

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT


No. 1

COMMITTEE AMENDMENT

(Date)

I move to amend Senate Bill No. 836, by the attached floor substitute (request #1835) for the title, enacting clause and entire body of the measure.

Submitted by:

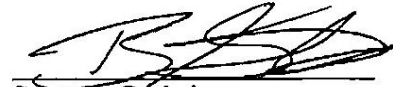


Senator Rader

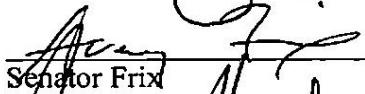
I hereby grant permission for the floor substitute to be adopted.



Senator Jech, Chair (required)



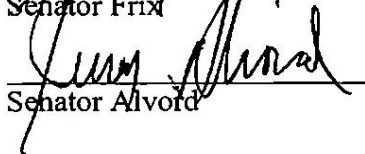
Senator Guthrie



Senator Frix



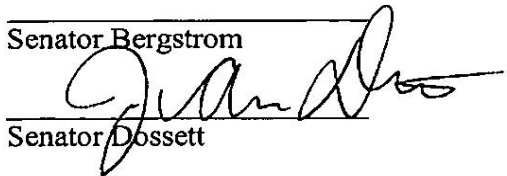
Senator Hines



Senator Alvord

Senator Pugh

Senator Bergstrom

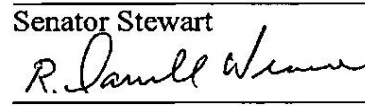


Senator Dossett

Senator Seifried

Senator Goodwin

Senator Stewart



Senator Weaver


Senator Paxton, President Pro Tempore

Senator Daniels, Majority Floor Leader

Note: Aeronautics and Transportation committee majority requires seven (7) members' signatures.

Rader-MSBB-FS-SB836
3/17/2025 11:09 AM

(Floor Amendments Only)

Date and Time Filed: 3/17/25 1:58pm 

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 836

6 By: Rader of the Senate

7 and

8 Tedford of the House

9 FLOOR SUBSTITUTE

10 An Act relating to right-of-way; amending 69 O.S.
11 2021, Section 1203, which relates to acquisition of
12 lands or interests by purchase, donation, or
13 condemnation; requiring certain notice to provide
14 certain information; updating statutory language;
15 making language gender neutral; providing an
16 effective date; and declaring an emergency.

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

18 SECTION 1. AMENDATORY 69 O.S. 2021, Section 1203, is
19 amended to read as follows:

20 Section 1203. ~~(a)~~ A. The Department of Transportation shall
21 have authority to acquire in fee simple in the name of the State of
22 Oklahoma, by purchase, donation, or condemnation, lands or such
23 interests therein as in its discretion may be necessary for the
24 purpose of establishing, constructing, and maintaining state
highways or relocations thereof, and facilities necessary or

1 incident thereto, including borrow areas, channel changes, and
2 deposits of rock, gravel, sand, and other road building material for
3 use in highway construction and maintenance. Such acquisition may
4 be for immediate or future use. The Department may acquire
5 reasonable amounts of land adjacent to its normal right-of-way for
6 the purpose of screening unsightly areas adjacent to highways,
7 landscaping, safety rest areas, and scenic overlook areas.

8 ~~(b)~~ B. In determining the amount of land required, or width of
9 right-of-way necessary for such state highways, the Department shall
10 take into consideration the present and probable future needs in
11 connection with maintaining and reconstructing the highways, and the
12 prevention of traffic congestion and hazards.

13 ~~(c)~~ C. Except in instances where there are nonresident owners,
14 unknown heirs, imperfect titles, and owners whose whereabouts cannot
15 be ascertained with reasonable diligence, the Department shall give
16 the owner an opportunity to sell the necessary lands or interests
17 therein to the State of Oklahoma before resort to condemnation may
18 be had. The Department may condemn such lands or interests therein
19 in the following manner:

20 The district judge of the county in which the real property may
21 be situated, upon petition of either party, and after ten (10) days'
22 notice to the opposite party, either by personal service or by
23 leaving a copy thereof at his or her usual place of residence with
24 some member of his or her family over fifteen (15) years of age, or,

