

1 **SENATE FLOOR VERSION**

2 February 12, 2018

3 SENATE BILL NO. 1364

By: Kidd

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5
6 An Act relating to counties and county officers;
7 amending 19 O.S. 2011, Section 421.1, as last amended
8 by Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp.
9 2017, Section 421.1), which relates to procedures for
10 sale of certain county property; establishing
11 authority for board of county commissioners to trade-
12 in equipment; amending 19 O.S. 2011, Section 339, as
13 last amended by Section 1, Chapter 134, O.S.L. 2013
14 (19 O.S. Supp. 2017, Section 339), which relates to
15 county commissioners; establishing authority for
16 board of county commissioners to trade-in equipment;
17 and providing an effective date.

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

19 SECTION 1. AMENDATORY 19 O.S. 2011, Section 421.1, as
20 last amended by Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp.
21 2017, Section 421.1), is amended to read as follows:

22 Section 421.1. A. The board of county commissioners is hereby
23 authorized to use any tools, apparatus, machinery or equipment
24 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.

B. To establish an appraised value for an item to be sold at
public auction or traded in, the purchasing agent may refer to an

1 industry-recognized appraisal manual for used construction equipment
2 to estimate the value of the item being sold, or obtain appraisal
3 quotes from at least two vendors in the business of selling items
4 like the one being sold.

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

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

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

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

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

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

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

19 F. Advertisement of surplus property consigned to sell at a
20 Circuit Engineering District auction shall be provided by the
21 auction company under contract to conduct the sale. Advertising
22 shall be provided to attract the most potential buyers. Advertising
23 media may include, but not be limited to, sale flyers, newspapers,
24 radio, television, and Internet postings.

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

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

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

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

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

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

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

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

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

23 9. The board of county commissioners shall have authority
24 pursuant to paragraphs 5 and 6 of Section 1 of this title to make

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

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

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

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

1 SECTION 2. AMENDATORY 19 O.S. 2011, Section 339, as last
2 amended by Section 1, Chapter 134, O.S.L. 2013 (19 O.S. Supp. 2017,
3 Section 339), is amended to read as follows:

4 Section 339. A. The board of county commissioners shall have
5 power:

6 1. To make all orders respecting the real property of the
7 county, to sell the public grounds of the county and to purchase
8 other grounds in lieu thereof; and for the purpose of carrying out
9 the provisions of this section it shall be sufficient to convey all
10 the interests of the county in those grounds when an order made for
11 the sale and a deed is executed in the name of the county by the
12 chair of the board of county commissioners, reciting the order, and
13 signed by the chair and acknowledged by the county clerk for and on
14 behalf of the county;

15 2. To audit the accounts of all officers having the care,
16 management, collection or disbursement of any money belonging to the
17 county or appropriated for its benefit;

18 3. To construct and repair bridges and to open, lay out and
19 vacate highways; provided, however, that when any state institution,
20 school or department shall own, lease or otherwise control land on
21 both sides of any established highway, the governing board or body
22 of the same shall have the power to vacate, alter or relocate the
23 highway adjoining the property in the following manner:

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1 If it should appear that it would be to the best use and
2 interest of the institution, school or department to vacate, alter
3 or relocate such highway, the governing board or body shall notify
4 the board of county commissioners, in writing, of their intention to
5 hold a public hearing and determine whether to vacate, alter or
6 relocate the highway, setting forth the location and terminals of
7 the road, and all data concerning the proposed right-of-way if
8 changed or relocated, and shall give fifteen (15) days' notice of
9 the hearing by publication in some newspaper in the county or
10 counties in which the road is located, and the hearing shall be held
11 at the county seat of the county in which the road is located, and
12 if a county line road, may be heard in either county. At the
13 hearing testimony may be taken, and any protests or suggestions
14 shall be received as to the proposed measure, and at the conclusion
15 thereof if the governing board or body shall find that it would be
16 to the best use and interest of the institution, school or
17 department, and the public generally, they may make an appropriate
18 order either vacating, altering or relocating the highway, which
19 order shall be final if approved by the board of county
20 commissioners. The institution, school or department may by
21 agreement share the cost of changing any such road. No property
22 owner shall be denied access to a public highway by the order;

23 4. To recommend or sponsor an employee or prospective employee
24 for job-related training and certification in an area that may

1 require training or certification to comply with state or federal
2 law as such training or certification is provided by the Department
3 of Transportation, the Federal Highway Administration, or any other
4 state agency, technology center school, or university;

5 5. Until January 1, 1983, to furnish necessary blank books,
6 plats, blanks and stationery for the clerk of the district court,
7 county clerk, register of deeds, county treasurer and county judge,
8 sheriff, county surveyor and county attorney, justices of the peace,
9 and constables, to be paid for out of the county treasury; also a
10 fireproof vault sufficient in which to keep all the books, records,
11 vouchers and papers pertaining to the business of the county;

12 6. To set off, organize and change the boundaries of townships
13 and to designate and give names therefor; provided, that the
14 boundaries of no township shall be changed within six (6) months
15 next preceding a general election;

16 7. To lease tools, apparatus, machinery or equipment of the
17 county to another political subdivision or a state agency. The
18 Association of County Commissioners of Oklahoma and the Oklahoma
19 State University Center for Local Government Technology together
20 shall establish a system of uniform rates for the leasing of such
21 tools, apparatus, machinery and equipment;

