

1 **SENATE FLOOR VERSION**

2 April 9, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1330

By: Johns of the House

and

McCortney of the Senate

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9 An Act relating to roads, bridges and ferries;
10 amending 69 O.S. 2011, Section 1001, as last amended
11 by Section 1, Chapter 16, O.S.L. 2018 (69 O.S. Supp.
12 2018, Section 1001), which relates to sale, exchange
or lease of unneeded or surplus property; modifying
acreage amount requiring landowner right of first
refusal; and providing an effective date.

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

16 SECTION 1. AMENDATORY 69 O.S. 2011, Section 1001, as
17 last amended by Section 1, Chapter 16, O.S.L. 2018 (69 O.S. Supp.
18 2018, Section 1001), is amended to read as follows:

19 Section 1001. A. The Transportation Commission shall have
20 authority to sell any lands, or interest therein, which may have
21 been acquired for highway purposes, or facilities necessary and
22 incident thereto, and any equipment, materials or supplies which in
23 the opinion of the Commission are no longer serviceable, useful or
24 necessary for the state highway system or the operation of the

1 Department of Transportation. Such authority shall be subject at
2 all times to the continuing right to the use of the lands by any
3 entity operating a sewer, water or gas system, telephone or
4 electrical services, and by public service corporations and rural
5 electric and telephone cooperatives for the construction,
6 reconstruction, maintenance, operation and repair of their
7 facilities of service which may be upon the lands. However, any
8 such land which was acquired by the Commission from a governmental
9 subdivision as a gift, or for a nominal consideration, may be
10 reconveyed to the governmental subdivision by the Commission, upon
11 repayment by the governmental subdivision to the Commission of any
12 consideration for the original conveyance.

13 B. Any surplus land which has been leased to a political
14 subdivision by the Commission may be sold and conveyed to the
15 political subdivision for the present fair market value as
16 determined by a competent appraisal and the political subdivision
17 may have credited toward the purchase price of any such property the
18 lease payments which the political subdivision shall have previously
19 made to the Commission.

20 C. Except as otherwise herein provided, the lands, materials,
21 equipment and supplies shall be sold for cash to the highest and
22 best bidder after notice by publication in a newspaper published in
23 the county where the land is situated, or where the materials,
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1 equipment or supplies are located, in two consecutive weekly issues
2 of the newspaper.

3 D. 1. If the land originally comprised a partial taking
4 leaving an abutting remainder, then prior to conducting such
5 advertisement and solicitation of bids for the sale of any lands or
6 interests therein, the Commission shall notify the person, firm or
7 corporation which originally conveyed the property to the Commission
8 or present successor to the original remainder that same has been
9 declared surplus and is to be offered for sale. Such notice shall
10 be sent by registered mail addressed to the last-known address of
11 such person, firm or corporation, with return receipt requested.
12 Such notice shall contain an offer to sell such property to such
13 person, firm or corporation for an amount not greater than the
14 amount for which the property was originally obtained by the
15 Commission for a period of five (5) years from the original taking.
16 Following the five-year period, the sale of such property may be
17 offered at fair market value. The amount of the Commission's
18 requested purchase price based on such appraisal shall be stated in
19 the notice, and the person, firm or corporation receiving such
20 notice and offer shall be informed therein that unless such person,
21 firm or corporation notifies the Commission in writing within thirty
22 (30) days from the date of receipt of the notice that the
23 Commission's offer of sale is accepted by such person, firm or
24 corporation, the Commission shall proceed to sell the property at

1 public auction as provided for in this section. After the
2 expiration of thirty (30) days from the date of receipt of the
3 notice by the person, firm or corporation to whom it is addressed,
4 if such person, firm or corporation has not notified the Commission
5 in writing of the acceptance of the Commission's offer of sale, the
6 Commission shall proceed to sell such property by public auction and
7 no attempt to accept the Commission's offer by such person, firm or
8 corporation after the expiration of such thirty (30) days shall be
9 honored by the Commission. However, such person, firm or
10 corporation may submit a bid at the public auction of the property
11 in the same manner as any other qualified bidder.

