

1 ENGROSSED SENATE  
2 BILL NO. 930

By: Rosino of the Senate

and

Boles of the House

3  
4  
5  
6 An Act relating to property; amending 60 O.S. 2011,  
7 Section 176, as last amended by Section 22, Chapter  
8 42, O.S.L. 2017 (60 O.S. Supp. 2019, Section 176),  
9 which relates to trusts for furtherance of public  
10 functions; specifying activities in which a trust may  
engage; modifying requirement for competitive bidding  
notification; specifying that contracts shall be  
awarded pursuant to the Oklahoma Competitive Bidding  
Act of 1974 when required.

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

14 SECTION 1. AMENDATORY 60 O.S. 2011, Section 176, as last  
15 amended by Section 22, Chapter 42, O.S.L. 2017 (60 O.S. Supp. 2019,  
16 Section 176), is amended to read as follows:

17 Section 176. A. Express trusts may be created to issue  
18 obligations, enter into financing arrangements including, but not  
19 limited to, lease-leaseback, sale-leaseback, interest rate swaps and  
20 other similar transactions and to provide funds for the furtherance  
21 and accomplishment of any authorized and proper public function or  
22 purpose of the state or of any county or municipality or any and all  
23 combinations thereof, in real or personal property, or either or  
24 both, or in any estate or interest in either or both, with the

1 state, or any county or municipality or any and all combinations  
2 thereof, as the beneficiary thereof by:

3 1. The express approval of the Legislature and the Governor if  
4 the State of Oklahoma is the beneficiary;

5 2. The express approval of two-thirds (2/3) of the membership  
6 of the governing body of the beneficiary if a county is a  
7 beneficiary;

8 3. The express approval of two-thirds (2/3) of the membership  
9 of the governing body of the beneficiary if a municipality is a  
10 beneficiary; or

11 4. The express approval of two-thirds (2/3) of the membership  
12 of the governing body of each beneficiary in the event a trust has  
13 more than one beneficiary; provided, that no funds of a beneficiary  
14 derived from sources other than the trust property, or the operation  
15 thereof, shall be charged with or expended for the execution of the  
16 trust, except by express action of the legislative authority of the  
17 beneficiary prior to the charging or expending of the funds. The  
18 officers or any other governmental agencies or authorities having  
19 the custody, management, or control of any property, real or  
20 personal or mixed, of the beneficiary of the trust, or of a proposed  
21 trust, which property shall be needful for the execution of the  
22 trust purposes, are authorized and empowered to lease the property  
23 for those purposes, after the acceptance of the beneficial interest  
24 therein by the beneficiary as hereinafter provided.

1 B. Any trust created pursuant to the provisions of this  
2 section, in whole or in part, may engage in activities outside of  
3 the geographic boundaries of its beneficiary, so long as the  
4 ~~activity provides a~~ activities ~~benefit to a large class of the~~  
5 ~~public within the beneficiary's geographic area or lessens the~~  
6 ~~burdens of government of the beneficiary and which does not solely~~  
7 ~~provide a benefit by generating administrative fees~~ the beneficiary  
8 of the public trust.

9 C. A municipality may convey title to real property which is  
10 used for an airport to the trustees of an industrial development  
11 authority trust whose beneficiary is the municipality. The  
12 industrial development authority trust must already have the  
13 custody, management, or control of the real property. The  
14 conveyance must be approved by a majority of the governing body of  
15 the municipality. A conveyance pursuant to this section may be made  
16 only for the sole purpose of allowing the authority to sell the  
17 property for fair market value when the property is to be used for  
18 industrial development purposes. Conveyances made pursuant to this  
19 subsection shall be made subject to any existing reversionary  
20 interest or other restrictions burdening the property and subject to  
21 any reversionary interest or other restriction considered prudent by  
22 the municipality.

23 D. The trustees of a public trust having the State of Oklahoma  
24 as beneficiary shall make and adopt bylaws for the due and orderly

1 administration and regulation of the affairs of the public trust.  
2 All bylaws of a public trust having the State of Oklahoma as  
3 beneficiary shall be submitted in writing to the Governor of the  
4 State of Oklahoma. The Governor must approve the proposed bylaws  
5 before they take effect.

6 E. No public trust in which the State of Oklahoma is the  
7 beneficiary may be amended without a two-thirds (2/3) vote of  
8 approval of the trustees of the trust; provided, that any amendment  
9 is subject to the approval of the Governor of the State of Oklahoma.  
10 Any amendments shall be sent to the Governor within fifteen (15)  
11 days of their adoption.

12 F. No trust in which a county or municipality is the  
13 beneficiary shall hereafter create an indebtedness or obligation  
14 until the indebtedness or obligation has been approved by a two-  
15 thirds (2/3) vote of the governing body of the beneficiary. In the  
16 event a trust has more than one beneficiary, as authorized by this  
17 section, the trust shall not incur an indebtedness or obligation  
18 until the indebtedness or obligation has been approved by a two-  
19 thirds (2/3) vote of the governing body of two-thirds (2/3) of the  
20 beneficiaries of the trust. Provided, however, a municipality with  
21 a governing body consisting of fewer than seven (7) members shall be  
22 required to approve the creation of an indebtedness or obligation  
23 under this subsection by a three-fifths (3/5) vote of the governing  
24 body.

