

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2295

By: Proctor

4  
5 AS INTRODUCED

6 An Act relating to turnpikes; amending 61 O.S. 2001,  
7 Section 118, which relates to prequalification of  
8 bidders; prohibiting transactions with certain  
9 companies; prohibiting certain form of payment;  
10 defining terms; amending 69 O.S. 2001, Section 304,  
11 which relates to transportation; prohibiting  
12 transactions with certain companies; prohibiting  
13 certain form of payment; defining terms; amending 69  
14 O.S. 2001, Section 1701, which relates to turnpikes;  
15 prohibiting transactions with certain companies;  
16 prohibiting certain form of payment; defining terms;  
17 and providing an effective date.

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

19 SECTION 1. AMENDATORY 61 O.S. 2011, Section 118, is  
20 amended to read as follows:

21 Section 118. A. In order to determine the responsibility of  
22 bidders, the awarding public agency may require prospective bidders,  
23 general contractors, subcontractors and material suppliers to  
24 prequalify as responsible bidders prior to submitting bids on a  
public construction contract. Prequalification to bid or perform  
work pursuant to this section does not constitute a license. Except  
as provided in subsection B of this section, prequalification shall

1 not serve as a substitute for a license otherwise required by law.  
2 Notice of any such prequalification requirement shall be made  
3 equally and uniformly known by the awarding public agency to all  
4 prospective bidders and the public in the same manner as proposals  
5 to award public construction contracts as set forth in Section 104  
6 of this title. Financial information including, but not limited to,  
7 audited financial statements required by the awarding public agency  
8 as part of prequalification shall remain confidential.

9 B. ~~The Oklahoma~~ Except as provided in subsection C of this  
10 section, the Transportation Commission and the Oklahoma  
11 ~~Transportation~~ Turnpike Authority may establish a system for  
12 prequalifying prospective bidders on construction and maintenance  
13 contracts to be awarded by the Commission or Authority. The  
14 Commission and the Authority shall be the sole judge of the  
15 qualifications of prospective bidders and shall ascertain, to their  
16 exclusive satisfaction, the qualifications of each prequalified  
17 bidder. Any contractor or subcontractor prequalified as of the  
18 effective date of this act performing signing, highway lighting, or  
19 traffic signal installation or maintenance for the ~~Oklahoma~~  
20 Department of Transportation or the Oklahoma ~~Transportation~~ Turnpike  
21 Authority shall be allowed to continue to bid and perform such work  
22 without obtaining any additional license from this state or any  
23 political subdivision of this state. However, no contractor or  
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1 subcontractor may transfer, convey or assign this exemption to any  
2 other person or entity.

3 C. The Transportation Commission and the Oklahoma Turnpike  
4 Authority shall not enter into any contract with a foreign company  
5 and/or a foreign-owned company to sell, lease, sublease, or operate  
6 any highway, bridge or turnpike or portion of a turnpike in this  
7 state. Further, the Transportation Commission and the Oklahoma  
8 Turnpike Authority shall not enter into any contract to sell, lease,  
9 sublease or operate any highway, bridge or turnpike or portion of a  
10 turnpike in this state in exchange for compensation in whole or in  
11 part by foreign sovereign funds. As used in this section:

12 1. "Foreign company" means an entity organized and licensed  
13 under the laws of a foreign country, a territory of the United  
14 States, Puerto Rico, Guam, American Samoa, or the Virgin Islands;  
15 and

16 2. "Foreign-owned company" means an entity owned in whole or in  
17 part by a citizen of a foreign country.

18 SECTION 2. AMENDATORY 69 O.S. 2011, Section 304, is  
19 amended to read as follows:

20 Section 304. ~~(a)~~ A. The construction and maintenance of the  
21 State Highway System, and all work incidental thereto, shall be  
22 under the general supervision and control of the Transportation  
23 Commission.

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1       ~~(b)~~ B. The Commission shall have power to make all final  
2 decisions affecting the work provided for herein, and all  
3 reasonable rules and regulations it may deem necessary, not  
4 inconsistent with this code, for the proper management and conduct  
5 of such work, and for carrying out the provisions of this article,  
6 in such manner as shall be to the best interest and advantage of the  
7 people of this state.

8       ~~(c)~~ C. The Commission shall have power and authority to  
9 contract for and purchase, lease or otherwise acquire any tools,  
10 machinery, supplies, material or labor needed or to be needed for  
11 such work, having the deliveries of such articles made as actually  
12 needed, and to pay for engineering, preparation of plans and  
13 specifications, costs of advertising, engineering supervision and  
14 inspection and all expenses and contingencies in connection with the  
15 construction and maintenance of the State Highway System. When  
16 quality and prices are equal, preference shall be given materials  
17 produced within the State of Oklahoma and highway construction  
18 companies domiciled, having and maintaining offices in and being  
19 citizen taxpayers of the State of Oklahoma.

20       ~~(d)~~ D. The Commission shall have authority to make all  
21 contracts and do all things necessary to cooperate with the United  
22 States Government in matters relating to the cooperative  
23 construction, improvement and maintenance of the State Highway  
24 System, or any road or street of any political or governmental

1 subdivision or any municipal or public corporation of this state,  
2 for which federal funds or aid are secured. Such contracts or acts  
3 shall be carried out in the manner required by the provisions of the  
4 Acts of Congress and rules and regulations made by an agency of the  
5 United States in pursuance of such acts.