12 2. If the land to be disposed of originally comprised a total
13 taking leaving no abutting remainder, then such shall be sold to the
14 highest bidder, or as otherwise herein provided except that if the
15 land to be disposed of originally comprised a total taking of less
16 than ~~one (1) acre~~ three (3) acres leaving only one abutting property
17 owner of record, then prior to conducting such advertisement and
18 solicitation of bids for the sale of any such lands or interest
19 therein, the Commission shall notify the sole abutting property
20 owner of record to the taking that such has been declared surplus
21 and is to be offered for sale. Such notice shall be sent by
22 registered mail addressed to the last-known address of such person,
23 firm or corporation, with return receipt requested. Such notice
24 shall contain an offer to sell such property to such person, firm or

1 corporation subject to the same conditions as set forth in paragraph
2 1 of this subsection.

3 3. For the purposes of this section, the Commission shall not
4 distinguish between persons from whom surplus lands or interest
5 therein were acquired by negotiated sale or gift and persons from
6 whom such property was acquired by condemnation proceedings.

7 E. The Commission may, in its discretion, exchange any such
8 lands for other lands needed for highway purposes, or may lease or
9 rent any lands which are owned by the Department, and are not
10 immediately necessary for highway purposes, on such terms as the
11 Commission determines for the best interests of the state.

12 F. On an annual basis, for every parcel of land:

13 1. Owned by the Transportation Commission; and

14 2. Deemed surplus for ten (10) years or more,

15 the Commission shall submit a waiver request to the Federal Highway
16 Administration of the United States Department of Transportation
17 seeking exception from any federal regulation preventing the sale of
18 such land for less than fair market value.

19 G. When the Department of Transportation determines that any
20 equipment or vehicle becomes excess, obsolete, antiquated, unused or
21 otherwise surplus, the Department shall notify the Office of
22 Management and Enterprise Services in writing that such equipment or
23 vehicle is surplus. The notice shall identify:

1 1. The type, brand or make, and country of manufacture of the
2 equipment or vehicle;

3 2. The age of the equipment or vehicle including but not
4 limited to mileage;

5 3. Whether the equipment or vehicle is in good working
6 condition or not;

7 4. If the equipment or vehicle is not in good working
8 condition, whether it is in repairable condition at reasonable cost;

9 5. Original cost of the equipment or vehicle; and

10 6. Present value of the equipment or vehicle, if known.

11 The Office of Management and Enterprise Services, with any other
12 notice of surplus property, shall notify the eligible individuals or
13 entities as provided in subsection H of this section of the
14 availability of the surplus property of the Department of
15 Transportation.

16 H. Prior to any advertised public auction or advertised sealed
17 bids to all individuals and entities eligible for participation in
18 the surplus program, the Department, thirty (30) days prior to the
19 advertised auction date, shall offer, at fair market value, the
20 equipment or vehicles to the individuals or entities, in the
21 following order of priority:

22 1. Other state agencies;

23 2. Political subdivisions of the state;

24 3. Rural fire departments located in this state; and

1 4. Rural water districts located in this state.

2 Any equipment or vehicles purchased pursuant to this subsection
3 shall be made available to the purchaser on the date of purchase.

4 I. The Department is authorized to act on behalf of the
5 Commission in transactions authorized pursuant to this section,
6 except as may be otherwise provided by rule or regulation of the
7 Commission; and, all prior transactions of the Department which are
8 otherwise in conformity with this section are deemed authorized and
9 approved.

10 J. When the Department of Transportation determines that any
11 road or bridge materials or supplies become excess, unused, or
12 otherwise surplus, the Department shall make such road or bridge
13 material or supplies available to all governmental entities eligible
14 for participation in the surplus program. The Department may be
15 reimbursed for any cost incurred in the recovery or storage of such
16 road or bridge material or supplies. The governmental entity
17 requesting the excess, unused, or otherwise surplus road or bridge
18 materials or supplies shall retrieve such materials or supplies from
19 the Department of Transportation within one hundred eighty (180)
20 days from the completion of project for which the materials or
21 supplies are declared excess or surplus.

22 The Department, upon request of a local government, may transfer
23 surplus bridge beams to the local government for use in the
24 construction or repair of public roadway bridges. The local

1 government shall not sell the surplus beams. Prior to the transfer,
2 the local government shall cause the surplus beams to be inspected
3 by a registered professional engineer. The local government shall
4 assume full responsibility for the cost of transporting the beams
5 and for the use of the beams including, but not limited to, the
6 proper removal and disposal of lead-based paint. The Department
7 shall retain the surplus beams for the requesting local government
8 for a period not exceeding one hundred eighty (180) days, after
9 which the Department may otherwise dispose of the surplus beams.

10 SECTION 2. This act shall become effective November 1, 2019.

11 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION
12 April 9, 2019 - DO PASS
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