

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE
5 BILL NO. 1364

By: Kidd of the Senate

and

Cockroft of the House

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

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

22 SECTION 1. AMENDATORY 19 O.S. 2011, Section 421.1, as
23 last amended by Section 1, Chapter 174, O.S.L. 2017 (19 O.S. Supp.
24 2017, Section 421.1), is amended to read as follows:

Section 421.1. A. The board of county commissioners is hereby
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 F or I of this section, the following procedures shall be
11 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, 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.

23 F. Advertisement of surplus property consigned to sell at a
24 Circuit Engineering District auction shall be provided by the

1 auction company under contract to conduct the sale. Advertising
2 shall be provided to attract the most potential buyers. Advertising
3 media may include, but not be limited to, sale flyers, newspapers,
4 radio, television, and Internet postings.

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

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

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

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

20 4. 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 sale, the board of county
23 commissioners shall open such bids;

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

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

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

22 8. If the sale price is less than the estimated cost of new
23 land purchase or construction, then said sales contract shall be
24 contingent upon the public approval of bond funding or other

1 authorized funding to allow the complete payment of the contemplated
2 project;

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

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

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

1 I. The board of county commissioners shall have the authority
2 to trade-in equipment to a vendor or on statewide contract by
3 acquiring used equipment values pursuant to subsection B of this
4 section.

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

8 Section 339. A. The board of county commissioners shall have
9 power:

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

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

22 3. To construct and repair bridges and to open, lay out and
23 vacate highways; provided, however, that when any state institution,
24 school or department shall own, lease or otherwise control land on

1 both sides of any established highway, the governing board or body
2 of the same shall have the power to vacate, alter or relocate the
3 highway adjoining the property in the following manner:

4 If it should appear that it would be to the best use and
5 interest of the institution, school or department to vacate, alter
6 or relocate such highway, the governing board or body shall notify
7 the board of county commissioners, in writing, of their intention to
8 hold a public hearing and determine whether to vacate, alter or
9 relocate the highway, setting forth the location and terminals of
10 the road, and all data concerning the proposed right-of-way if
11 changed or relocated, and shall give fifteen (15) days' notice of
12 the hearing by publication in some newspaper in the county or
13 counties in which the road is located, and the hearing shall be held
14 at the county seat of the county in which the road is located, and
15 if a county line road, may be heard in either county. At the
16 hearing testimony may be taken, and any protests or suggestions
17 shall be received as to the proposed measure, and at the conclusion
18 thereof if the governing board or body shall find that it would be
19 to the best use and interest of the institution, school or
20 department, and the public generally, they may make an appropriate
21 order either vacating, altering or relocating the highway, which
22 order shall be final if approved by the board of county
23 commissioners. The institution, school or department may by

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1 agreement share the cost of changing any such road. No property
2 owner shall be denied access to a public highway by the order;

3 4. To recommend or sponsor an employee or prospective employee
4 for job-related training and certification in an area that may
5 require training or certification to comply with state or federal
6 law as such training or certification is provided by the Department
7 of Transportation, the Federal Highway Administration, or any other
8 state agency, technology center school, or university;

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

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

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

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

5 9. To develop personnel policies for the county with the
6 approval of a majority of all county elected officers, as evidenced
7 in the minutes of a meeting of the board of county commissioners or
8 the county budget board;

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

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

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

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

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

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

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

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

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

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

4 20. To accept donations of right-of-way or right-of-way
5 easements pursuant to Section 381 et seq. of Title 60 of the
6 Oklahoma Statutes;

7 21. To establish by resolution the use of per diem for specific
8 purposes in accordance with the limitations provided by Sections
9 500.8 and 500.9 of Title 74 of the Oklahoma Statutes;

10 22. To apply to the Department of Environmental Quality for a
11 waste tire permit to bale waste tires for use in approved
12 engineering projects;

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

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

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

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

1 B. The county commissioners of a county or, in counties where
2 there is a county budget board, the county budget board may
3 designate money from general county funds for the designated purpose
4 of drug enforcement and drug abuse prevention programs within the
5 county.

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

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

21 E. When the board of county commissioners approves an express
22 trust, pursuant to Sections 176 through 180.4 of Title 60 of the
23 Oklahoma Statutes, for the purpose of operating a county jail, the
24 trustees of the public trust may appoint commissioned peace

1 officers, certified by the Council on Law Enforcement Education and
2 Training, to provide security for inmates that are required to be
3 transported outside of the detention facility, and investigate
4 violations of law within the detention facility. Other personnel
5 necessary to operate the jail may be employed and trained or
6 certified as may be required by applicable state or federal law.

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

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9 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
10 dated 04/11/2018 - DO PASS.

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