from a state agency, if the agency is subject to The Oklahoma Central Purchasing Act, or from a political subdivision of the state if the political subdivision is subject to such act or a similar competitive bidding procedure.

E. The board of county commissioners may, by resolution, enter into an agreement with any other county or political subdivision for the purpose of selling, transferring, trading or otherwise disposing of equipment or materials.

F. Advertisement of surplus property consigned to sell at a Circuit Engineering District auction shall be provided by the auction company under contract to conduct the sale. Advertising shall be provided to attract the most potential buyers. Advertising media may include, but not be limited to, sale flyers, newspapers, radio, television, and Internet postings.

G. Pursuant to the authority of Section 1 of this title, boards of county commissioners shall have authority, under such statute and in consideration of the procedures in this section to sell real property belonging to the county without declaring such property surplus under the following conditions:

1. A certified appraisal of the county property shall be performed to determine the market value of the property and accepted by the board of county commissioners;

2. After acceptance of the certified appraisal, the board of county commissioners shall, pursuant to the requirements of this section, give notice of such sale by publication in a newspaper of general paid circulation in the county for two successive weekly issues;

3. Bids for the real property shall be in writing, sealed and delivered to the county clerk of such county;

4. At the next regular meeting of the board of county commissioners after the expiration of fifteen (15) days from the date of first publication of notice of sale, the board of county commissioners shall open such bids;

5. A successful bid must be no less than the market value of the real property to be considered by the board of county commissioners for acceptance. The board of county commissioners reserves the right to reject any and all bids;

6. If more than one bid is above the market value of the real property, the board of county commissioners shall have the right to compel the potential buyers of the real property who have bid above the market amount to enter into public auction conducted by the chairman of the board of county commissioners after the opening of such bids, to establish the highest bid for the property in order to assure that the county is receiving adequate consideration for the property;

7. A majority vote of the board of county commissioners shall be required to determine the successful bidder of the real property. Upon awarding the bid, either through sealed bid or by conducting a public auction of those bidders who bid more than the market value of the real property, the board of county commissioners shall have the right to pledge the occupied property, using an irrevocable bond or letter of credit, as provided for in paragraph 10 of this subsection, as collateral in order to finance bonds to purchase other real property or build a replacement building, or both;

8. If the sale price is less than the estimated cost of new land purchase or construction, then said sales contract shall be contingent upon the public approval of bond funding or other authorized funding to allow the complete payment of the contemplated project;

9. The board of county commissioners shall have authority pursuant to paragraphs 5 and 6 of Section 1 of this title to make any order concerning the sale of such property contingent upon a closing date in the future in order to continue to use said real property until a replacement building is completed. Upon completion of the replacement building, the board of county commissioners shall execute all documents and title transfers pertaining to said real property to the successful bidder; and

10. The successful bidder shall execute an irrevocable bond or letter of credit with a surety company or bank licensed to do business in the State of Oklahoma and organized under the corporate laws of the State of Oklahoma and registered with the Secretary of State of Oklahoma equal to the amount of the purchase price of the real property within fifteen (15) days of awarding of the bid. Failure to provide either an irrevocable bond or letter of credit in favor of the board of county commissioners within said time limitation shall act as a rejection and cancellation by the board of the award of bid and said board may, at that point, enter into a contract with any secondary or subsequent bidder that meets the aforementioned qualifications without further notice.

SECTION 2. AMENDATORY 19 O.S. 2001, Section 868.4, is amended to read as follows:

Section 868.4 The county planning commission may appoint such employees as it may deem necessary for its work and may contract with planners and other consultants for such services as it may require, and may incur other necessary expenses; provided that the

expenditures of the county funds by the planning commission shall not be in excess of the amounts appropriated for that purpose by the board of county commissioners. It shall be lawful for the board of county commissioners to appropriate funds for the administration of this act and to contract with the governing body of the county seat city to contribute jointly to pay expenses and salaries of a combined staff to serve the county planning commission, county board of adjustment, city planning commission and city board of adjustment, and to provide offices for such combined staff either in the county courthouse or the municipal building.

