

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE
5 BILL NO. 1377

 By: Sparks of the Senate

 and

 Frix of the House

8
9 [section line roads - condemnation procedure -
10 process - effective date]

11
12 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

13 SECTION 1. AMENDATORY 69 O.S. 2011, Section 646, is
14 amended to read as follows:

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

19 1. A proposal for action to vacate, alter, widen, change or
20 locate a road shall be upon a petition to the board of county
21 commissioners signed by at least twelve freeholders residing in the
22 vicinity of the road affected or by resolution of the board of
23 county commissioners. If there is a proposal to vacate a road or
24 section of road where all of the land adjacent to that road or

1 section of road is owned by, and provides ingress or egress to
2 property owned by only one landowner, then the petition shall only
3 require the signature of that landowner;

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

9 3. The board of county commissioners may conclude, upon
10 investigation, that action concerning the road is unnecessary and
11 impractical and deny the petition. Should the board determine that
12 the petition has merit, the board shall set the date of the hearing
13 and provide notice as prescribed by this section. The board shall
14 assume the petition has merit if the proposal is to vacate a road or
15 section of road where all of the land adjacent to that road or
16 section of road is owned by, and provides ingress or egress to
17 property owned by only one landowner;

18 4. At such time it is determined that the petition has merit,
19 the board of county commissioners shall set a hearing date. The
20 county clerk shall then notify those landowners whose property is
21 immediately affected by the road, in such a way that the road may
22 cross their property, abut to their property, or in some manner
23 provide ingress or egress to their property. No such notice shall
24 be required if the proposal is to vacate a road or section of road

1 where all of the land adjacent to that road or section of road is
2 owned by, and provides ingress or egress to property owned by only
3 one landowner. The notice shall be given by regular mail at least
4 twenty-one days (21) prior to the hearing date; and

5 5. Legal notice to the public shall be given by advertisement
6 in a newspaper of general circulation in the county setting forth
7 the facts and the date when the hearing will be held and the
8 petition acted upon. The notice shall be published once per week
9 for three (3) consecutive weeks at least twenty-one (21) days prior
10 to the hearing date. No such notice shall be required if the
11 proposal is to vacate a road or section of road where all of the
12 land adjacent to that road or section of road is owned by, and
13 provides ingress or egress to property owned by only one landowner.
14 A record of all such proceedings shall be made by the county clerk~~†~~.

15 B. In a petition proposing that a road be altered, widened,
16 changed or located where the owners of the land to be taken agree in
17 writing to the proposed location or changes by providing an easement
18 to the county for such purpose, or donate the land required, the
19 board of county commissioners shall then cause to be prepared a cost
20 estimate for the proposed project. The cost estimate shall include
21 the cost to survey the road or the proposed changes. If the
22 estimated cost is reasonable and the road or the proposed changes
23 serve the general public by providing a better route or by
24 eliminating a hazard making the route safer, the board of county

1 commissioners may order and establish the road as a county highway,
2 or order the proposed changes to be made and make the appropriate
3 record thereof. However, no work shall be performed until a survey
4 is completed and easements secured. If the board determines that
5 the expense cannot be justified in whole or in part, the board may
6 order that the petitioners must bear the responsibility to
7 adequately fund the proposed action in whole or in part. If
8 easements are not granted freely, the easements shall be obtained in
9 the manner provided by law and shall be considered in the cost
10 estimate of the proposed action.

11 C. In a petition proposing that a road be vacated, the board of
12 county commissioners shall, upon receiving the petition, attest that
13 according to their records the road in question is within their
14 jurisdiction and is considered to be open for use by the general
15 public, through grant or ownership, by easement or dedication, by
16 adverse possession, or by open and notorious use, regardless of the
17 frequency of maintenance or lack thereof. In considering the
18 proposal to vacate the road, the board shall hear testimony provided
19 by the petitioners and others who may testify at the hearing as to
20 whether the road should be vacated. The board shall grant a
21 petition to vacate a road or section of road where all of the land
22 adjacent to that road or section of road is owned by, and provides
23 ingress or egress to property owned by only one landowner. Upon a
24 decision by the board to vacate the road, the board shall issue an

1 order to void any easement pertaining to the road, if such easement
2 exists, and require that the road be closed in such a manner as to
3 prevent the use of the road by the general public. The decision of
4 the board to vacate or not to vacate the road shall be final for
5 that petition. However, a new petition may be filed at any time.
6 Except as provided in Section 649 of this title, no road in use by
7 the general public shall be closed, obstructed or vacated in any
8 manner except as provided by this section. Every person who shall
9 close, obstruct or attempt to vacate a road in a manner other than
10 the manner set forth in this section shall be guilty of a
11 misdemeanor and upon conviction shall be fined not less than Fifty
12 Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). In
13 addition, such person shall be liable for the cost incurred by the
14 county to remove, repair or otherwise return the road to open travel
15 by the public. Nothing in this section shall prohibit the temporary
16 closing of any road by law enforcement or emergency personnel in the
17 performance of their official duty, public utilities with regard to
18 routine maintenance and construction, or other such entities as
19 authorized by the board of county commissioners.

20 D. Wherever in those counties the amount of Indian lands or
21 those exempt from taxation by reason of the operation of any federal
22 law is thirty percent (30%) or more of the total area of the county,
23 then the board of county commissioners may, upon its own initiative,
24 and if the public interests demand it, move to secure roads over,

1 adjacent to, or for the benefit of all such exempted lands as set
2 forth in this subsection. The board shall call upon the Director of
3 the Oklahoma Department of Transportation as a disinterested party
4 to undertake and make such surveys, plans and estimates and obtain
5 all other essential data and records as are required to make a full
6 and complete statement and report upon the interest involved, and to
7 make such recommendations as in the premises may seem proper. When
8 so prepared, the Department of Transportation shall then advance the
9 matter to the Department of the Interior of the United States, or to
10 any other federal department concerned, through its proper local
11 representative, if there be one, with the request that the matter be
12 considered and disposed of as speedily as possible. If the project
13 be so approved and authorized, then the work may proceed under the
14 special supervision and direct administration of the Department of
15 Transportation and subject to such special regulations as the
16 circumstances seem to require.

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

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19 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 04/09/2018 -
20 DO PASS, As Amended.

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