1 G. All bonds described in subsection F of this section, after  
2 December 1, 1976, except bonds sold to the federal government or any  
3 agency thereof or to any agency of the State of Oklahoma, shall be  
4 awarded to the lowest and best bidder based upon open competitive  
5 public offering, advertised at least once a week for two (2)  
6 successive weeks in a newspaper of general circulation in the county  
7 where the principal office of the trust is located prior to the date  
8 on which bids are received and opened; provided, competitive bidding  
9 may be waived on bond issues with the approval of three-fourths  
10 (3/4) of the trustees, and a three-fourths (3/4) vote of the  
11 governing body of the beneficiary, unless the beneficiary is a  
12 county in which case a two-thirds (2/3) vote of the members of the  
13 governing body shall be required, or three-fourths (3/4) vote of the  
14 governing bodies of each of the beneficiaries of the trust, unless  
15 one of the beneficiaries is a county in which case a two-thirds  
16 (2/3) vote of the members of the governing body of such county shall  
17 be required. No bonds shall be sold for less than par value, except  
18 upon approval of three-fourths (3/4) of the trustees, unless the  
19 beneficiary is a county in which case a two-thirds (2/3) vote of the  
20 members of the governing body shall be required. In no event shall  
21 bonds be sold for less than sixty-five percent (65%) of par value;  
22 provided, however, in no event shall the original purchaser from the  
23 issuer of any bonds issued by any public trust for any purpose  
24 receive directly or indirectly any fees, compensation, or other

1 remuneration in excess of four percent (4%) of the price paid for  
2 the bonds by the purchaser of the bonds from the original purchaser;  
3 and further provided, that the average coupon rate thereon shall in  
4 no event exceed fourteen percent (14%) per annum. No public trust  
5 shall sell bonds for less than ninety-six percent (96%) of par value  
6 until the public trust has received from the underwriter or  
7 financial advisor or, in the absence of an underwriter or financial  
8 advisor, the initial purchaser of the bonds, an estimated  
9 alternative financing structure or structures showing the estimated  
10 total interest and principal cost of each alternative. At least one  
11 alternative financing structure shall include bonds sold to the  
12 public at par. Any estimates shall be considered a public record of  
13 the public trust. Bonds, notes or other evidences of indebtedness  
14 issued by any public trust shall be eligible for purchase by any  
15 state banking association or corporation subject to such limitations  
16 as to investment quality as may be imposed by regulations, rules or  
17 rulings of the State Banking Commissioner.

18 H. Public trusts created pursuant to this section shall file  
19 annually, with their respective beneficiaries, copies of financial  
20 documents and reports sufficient to demonstrate the fiscal activity  
21 of such trust, including, but not limited to, budgets, financial  
22 reports, bond indentures, and audits. Amendments to the adopted  
23 budget shall be approved by the trustees of the public trust and  
24 recorded as such in the official minutes of such trust.

1 I. Contracts for construction, ~~labor~~, equipment, material or  
2 repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be  
3 awarded by public trusts to the lowest and best competitive bidder,  
4 pursuant to public invitation to bid, which shall be published in  
5 the manner provided in the preceding section hereof; the  
6 advertisements shall appear in the county where the work, or the  
7 major part of it, is to be done, or the equipment or materials are  
8 to be delivered, or the services are to be rendered; construction  
9 contracts, when required, shall be administered, advertised and  
10 awarded according to the Public Competitive Bidding Act of 1974;  
11 provided, however, should the trustee or the trustees find that an  
12 immediate emergency exists, which findings shall be entered in the  
13 journal of the trust proceedings, by reason of which an immediate  
14 outlay of trust funds in an amount exceeding Seventy-five Thousand  
15 Dollars (\$75,000.00) is necessary in order to avoid loss of life,  
16 substantial damage to property, or damage to the public peace or  
17 safety, then the contracts may be made and entered into without  
18 public notice or competitive bids; provided that the provisions of  
19 this subsection shall not apply to contracts of industrial and  
20 cultural trusts. Notwithstanding the provisions of this subsection,  
21 equipment ~~or~~, materials or repairs may be purchased by a public  
22 trust directly from any contract ~~duly~~ approved or awarded by this  
23 state or any state agency under The Oklahoma Central Purchasing Act,  
24

1 or from any contract ~~duly~~ approved or awarded by a governmental  
2 entity which is the beneficiary of the public trust.

3 J. Any public trust created pursuant to the provisions of this  
4 section shall have the power to acquire lands by use of eminent  
5 domain in the same manner and according to the procedures provided  
6 for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes.  
7 Any exercise of the power of eminent domain by a public trust  
8 pursuant to the provisions of this section shall be limited to the  
9 furtherance of public purpose projects involving revenue-producing  
10 utility projects of which the public trust retains ownership;  
11 provided, for public trusts in which the State of Oklahoma is the  
12 beneficiary the exercise of the power of eminent domain may also be  
13 used for public purpose projects involving air transportation.  
14 Revenue-producing utility projects shall be limited to projects for  
15 the transportation, delivery, treatment, or furnishing of water for  
16 domestic purposes or for power, including, but not limited to, the  
17 construction of lakes, pipelines, and water treatment plants or for  
18 projects for rail transportation. Any public trust formed pursuant  
19 to this section which has a county as its beneficiary shall have the  
20 power to acquire, by use of eminent domain, any lands located either  
21 inside the county, or contiguous to the county pursuant to the  
22 limitations imposed pursuant to this section.

23  
24

1 K. Provisions of this section shall not apply to entities  
2 created under Sections 1324.1 through 1324.26 of Title 82 of the  
3 Oklahoma Statutes.

4 L. Any trust created under this act, in whole or in part, to  
5 operate, administer or oversee any county jail facility shall  
6 consist of not less than five members and include a county  
7 commissioner and the county sheriff, or their designee, and one  
8 member appointed by each of the county commissioners. The appointed  
9 members shall not be elected officials.

10 Passed the Senate the 2nd day of March, 2020.

11

12

\_\_\_\_\_  
Presiding Officer of the Senate

13

14 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
15 2020.

16

17

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

18

19

20

21

22

23

24