

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 HOUSE BILL 3083

 By: Cockroft

6 AS INTRODUCED

7 An Act relating to counties and county officers;
8 amending 19 O.S. 2011, Section 339, as last amended
9 by Section 1, Chapter 134, O.S.L. 2013 (19 O.S. Supp.
10 2017, Section 339), which relates to general powers
11 of county commissioners; authorizing county
12 commissioners to trade in equipment; amending 19 O.S.
13 2011, Section 421.1, as last amended by Section 1,
14 Chapter 174, O.S.L. 2017 (19 O.S. Supp. 2017, Section
15 421.1), which relates to procedures for sale of
16 certain county property; authorizing the board to
17 acquire used equipment values; and providing an
18 effective date.

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

16 SECTION 1. AMENDATORY 19 O.S. 2011, Section 339, as last
17 amended by Section 1, Chapter 134, O.S.L. 2013 (19 O.S. Supp. 2017,
18 Section 339), is amended to read as follows:

19 Section 339. A. The board of county commissioners shall have
20 power:

21 1. To make all orders respecting the real property of the
22 county, to sell the public grounds of the county and to purchase
23 other grounds in lieu thereof; and for the purpose of carrying out
24 the provisions of this section it shall be sufficient to convey all

1 the interests of the county in those grounds when an order made for
2 the sale and a deed is executed in the name of the county by the
3 chair of the board of county commissioners, reciting the order, and
4 signed by the chair and acknowledged by the county clerk for and on
5 behalf of the county;

6 2. To audit the accounts of all officers having the care,
7 management, collection or disbursement of any money belonging to the
8 county or appropriated for its benefit;

9 3. To construct and repair bridges and to open, lay out and
10 vacate highways; provided, however, that when any state institution,
11 school or department shall own, lease or otherwise control land on
12 both sides of any established highway, the governing board or body
13 of the same shall have the power to vacate, alter or relocate the
14 highway adjoining the property in the following manner:

15 If it should appear that it would be to the best use and
16 interest of the institution, school or department to vacate, alter
17 or relocate such highway, the governing board or body shall notify
18 the board of county commissioners, in writing, of their intention to
19 hold a public hearing and determine whether to vacate, alter or
20 relocate the highway, setting forth the location and terminals of
21 the road, and all data concerning the proposed right-of-way if
22 changed or relocated, and shall give fifteen (15) days' notice of
23 the hearing by publication in some newspaper in the county or
24 counties in which the road is located, and the hearing shall be held

1 at the county seat of the county in which the road is located, and
2 if a county line road, may be heard in either county. At the
3 hearing testimony may be taken, and any protests or suggestions
4 shall be received as to the proposed measure, and at the conclusion
5 thereof if the governing board or body shall find that it would be
6 to the best use and interest of the institution, school or
7 department, and the public generally, they may make an appropriate
8 order either vacating, altering or relocating the highway, which
9 order shall be final if approved by the board of county
10 commissioners. The institution, school or department may by
11 agreement share the cost of changing any such road. No property
12 owner shall be denied access to a public highway by the order;

13 4. To recommend or sponsor an employee or prospective employee
14 for job-related training and certification in an area that may
15 require training or certification to comply with state or federal
16 law as such training or certification is provided by the Department
17 of Transportation, the Federal Highway Administration, or any other
18 state agency, technology center school, or university;

19 5. Until January 1, 1983, to furnish necessary blank books,
20 plats, blanks and stationery for the clerk of the district court,
21 county clerk, register of deeds, county treasurer and county judge,
22 sheriff, county surveyor and county attorney, justices of the peace,
23 and constables, to be paid for out of the county treasury; also a
24

1 fireproof vault sufficient in which to keep all the books, records,
2 vouchers and papers pertaining to the business of the county;

3 6. To set off, organize and change the boundaries of townships
4 and to designate and give names therefor; provided, that the
5 boundaries of no township shall be changed within six (6) months
6 next preceding a general election;

7 7. To lease tools, apparatus, machinery or equipment of the
8 county to another political subdivision or a state agency. The
9 Association of County Commissioners of Oklahoma and the Oklahoma
10 State University Center for Local Government Technology together
11 shall establish a system of uniform rates for the leasing of such
12 tools, apparatus, machinery and equipment;

13 8. To jointly, with other counties, buy heavy equipment and to
14 loan or lease such equipment across county lines;

15 9. To develop personnel policies for the county with the
16 approval of a majority of all county elected officers, as evidenced
17 in the minutes of a meeting of the board of county commissioners or
18 the county budget board;

