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April 9, 2018

ENGROSSED HOUSE
BILL NO. 3318

By: Fetgatter of the House

and

Bice of the Senate

An Act relating to counties and county commissioners; amending 19 O.S. 2011, Section 421.1, as last amended by Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp. 2017, Section 421.1), which relates to the sale of county property; requiring certain additional notice and bid solicitation for sale of certain county property under certain circumstances; authorizing the sale of certain county property direct if certain conditions are met; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 2011, Section 421.1, as last amended by Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp. 2017, 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 Five Hundred Dollars (\$500.00), as a trade-in on a cash purchase or lease purchase of any other tools, apparatus, machinery or equipment.

1 B. To establish an appraised value for an item to be sold at
2 public auction, the purchasing agent may refer to an industry-
3 recognized appraisal manual for used construction equipment to
4 estimate the value of the item being sold, or obtain appraisal
5 quotes from at least two vendors in the business of selling items
6 like the one being sold.

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

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

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

18 3. At the next regular meeting of the board of county
19 commissioners after the expiration of fifteen (15) days from the
20 date of first publication of notice of the sale, the board of county
21 commissioners shall open such bids and award such tools, apparatus,
22 machinery or equipment to the highest and best bidder with the
23 option of rejecting all bids; and
24

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

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

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

21 F. Advertisement of surplus property consigned to sell at a
22 Circuit Engineering District auction shall be provided by the
23 auction company under contract to conduct the sale. Advertising
24 shall be provided to attract the most potential buyers. Advertising

1 media may include, but not be limited to, sale flyers, newspapers,
2 radio, television, and Internet postings.

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

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

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

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

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

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

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

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

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

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

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

21 11. If there are no bids submitted or all submitted bids are
22 less than the market value of the real property after the expiration
23 of fifteen (15) days from the date of first publication of notice of
24 sale, the board of county commissioners shall publish the notice of

1 sale and accept bids for a second time complying with the
2 requirements of paragraphs 2 through 4 of this subsection. If there
3 are no bids submitted or all submitted bids are less than the market
4 value of the real property after the expiration of fifteen (15) days
5 from the date of second publication of notice of sale, the board of
6 county commissioners shall have the right to sell real property,
7 upon majority vote, without any bidding procedure or auction,
8 directly to any person or entity for an amount that is not less than
9 the highest bid previously submitted through any previous bidding
10 procedures provided in this subsection.

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

13 SECTION 2. This act shall become effective November 1, 2018.

14 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
15 April 9, 2018 - DO PASS
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