6 ~~(e)~~ E. Any political or governmental subdivision or any public  
7 or municipal corporation of this state shall have the authority to  
8 enter into contracts through or with the Commission to enable them  
9 to participate in all the benefits to be secured from federal aid  
10 funds, or funds made available from the federal government to be  
11 used on roads and streets. The Commission may negotiate and enter  
12 into contracts with the federal government, or any of its  
13 constituted agencies, and take all steps and proceedings necessary  
14 in order to secure such benefits for such political or governmental  
15 subdivisions or public or municipal corporations.

16 ~~(f)~~ F. The Commission, on behalf of the state, and any  
17 political or governmental subdivision or public or municipal  
18 corporation of this state shall have the authority to enter into  
19 agreements with each other respecting the planning, designating,  
20 financing, establishing, constructing, improving, maintaining,  
21 using, altering, relocating, regulating or vacating of highways,  
22 roads, streets or connecting links.

23 ~~(g)~~ G. The Commission shall have authority to act in an  
24 advisory capacity, upon request, to any political or governmental

1 subdivision or public or municipal corporation of this state in  
2 matters pertaining to the planning, locating, constructing and  
3 maintaining of roads, highways and streets and other related  
4 matters. The Commission, in such instances, may provide services  
5 and may cooperate with such subdivisions and corporations on such  
6 terms as may be mutually agreed upon.

7 ~~(h)~~ H. The Commission may purchase out of the State Highway  
8 Construction and Maintenance Fund such commercial vehicles and  
9 passenger automobiles as may be necessary for the use of the  
10 Department and its employees in the construction and maintenance of  
11 the State Highway System and all work incidental thereto, and in  
12 carrying out the duties now or hereafter imposed upon the Department  
13 by the laws of this state.

14 ~~(i)~~ I. The Commission may enter into written agreements with  
15 private citizens to allow such citizens to mow state highway  
16 rights-of-way and keep the clippings from such mowing as the sole  
17 compensation therefor.

18 J. The Commission shall not enter into any contract with a  
19 foreign company and/or a foreign-owned company to sell, lease,  
20 sublease, or operate any highway, bridge or turnpike or portion of a  
21 turnpike in this state. Further, the Commission shall not enter  
22 into any contract to sell, lease, sublease or operate any highway,  
23 bridge or turnpike or portion of a turnpike in this state in

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1 exchange for compensation in whole or in part by foreign sovereign  
2 funds. As used in this section;

3 1. "Foreign company" means an entity organized and licensed  
4 under the laws of a foreign country, a territory of the United  
5 States, Puerto Rico, Guam, American Samoa, or the Virgin Islands;  
6 and

7 2. "Foreign-owned company" means an entity owned in whole or in  
8 part by a citizen of a foreign country.

9 SECTION 3. AMENDATORY 69 O.S. 2011, Section 1701, is  
10 amended to read as follows:

11 Section 1701. ~~In~~ A. Except as provided in subsection B of this  
12 section, in order to facilitate vehicular traffic throughout the  
13 state and remove the present handicaps and hazards on the congested  
14 highways in the state, and to provide for the construction of modern  
15 express highways embodying reasonable safety devices including ample  
16 shoulder widths, long sight distances, the bypassing of cities and  
17 towns, and grade separations at intersecting highways and railroads,  
18 the Oklahoma Turnpike Authority, as created in Section 1703 of this  
19 title, is hereby authorized and empowered to construct, maintain,  
20 repair, and operate turnpike projects as defined in Section 1704 of  
21 this title, at such locations as shall be approved by the  
22 Transportation Commission, and to issue turnpike revenue bonds of  
23 the Authority payable solely from revenues to pay the cost of such  
24 projects. The Authority is further authorized and empowered to

1 develop and market alternative uses of the Oklahoma Turnpike  
2 Authority Electronic Toll Collection System, and construct,  
3 maintain, repair, and operate inter-modal transportation transfer  
4 facilities and infrastructure relating thereto, including, without  
5 limitation, warehouses and utility facilities and intercity rail  
6 transit projects as it shall determine to be feasible and  
7 economically sound.

8 B. The Transportation Commission and the Oklahoma Turnpike  
9 Authority shall not enter into any contract with a foreign company  
10 and/or a foreign-owned company to sell, lease, sublease, or operate  
11 any highway, bridge or turnpike or portion of a turnpike in this  
12 state. Further, the Transportation Commission and the Oklahoma  
13 Turnpike Authority shall not enter into any contract to sell, lease,  
14 sublease or operate any highway, bridge or turnpike or portion of a  
15 turnpike in this state in exchange for compensation in whole or in  
16 part by foreign sovereign funds. As used in this section:

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18 under the laws of a foreign country, a territory of the United  
19 States, Puerto Rico, Guam, American Samoa, or the Virgin Islands;  
20 and

21 2. "Foreign-owned company" means an entity owned in whole or in  
22 part by a citizen of a foreign country.

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SECTION 4. This act shall become effective November 1, 2012.

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