19 10. To purchase, rent, or lease-purchase uniforms, safety
20 devices and equipment for the officers and employees of the county.
21 The county commissioners may pay for any safety training or safety
22 devices and safety equipment out of the general county funds or any
23 county highway funds available to the county commissioners;

1 11. To provide incentive awards for safety-related job
2 performance. However, no employee shall be recognized more than
3 once per calendar year and the award shall not exceed the value of
4 Two Hundred Fifty Dollars (\$250.00); further, no elected official
5 shall be eligible to receive a safety award;

6 12. To provide for payment of notary commissions, filing fees,
7 and the cost of notary seals and bonds;

8 13. To do and perform other duties and acts that the board of
9 county commissioners may be required by law to do and perform;

10 14. To make purchases at a public auction pursuant to the
11 county purchasing procedures in subsection D of Section 1505 of this
12 title;

13 15. To deposit interest income from highway funds in the
14 general fund of the county;

15 16. To submit sealed bids for the purchase of equipment from
16 this state, or any agency or political subdivision of this state;

17 17. To utilize county-owned equipment, labor and supplies at
18 their disposal on property owned by the county, public schools, two-
19 year colleges or technical branches of colleges that are members of
20 The Oklahoma State System of Higher Education, the state and
21 municipalities according to the provisions of Section 36-113 of
22 Title 11 of the Oklahoma Statutes. Cooperative agreements may be
23 general in terms of routine maintenance or specific in terms of
24 construction and agreed to and renewed on an annual basis. Work

1 performed pursuant to Section 36-113 of Title 11 of the Oklahoma
2 Statutes shall comply with the provisions of this section;

3 18. To enter into intergovernmental cooperative agreements with
4 the federally recognized Indian tribes within this state to address
5 issues of construction and maintenance of streets, roads, bridges
6 and highways exclusive of the provisions of Section 1221 of Title 74
7 of the Oklahoma Statutes;

8 19. To execute hold harmless agreements with the lessor in the
9 manner provided by subsection B of Section 636.5 of Title 69 of the
10 Oklahoma Statutes when leasing or lease-purchasing equipment;

11 20. To accept donations of right-of-way or right-of-way
12 easements pursuant to Section 381 et seq. of Title 60 of the
13 Oklahoma Statutes;

14 21. To establish by resolution the use of per diem for specific
15 purposes in accordance with the limitations provided by Sections
16 500.8 and 500.9 of Title 74 of the Oklahoma Statutes;

17 22. To apply to the Department of Environmental Quality for a
18 waste tire permit to bale waste tires for use in approved
19 engineering projects;

20 23. To enter into the National Association of Counties (NACo)
21 Prescription Drug Discount Program;

22 24. To work with federal, state, municipal, and public school
23 district properties in an effort to minimize cost to such entities;

24 and

1 25. To provide incentive awards to employees for participating
2 in voluntary wellness programs which result in improved health.
3 Incentive awards may be created by the Wellness Council set forth in
4 Section 2 of this act; and

5 26. To trade in equipment to a vendor or on statewide contract
6 by acquiring used equipment values pursuant to subsection B of
7 Section 421.1 of this title.

8 B. The county commissioners of a county or, in counties where
9 there is a county budget board, the county budget board may
10 designate money from general county funds for the designated purpose
11 of drug enforcement and drug abuse prevention programs within the
12 county.

13 C. When any lease or lease purchase is made on behalf of the
14 county by the board pursuant to the provisions of this section, the
15 county shall be allowed to have trade in values for transactions
16 involving The Oklahoma Central Purchasing Act.

17 D. In order to timely comply with the Oklahoma Vehicle License
18 and Registration Act with regard to county vehicles, the board of
19 county commissioners may, by resolution, create a petty cash
20 account. The board of county commissioners may request a purchase
21 order for petty cash in an amount necessary to pay the expense of
22 license and registration fees for county motor vehicles. Any
23 balance in the petty cash account after the license and registration
24 fees have been paid shall be returned to the account or fund from

1 which the funds originated. The county purchasing agent shall be
2 the custodian of the petty cash account, and the petty cash account
3 shall be subject to audit.

4 E. When the board of county commissioners approves an express
5 trust, pursuant to Sections 176 through 180.4 of Title 60 of the
6 Oklahoma Statutes, for the purpose of operating a county jail, the
7 trustees of the public trust may appoint commissioned peace
8 officers, certified by the Council on Law Enforcement Education and
9 Training, to provide security for inmates that are required to be
10 transported outside of the detention facility, and investigate
11 violations of law within the detention facility. Other personnel
12 necessary to operate the jail may be employed and trained or
13 certified as may be required by applicable state or federal law.

