

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2187

By: Joyner

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8 COMMITTEE SUBSTITUTE

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

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

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

20 A. Before selling any railroad, right-of-way, railroad tracks
21 or any combination thereof owned by the Department of Transportation
22 that is under lease to or operated by a private entity, the
23 Department shall first offer to sell the railroad, right-of-way,
24 railroad tracks or any combination thereof at an open, competitive

1 public sale subject to the right of first refusal provided for in
2 subsection B of this section. The Department shall provide public
3 notice of the public sale at least ninety (90) days prior to the
4 time and date established for submission of bids. Such notice shall
5 be by posting on the Department of Central Services web site, by
6 advertisement for at least two (2) weeks in a newspaper of general
7 circulation within the state, and by written notice by certified
8 mail to all railroads operating within the state. The public notice
9 shall include the terms of the public sale, including the
10 requirement for a bid deposit as set forth below, and the time, date
11 and place for submission of bids. To the extent that the Department
12 possesses information on the property to be sold, the Department
13 shall make such information available to all prospective bidders on
14 an equal basis. Bids shall be publicly opened and read by the
15 Department at the place specified for submission of bids forthwith
16 upon expiration of the time for the filing thereof; provided,
17 however, that the Department may reject any and all bids if it is in
18 the public interest to do so. Every bid shall be accompanied by a
19 bid deposit in the form of a bid bond, or cash, or a certified check
20 on, or a treasurer's or cashier's check issued by, a responsible
21 bank or trust company, payable to the Department. The amount of
22 such bid deposit shall be five percent (5%) of the value of the bid.

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1 Any bid submitted without such bid deposit shall be rejected as
2 unresponsive.

3 B. After all bids have been secured pursuant to the public-sale
4 process listed in subsection A of this section, the Department shall
5 select the highest responsive bid. Once selected, the Department
6 shall notify by sending notice by certified mail to the entity that
7 is currently leasing or operating the railroad, right-of-way,
8 railroad tracks or any combination thereof of the terms and
9 conditions of the selected bid and its right of first refusal to
10 purchase the railroad, right-of-way, railroad tracks or any
11 combination thereof owned by the Department of Transportation that
12 is under lease to or operated by the private entity upon the same
13 terms and conditions as set forth in the selected bid. If the offer
14 to sell is not accepted by the entity that is currently leasing or
15 operating the railroad, right-of-way, railroad tracks or any
16 combination thereof within ninety (90) days from the date of its
17 receipt of the offer to sell, the property shall then be offered to
18 the party that originally submitted the selected bid to the
19 Department upon the same terms and conditions as set forth in such
20 bid.

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

3 SECTION 2. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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8 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 02/28/2013 -
9 DO PASS, As Amended.

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.