1 in the case of nonresidents, unknown heirs, or other persons whose
2 whereabouts cannot be ascertained, by publication in two issues of a
3 newspaper in general circulation in the county (the ten-day period
4 to begin with the first publication), shall direct the sheriff of
5 the county to summon three disinterested freeholders, to be selected
6 by the judge as commissioners, and who shall not be interested in a
7 like question. The commissioners shall be sworn to perform their
8 duties impartially and justly; and they shall inspect the real
9 property and consider the injury which the owner may sustain by
10 reason of the condemnation, and they shall assess the just
11 compensation to which the owner is entitled; and they shall
12 forthwith make a report in writing to the clerk of the court,
13 setting forth the quantity, boundaries, and just compensation for
14 the property taken, and amount of injury done to the property,
15 either directly or indirectly, which they assess to the owner, which
16 report ~~must~~ shall be filed and recorded by the clerk. A certified
17 copy of the report may be transmitted to the county clerk of the
18 county where the land lies, to be filed and recorded by the county
19 clerk (without further acknowledgment or proof) in the same manner
20 and with like force and effect as is provided for the recording of
21 deeds. The procedure for service by publication as authorized
22 herein shall be the same as provided by law for service by
23 publication in civil actions, except summons need not be issued and
24 served, and except as otherwise provided herein.

1 ~~(d)~~ D. Immediately upon payment to the clerk of the court for
2 the use of the owner the sum so assessed and reported to the court
3 clerk as aforesaid, the Department shall thereby be authorized to
4 enter upon the condemned premises, and remove and dispose of any
5 obstructions thereon, by sale or otherwise. If the landowner shall
6 refuse to deliver up possession to the Department, the court shall
7 issue an order to the sheriff of the county to place the Department
8 in possession thereof.

9 ~~(e)~~ ~~(1)~~ E. 1. The report of commissioners may be reviewed by
10 the district court, on written exceptions filed by either party in
11 the clerk's office within thirty (30) days after the filing of such
12 report, and the court, after hearing had, shall make such order
13 therein as right and justice may require, either by confirmation,
14 rejection, or by ordering a new appraisement on good cause shown.
15 Provided, that in the event a new appraisement is ordered, the
16 Department shall have the continuing right of possession obtained
17 under the first appraisal, unless and until its right to condemn has
18 finally been determined otherwise; or either party may within sixty
19 (60) days after the filing of such report file with the clerk a
20 written demand for a trial by jury, in which case the amount of
21 damages shall be assessed by a jury, and the trial shall be
22 conducted and judgment entered in the same manner as civil actions
23 in the district court. If the party demanding such trial does not
24 recover a verdict more favorable to the party than the assessment of

1 the commissioners, all costs in the district court shall be taxed
2 against the party. No owner upon whom proper service by publication
3 has been had, as provided in this title, shall be let in to defend
4 after expiration of time for appeal or review of the report of
5 commissioners as above provided has elapsed. Provided, that if,
6 after the filing of exceptions to the report of commissioners as
7 hereinafter provided, the Department shall fail to establish its
8 right to condemn such premises, or any part thereof, the landowner
9 shall be restored to possession of the premises, or part thereof,
10 and the Department shall pay for any damages sustained through the
11 occupation by the Department, and if such damages cannot be
12 determined by amicable settlement they shall be determined by jury
13 trial in the same proceedings.

14 ~~(2)~~ 2. Within ten (10) days after the ~~Report~~ report of
15 ~~Commissioners~~ commissioners is filed, the court clerk shall forward
16 to the attorney of record for the condemnor, the attorney of record
17 for each condemnee, and to all unrepresented condemnees, a copy of
18 the commissioners' report and ~~a~~ the notice in condemnation
19 proceeding, stating the time limits for filing an exception or
20 demand for jury trial as specified in paragraph (A) of Section 55 of
21 Title 66 of the Oklahoma Statutes. The notice in condemnation
22 proceeding shall also state that:

23 a. in the event of a jury trial, if the jury verdict
24 exceeds the amount awarded by the commissioners, the

1 condemnor shall deposit an amount equal to the
2 difference between the jury verdict and the
3 commissioners' award with the clerk of the court,
4 b. should the jury verdict be an amount less than the
5 commissioners' award, the owner or any entity that
6 received a portion of the commissioners' award shall
7 be required to return the portion of the
8 commissioners' award that exceeds the amount of the
9 jury verdict, and

10 c. should the jury verdict be appealed, the payment by
11 either party shall be stayed until the appeal has been
12 completed.