14 SECTION 2. AMENDATORY 19 O.S. 2011, Section 421.1, as
15 last amended by Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp.
16 2017, Section 421.1), is amended to read as follows:

17 Section 421.1 A. The board of county commissioners is hereby
18 authorized to use any tools, apparatus, machinery or equipment
19 belonging to the county, the original cost of which exceeded Five
20 Hundred Dollars (\$500.00), as a trade-in on a cash purchase or lease
21 purchase of any other tools, apparatus, machinery or equipment.

22 B. To establish an appraised value for an item to be sold at
23 public auction or traded in, the purchasing agent may refer to an
24 industry-recognized appraisal manual for used construction equipment

1 to estimate the value of the item being sold, or obtain appraisal
2 quotes from at least two vendors in the business of selling items
3 like the one being sold.

4 C. Except when such items are disposed of pursuant to
5 subsection F or I of this section, the following procedures shall be
6 used for the sale, by the board of county commissioners, of any
7 tools, apparatus, machinery or equipment, the original cost of which
8 exceeded Five Hundred Dollars (\$500.00), belonging to the county:

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

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

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

21 4. The board of county commissioners may hold a public auction
22 or use an Internet auction, which may include online bidding, in
23 lieu of advertising for sealed bids as provided above. Such auction
24 shall be advertised as provided herein.

1 D. A board of county commissioners may sell any materials,
2 tools, apparatus, machinery or equipment to a tribal governmental
3 entity, state agency, if the agency is subject to The Oklahoma
4 Central Purchasing Act, or to a political subdivision of the state
5 if the political subdivision is subject to such act or a similar
6 competitive bidding procedure. The board of county commissioners
7 may purchase materials, tools, apparatus, machinery or equipment
8 from a state agency, if the agency is subject to The Oklahoma
9 Central Purchasing Act, or from a political subdivision of the state
10 if the political subdivision is subject to such act or a similar
11 competitive bidding procedure.

12 E. The board of county commissioners may, by resolution, enter
13 into an agreement with any tribal governmental entity or other
14 county or political subdivision for the purpose of selling,
15 transferring, trading or otherwise disposing of equipment or
16 materials.

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

23 G. Pursuant to the authority of Section 1 of this title, boards
24 of county commissioners shall have authority, under such statute and

1 in consideration of the procedures in this section to sell real
2 property belonging to the county without declaring such property
3 surplus under the following conditions:

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

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

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

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

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

22 6. If more than one bid is above the market value of the real
23 property, the board of county commissioners shall have the right to
24 compel the potential buyers of the real property who have bid above

1 the market amount to enter into public auction conducted by the
2 chairman of the board of county commissioners after the opening of
3 such bids, to establish the highest bid for the property in order to
4 assure that the county is receiving adequate consideration for the
5 property;

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

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

20 9. The board of county commissioners shall have authority
21 pursuant to paragraphs 5 and 6 of Section 1 of this title to make
22 any order concerning the sale of such property contingent upon a
23 closing date in the future in order to continue to use said real
24 property until a replacement building is completed. Upon completion

1 of the replacement building, the board of county commissioners shall
2 execute all documents and title transfers pertaining to said real
3 property to the successful bidder; and

4 10. The successful bidder shall execute an irrevocable bond or
5 letter of credit with a surety company or bank licensed to do
6 business in the State of Oklahoma and organized under the corporate
7 laws of the State of Oklahoma and registered with the Secretary of
8 State of Oklahoma equal to the amount of the purchase price of the
9 real property within fifteen (15) days of awarding of the bid.

10 Failure to provide either an irrevocable bond or letter of credit in
11 favor of the board of county commissioners within said time
12 limitation shall act as a rejection and cancellation by the board of
13 the award of bid and said board may, at that point, enter into a
14 contract with any secondary or subsequent bidder that meets the
15 aforementioned qualifications without further notice.

16 H. The board of county commissioners may solicit telephone bids
17 for the removal of recyclable materials.

18 I. The board of county commissioners shall have the authority
19 to trade in equipment to a vendor or on statewide contract by
20 acquiring used equipment values pursuant to subsection B of this
21 section.

22 SECTION 3. This act shall become effective November 1, 2018.

23 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
24 dated 03/06/2018 - DO PASS.