STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2187 By: Joyner

COMMITTEE SUBSTITUTE

An Act relating to railroads; providing procedures for sale of certain railroads; requiring certain entity be offered opportunity to purchase railroad; providing notification procedure; requiring response within certain period of time; providing procedures related to failed sale agreement; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 304.2 of Title 66, unless there is created a duplication in numbering, reads as follows:

A. Before selling any railroad, right-of-way, railroad tracks or any combination thereof owned by the Department of Transportation that is under lease to or operated by a private entity, the Department shall first offer to sell the railroad, right-of-way, railroad tracks or any combination thereof at an open, competitive public sale subject to the right of first refusal provided for in subsection B of this section. The Department shall provide public

notice of the public sale at least ninety (90) days prior to the time and date established for submission of bids. Such notice shall be by posting on the Department of Central Services web site, by advertisement for at least two (2) weeks in a newspaper of general circulation within the state, and by written notice by certified mail to all railroads operating within the state. The public notice shall include the terms of the public sale, including the requirement for a bid deposit as set forth below, and the time, date and place for submission of bids. To the extent that the Department possesses information on the property to be sold, the Department shall make such information available to all prospective bidders on an equal basis. Bids shall be publicly opened and read by the Department at the place specified for submission of bids forthwith upon expiration of the time for the filing thereof; provided, however, that the Department may reject any and all bids if it is in the public interest to do so. Every bid shall be accompanied by a bid deposit in the form of a bid bond, or cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the Department. The amount of such bid deposit shall be five percent (5%) of the value of the bid. Any bid submitted without such bid deposit shall be rejected as unresponsive.

B. After all bids have been secured pursuant to the public-sale process listed in subsection A of this section, the Department shall

select the highest responsive bid. Once selected, the Department shall notify by sending notice by certified mail to the entity that is currently leasing or operating the railroad, right-of-way, railroad tracks or any combination thereof of the terms and conditions of the selected bid and its right of first refusal to purchase the railroad, right-of-way, railroad tracks or any combination thereof owned by the Department of Transportation that is under lease to or operated by the private entity upon the same terms and conditions as set forth in the selected bid. If the offer to sell is not accepted by the entity that is currently leasing or operating the railroad, right-of-way, railroad tracks or any combination thereof within ninety (90) days from the date of its receipt of the offer to sell, the property shall then be offered to the party that originally submitted the selected bid to the Department upon the same terms and conditions as set forth in such bid.

C. If the selected bidder fails to execute a sale agreement in accordance with the terms of his bid within sixty (60) days, its bid deposit shall be forfeited to the Department and an award shall be made to the next highest responsive bidder, subject to the right of first refusal provided for in subsection B of this section.

SECTION 2. 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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