

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3367

By: Strom of the House

and

Daniels of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to counties and county officers;
12 amending 19 O.S. 2011, Section 421.1, as last amended
13 by Section 12, Chapter 25, O.S.L. 2019 (19 O.S. Supp.
14 2019, Section 421.1), which relates to sale of
15 certain county property; modifying procedure to sell
16 certain county property to tribal governments and
17 political subdivisions; providing exception; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 19 O.S. 2011, Section 421.1, as
21 last amended by Section 12, Chapter 25, O.S.L. 2019 (19 O.S. Supp.
22 2019, Section 421.1), is amended to read as follows:

23 Section 421.1 A. The board of county commissioners is hereby
24 authorized to use any tools, apparatus, machinery or equipment
 belonging to the county, the original cost of which exceeded Five

1 Hundred Dollars (\$500.00), as a trade-in on a cash purchase or lease
2 purchase of any other tools, apparatus, machinery or equipment.

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

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

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

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

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

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

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

18 E. The board of county commissioners may, by resolution, enter
19 into an agreement with any tribal governmental entity or other
20 county or political subdivision for the purpose of selling,
21 transferring, trading or otherwise disposing of equipment or
22 materials at a price agreed upon by both governing bodies.
23 Transactions made pursuant to this subsection shall not be subject
24 to the requirements in subsection C of this section.

1 F. Advertisement of surplus property consigned to sell at a
2 Circuit Engineering District auction shall be provided by the
3 auction company under contract to conduct the sale. Advertising
4 shall be provided to attract the most potential buyers. Advertising
5 media may include, but not be limited to, sale flyers, newspapers,
6 radio, television, and Internet postings.

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

12 1. A certified appraisal of the county property shall be
13 performed to determine the market value of the property and accepted
14 by the board of county commissioners;

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

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

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

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

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

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

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1 8. If the sale price is less than the estimated cost of new
2 land purchase or construction, then said sales contract shall be
3 contingent upon the public approval of bond funding or other
4 authorized funding to allow the complete payment of the contemplated
5 project;

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

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

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

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

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

SECTION 2. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/02/2020 - DO PASS,
As Amended and Coauthored.