22 8. To jointly, with other counties, buy heavy equipment and to
23 loan or lease such equipment across county lines;

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1 9. To develop personnel policies for the county with the
2 approval of a majority of all county elected officers, as evidenced
3 in the minutes of a meeting of the board of county commissioners or
4 the county budget board;

5 10. To purchase, rent, or lease-purchase uniforms, safety
6 devices and equipment for the officers and employees of the county.
7 The county commissioners may pay for any safety training or safety
8 devices and safety equipment out of the general county funds or any
9 county highway funds available to the county commissioners;

10 11. To provide incentive awards for safety-related job
11 performance. However, no employee shall be recognized more than
12 once per calendar year and the award shall not exceed the value of
13 Two Hundred Fifty Dollars (\$250.00); further, no elected official
14 shall be eligible to receive a safety award;

15 12. To provide for payment of notary commissions, filing fees,
16 and the cost of notary seals and bonds;

17 13. To do and perform other duties and acts that the board of
18 county commissioners may be required by law to do and perform;

19 14. To make purchases at a public auction pursuant to the
20 county purchasing procedures in subsection D of Section 1505 of this
21 title;

22 15. To deposit interest income from highway funds in the
23 general fund of the county;

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1 16. To submit sealed bids for the purchase of equipment from
2 this state, or any agency or political subdivision of this state;

3 17. To utilize county-owned equipment, labor and supplies at
4 their disposal on property owned by the county, public schools, two-
5 year colleges or technical branches of colleges that are members of
6 The Oklahoma State System of Higher Education, the state and
7 municipalities according to the provisions of Section 36-113 of
8 Title 11 of the Oklahoma Statutes. Cooperative agreements may be
9 general in terms of routine maintenance or specific in terms of
10 construction and agreed to and renewed on an annual basis. Work
11 performed pursuant to Section 36-113 of Title 11 of the Oklahoma
12 Statutes shall comply with the provisions of this section;

13 18. To enter into intergovernmental cooperative agreements with
14 the federally recognized Indian tribes within this state to address
15 issues of construction and maintenance of streets, roads, bridges
16 and highways exclusive of the provisions of Section 1221 of Title 74
17 of the Oklahoma Statutes;

18 19. To execute hold harmless agreements with the lessor in the
19 manner provided by subsection B of Section 636.5 of Title 69 of the
20 Oklahoma Statutes when leasing or lease-purchasing equipment;

21 20. To accept donations of right-of-way or right-of-way
22 easements pursuant to Section 381 et seq. of Title 60 of the
23 Oklahoma Statutes;

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1 21. To establish by resolution the use of per diem for specific
2 purposes in accordance with the limitations provided by Sections
3 500.8 and 500.9 of Title 74 of the Oklahoma Statutes;

4 22. To apply to the Department of Environmental Quality for a
5 waste tire permit to bale waste tires for use in approved
6 engineering projects;

7 23. To enter into the National Association of Counties (NACo)
8 Prescription Drug Discount Program;

9 24. To work with federal, state, municipal, and public school
10 district properties in an effort to minimize cost to such entities;
11 ~~and~~

12 25. To provide incentive awards to employees for participating
13 in voluntary wellness programs which result in improved health.
14 Incentive awards may be created by the Wellness Council set forth in
15 Section 2 of this act; and

16 26. To trade-in equipment to a vendor or on statewide contract
17 by acquiring used equipment values pursuant to subsection B of
18 Section 421.1 of this title.

19 B. The county commissioners of a county or, in counties where
20 there is a county budget board, the county budget board may
21 designate money from general county funds for the designated purpose
22 of drug enforcement and drug abuse prevention programs within the
23 county.

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1 C. When any lease or lease purchase is made on behalf of the
2 county by the board pursuant to the provisions of this section, the
3 county shall be allowed to have trade in values for transactions
4 involving The Oklahoma Central Purchasing Act.

5 D. In order to timely comply with the Oklahoma Vehicle License
6 and Registration Act with regard to county vehicles, the board of
7 county commissioners may, by resolution, create a petty cash
8 account. The board of county commissioners may request a purchase
9 order for petty cash in an amount necessary to pay the expense of
10 license and registration fees for county motor vehicles. Any
11 balance in the petty cash account after the license and registration
12 fees have been paid shall be returned to the account or fund from
13 which the funds originated. The county purchasing agent shall be
14 the custodian of the petty cash account, and the petty cash account
15 shall be subject to audit.

16 E. When the board of county commissioners approves an express
17 trust, pursuant to Sections 176 through 180.4 of Title 60 of the
18 Oklahoma Statutes, for the purpose of operating a county jail, the
19 trustees of the public trust may appoint commissioned peace
20 officers, certified by the Council on Law Enforcement Education and
21 Training, to provide security for inmates that are required to be
22 transported outside of the detention facility, and investigate
23 violations of law within the detention facility. Other personnel
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1 necessary to operate the jail may be employed and trained or
2 certified as may be required by applicable state or federal law.

3 SECTION 3. This act shall become effective November 1, 2018.

4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
5 February 12, 2018 - DO PASS
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