13 The attorney of record for the condemnor shall provide the clerk
14 of the court with the names and last-known addresses of the parties
15 to whom notice and the report of the commissioners shall be mailed,
16 sufficient copies of the notice and report to be mailed, and pre-
17 addressed, postage-paid envelopes. This notice shall be on a form
18 prepared by the Court Administrator, which shall be approved by the
19 Supreme Court, and shall be distributed to all clerks of the
20 district court by the Court Administrator. If a party has been
21 served by publication, the clerk shall forward a copy of the report
22 of commissioners and notice of time limits for filing an exception
23 or demand for jury trial to the last-known mailing address, if any,
24 and shall cause a copy of the notice of time limits to be published

1 in one issue of a newspaper qualified to publish legal notices, as
2 defined in Section 106 of Title 25 of the Oklahoma Statutes. After
3 issuing the notices provided herein the court clerk shall endorse on
4 the notice form filed in the case the date and that a copy of the
5 report together with the notice form filed in the case was forwarded
6 to each condemnee and each attorney of record, or the date the
7 notice was published in compliance with the provisions hereof.

8 ~~(3)~~ 3. The time limits for filing an exception and demand for
9 jury trial, as prescribed in paragraph (A) of Section 55 of Title 66
10 of the Oklahoma Statutes, shall be calculated from the date the
11 report of the commissioners is filed in the case. On failure of the
12 court clerk to give notice within the time prescribed in paragraph
13 (B) of Section 55 of Title 66 of the Oklahoma Statutes, the court,
14 on application of any party, may extend the time for filing an
15 exception to the report, or a demand for trial by jury for a period
16 not to exceed twenty (20) days from the date the application is
17 heard.

18 ~~(f)~~ F. Either party aggrieved may appeal to the Supreme Court
19 from the decision of the district court on exceptions to the report
20 of commissioners, or jury trial; but such review or appeal shall not
21 delay the prosecution of the work on such highway over the premises
22 in question if the award of commissioners, or jury, as the case may
23 be, has been deposited with the clerk for such owner, and in no case
24 shall the Department be liable for the costs on such review or

1 appeal unless the owner of the real property shall be adjudged
2 entitled, upon either review or appeal, to a greater amount of
3 damages than was awarded by the commissioners. The Department shall
4 in all cases pay the cost of the commissioners' fees and expenses,
5 for their services, as determined and ordered paid by the judge of
6 the district court in which such case is pending⁷; however, poundage
7 fees and condemnation fees shall only be paid by the Department in
8 the event of appeal resulting in a jury verdict in excess of the
9 commissioners' award, but under no circumstances shall any poundage
10 fees or condemnation fees be assessed against the recipient of the
11 award. And in case of review or appeal, a certified copy of the
12 final order or judgment shall be transmitted by the clerk of the
13 court, duly certified, to the proper county clerk, to be filed and
14 recorded as hereinabove provided for the recording of the report,
15 and with like effect.

16 ~~(g)~~ G. When an estate is being probated, or a minor or
17 incompetent person has a legal guardian, the administrator or
18 executor of the estate, or guardian of the minor or incompetent
19 person, shall have the authority to execute all instruments of
20 conveyance provided for in this title on behalf of the estate,
21 minor₂, or incompetent person without other proceedings than approval
22 by the judge of the district court endorsed on the instrument of
23 conveyance.

24

1 ~~(h)~~ H. "Just compensation", as used in this section, shall mean
2 the value of the property taken, and in addition, any injury to any
3 part of the property not taken. Any special and direct benefits to
4 the part of the property not taken may be offset only against any
5 injury to the property not taken. If only a part of a tract is
6 taken, just compensation shall be ascertained by determining the
7 difference between the fair market value of the whole tract
8 immediately before the taking and the fair market value of that
9 portion left remaining immediately after the taking.

10 ~~(i)~~ I. 1. In the event that the determination of just
11 compensation of a property is less than the commissioners' award for
12 such real property, any mortgagee or lien holder who received
13 payment from the commissioners' award in an amount in excess of the
14 finding of just compensation value of the real property taken will
15 only be liable for and required to pay back to the condemnor no more
16 than the difference between what was actually received by the
17 mortgagee or lien holder from the commissioners' award and the
18 jury's just compensation value.

19 2. In all respects a mortgagee or lien holder will only be
20 liable to return to the condemnor any sums actually paid to and
21 received by such party in excess of the determination of just
22 compensation for the real property. The mortgagor would be and
23 remain liable to the mortgagee or lien holder for the excess that is
24 paid by the mortgagee or lienholder to the condemning authority.

1 SECTION 2. This act shall become effective July 1, 2025.

2 SECTION 3. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

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