For building permits issued pursuant to this section, the county engineer shall collect a fee set by the county planning commission, which shall be approved every two (2) years by the board of county commissioners. For each petition for amendments to zoning regulations, the county planning commission shall, upon approval and authorization by the board of county commissioners, collect a fee sufficient to cover the cost of mailing notices and conducting investigations into the applicant's petition. In the event the petition is withdrawn by the applicant before consideration by the county planning commission but after notice and mailing of such public hearing on applicant's amendments to zoning regulations or in the event the applicant's petition is denied by the county planning commission and an appeal is not pursued to the county board of adjustment, the applicant shall not be permitted to file another petition for amendment to zoning regulations covering the matter withdrawn or denied until ninety (90) days from such withdrawal or denial and upon payment of a nonrefundable fee as set by the county planning commission, which shall be approved by the board of county commissioners. ~~For each appeal to the county board of adjustment, the county planning commission shall collect a fee of Fifteen Dollars (\$15.00).~~ All fees collected by the county planning commission and the county engineer shall be deposited with the county treasurer daily, as is now provided by law, to the credit of the county planning commission and such fees shall be placed in a separate fund to the credit of the said county planning commission, to be designated as the "County Planning Commission Special Fund<sup>7</sup>", and shall be expended by the county planning commission, as follows: for salaries of the staff or any member thereof, for mailing cost to potentially affected members of the public concerning notice of petitions for amendment to zoning regulations, for books, records, supplies, fixtures and other necessary expenses incurred in the operation of said Planning Commission, provided that any of the fee so expended shall be upon verified claims duly filed, and approved by the board of county commissioners of the county as provided by

law. Provided, however, that in the event the fees shall be in excess of the necessary operating expenses of the planning commission, said excess shall revert to the general fund of any such county at the end of the fiscal year. Provided further, that in the event said fees shall not be sufficient to operate the planning commission, the difference may be supplied by appropriation as provided by law. On the first day of each month the county engineer and the county planning commission shall each submit to the board of county commissioners a verified report of all fees charged and collected during the preceding month.

For each petition for an appeal to the board of adjustment, the county planning commission shall, upon approval and authorization by the board of county commissioners, collect a fee sufficient to cover the cost of mailing notices and conducting investigations into the applicant's petition.

SECTION 3. AMENDATORY 19 O.S. 2001, Section 868.12, is amended to read as follows:

Section 868.12 Zoning regulations are hereby defined as regulations restricting the height, number of stories and size of buildings, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence, recreation or other purposes. For the purpose of such zoning regulations the unincorporated territory of the county may be divided into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this act and shall be shown upon the zoning plan; and within such district, the erection, construction, reconstruction, alteration or use of buildings, structures or land may be regulated and restricted. All such regulations shall be uniform for each class or kind of buildings or land uses throughout each district, but the regulations in one district may differ from those in other districts. The regulations shall be made in accordance with a comprehensive plan, and they shall give reasonable consideration, among other things, to the existing character of the district and its suitability for practical usage, while conserving the value of buildings and of existing development and encouraging the most appropriate use of land throughout the county.

In formulating the zoning regulations, a survey shall be made of the area to be zoned and information collected concerning the topography of the land, the types of uses to which land and

buildings are currently put, the extent of development, the density of population, the public utilities currently available and transportation facilities, and other information pertinent to the formulation of such zoning regulations. In each district created by the zoning regulations there shall be specified a maximum height of buildings, the size of yards, courts and open spaces, the uses of land and buildings permitted and the intensity thereof, and parking requirements for vehicles. All of such requirements shall be reasonable in view of the information obtained in the survey in order that the benefits hereinbefore named shall be secured to the community as a whole.

The classification of the various uses of lands and buildings shall provide separate districts for single-family dwellings, two-family dwellings, multiple-family dwellings, commercial areas devoted to small shops or stores designed to serve limited residential areas, less restrictive business and industrial uses, and unrestricted uses. ~~The height of buildings shall in no event be restricted to less than three (3) stories except in districts limited to one and two family dwellings in which buildings may be limited to a height of two (2) stories. The intensity of use of lands and buildings shall not be limited to less than one family per lot of two (2) acres and the~~ The regulation of yards and open spaces shall bear a relationship to the uses of lands and buildings which are permitted in the district. The height limitation and yard requirements of residential districts may be imposed upon a commercial district which is located immediately adjacent to a dwelling district. The parking requirement for vehicles shall bear reasonable relationship to the uses permitted in the district and the physical size and arrangement of streets.

SECTION 4. This act shall become effective November 1, 2008.

Passed the House of Representatives the 23rd day of May, 2008.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 23rd day of May, 2008.

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Presiding Officer of the Senate