

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 4109

By: Grego

AS INTRODUCED

An Act relating to transportation; amending 69 O.S. 2021, Section 646, which relates to condemnation procedure; allowing civil actions for certain violations; setting penalties; and providing an effective date.

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

SECTION 1. AMENDATORY 69 O.S. 2021, Section 646, is amended to read as follows:

Section 646. A. The board of county commissioners may open, establish, reserve or condemn roads on section lines and may vacate, alter, widen, change or lay out other new roads according to the following procedure:

1. A proposal for action to vacate, alter, widen, change or locate a road shall be upon a petition to the board of county commissioners signed by at least twelve freeholders residing in the vicinity of the road affected or by resolution of the board of county commissioners;

1        2. The petition shall state the proposed action and clearly  
2 show on a map of the area the location and terminals of the road.  
3 If the petition is in proper form, the board of county commissioners  
4 shall promptly investigate the proposal to determine if the petition  
5 has merit;

6        3. The board of county commissioners may conclude, upon  
7 investigation, that action concerning the road is unnecessary and  
8 impractical and deny the petition. Should the board determine that  
9 the petition has merit, the board shall set the date of the hearing  
10 and provide notice as prescribed by this section;

11       4. At such time it is determined that the petition has merit,  
12 the board of county commissioners shall set a hearing date. The  
13 county clerk shall then notify those landowners whose property is  
14 immediately affected by the road, in such a way that the road may  
15 cross their property, abut to their property, or in some manner  
16 provide ingress or egress to their property. The notice shall be  
17 given by regular mail at least twenty-one days (21) prior to the  
18 hearing date;

19       5. Legal notice to the public shall be given by advertisement  
20 in a newspaper of general circulation in the county setting forth  
21 the facts and the date when the hearing will be held and the  
22 petition acted upon. The notice shall be published once per week  
23 for three (3) consecutive weeks at least twenty-one (21) days prior  
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1 to the hearing date. A record of all such proceedings shall be made  
2 by the county clerk;

3 B. In a petition proposing that a road be altered, widened,  
4 changed or located where the owners of the land to be taken agree in  
5 writing to the proposed location or changes by providing an easement  
6 to the county for such purpose, or donate the land required, the  
7 board of county commissioners shall then cause to be prepared a cost  
8 estimate for the proposed project. The cost estimate shall include  
9 the cost to survey the road or the proposed changes. If the  
10 estimated cost is reasonable and the road or the proposed changes  
11 serve the general public by providing a better route or by  
12 eliminating a hazard making the route safer, the board of county  
13 commissioners may order and establish the road as a county highway,  
14 or order the proposed changes to be made and make the appropriate  
15 record thereof. However, no work shall be performed until a survey  
16 is completed and easements secured. If the board determines that  
17 the expense cannot be justified in whole or in part, the board may  
18 order that the petitioners must bear the responsibility to  
19 adequately fund the proposed action in whole or in part. If  
20 easements are not granted freely, the easements shall be obtained in  
21 the manner provided by law and shall be considered in the cost  
22 estimate of the proposed action.

23 C. In a petition proposing that a road be vacated, the board of  
24 county commissioners shall, upon receiving the petition, attest that  
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1 according to their records the road in question is within their  
2 jurisdiction and is considered to be open for use by the general  
3 public, through grant or ownership, by easement or dedication, by  
4 adverse possession, or by open and notorious use, regardless of the  
5 frequency of maintenance or lack thereof. In considering the  
6 proposal to vacate the road, the board shall hear testimony provided  
7 by the petitioners and others who may testify at the hearing as to  
8 whether the road should be vacated. Upon a decision by the board to  
9 vacate the road, the board shall issue an order to void any easement  
10 pertaining to the road, if such easement exists, and require that  
11 the road be closed in such a manner as to prevent the use of the  
12 road by the general public. The decision of the board to vacate or  
13 not to vacate the road shall be final. Except as provided in  
14 Section 649 of this title, no road in use by the general public  
15 shall be closed, obstructed or vacated in any manner except as  
16 provided by this section. Every person who shall close, obstruct or  
17 attempt to vacate a road in a manner other than the manner set forth  
18 in this section shall be guilty of a misdemeanor and upon conviction  
19 shall be fined not less than Fifty Dollars (\$50.00) nor more than  
20 Five Hundred Dollars (\$500.00). In addition, such person shall be  
21 liable for the cost incurred by the county to remove, repair or  
22 otherwise return the road to open travel by the public. Nothing in  
23 this section shall prohibit the temporary closing of any road by law  
24 enforcement or emergency personnel in the performance of their  
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1 official duty, public utilities with regard to routine maintenance  
2 and construction, or other such entities as authorized by the board  
3 of county commissioners.

4 D. Wherever in those counties the amount of Indian lands or  
5 those exempt from taxation by reason of the operation of any federal  
6 law is thirty percent (30%) or more of the total area of the county,  
7 then the board of county commissioners may, upon its own initiative,  
8 and if the public interests demand it, move to secure roads over,  
9 adjacent to, or for the benefit of all such exempted lands as set  
10 forth in this subsection. The board shall call upon the Director of  
11 the Oklahoma Department of Transportation as a disinterested party  
12 to undertake and make such surveys, plans and estimates and obtain  
13 all other essential data and records as are required to make a full  
14 and complete statement and report upon the interest involved, and to  
15 make such recommendations as in the premises may seem proper. When  
16 so prepared, the Department of Transportation shall then advance the  
17 matter to the Department of the Interior of the United States, or to  
18 any other federal department concerned, through its proper local  
19 representative, if there be one, with the request that the matter be  
20 considered and disposed of as speedily as possible. If the project  
21 be so approved and authorized, then the work may proceed under the  
22 special supervision and direct administration of the Department of  
23 Transportation and subject to such special regulations as the  
24 circumstances seem to require.

1       E. Any person who alleges that their right to due process has  
2 been denied due to a person or entity's disregard of duty created  
3 under this section may bring a civil action against the person or  
4 entity violating such provisions in the district court of the county  
5 in which the alleged violation occurred. Upon adverse adjudication,  
6 the defendant shall be liable for damages of One Hundred Dollars  
7 (\$100.00) per day from the time the violation occurred and any other  
8 damages assessed by the court.

9       SECTION 2. This act shall become effective November 1, 2024.

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