

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 930

By: Rosino

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5  
6 AS INTRODUCED

7 An Act relating to property; amending 60 O.S. 2011,  
8 Section 176, as last amended by Section 22, Chapter  
9 42, O.S.L. 2017 (60 O.S. Supp. 2018, Section 176),  
10 which relates to trusts for furtherance of public  
11 functions; specifying activities in which a trust may  
12 engage; modifying requirement for competitive bidding  
13 notification; specifying that contracts shall be  
14 awarded pursuant to the Oklahoma Competitive Bidding  
15 Act of 1974 when required; and providing an effective  
16 date.

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

18 SECTION 1. AMENDATORY 60 O.S. 2011, Section 176, as last  
19 amended by Section 22, Chapter 42, O.S.L. 2017 (60 O.S. Supp. 2018,  
20 Section 176), is amended to read as follows:

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

1 both, or in any estate or interest in either or both, with the  
2 state, or any county or municipality or any and all combinations  
3 thereof, as the beneficiary thereof by:

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

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

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

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

1 for those purposes, after the acceptance of the beneficial interest  
2 therein by the beneficiary as hereinafter provided.

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

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

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

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

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

1 under this subsection by a three-fifths (3/5) vote of the governing  
2 body.

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

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

20 H. Public trusts created pursuant to this section shall file  
21 annually, with their respective beneficiaries, copies of financial  
22 documents and reports sufficient to demonstrate the fiscal activity  
23 of such trust, including, but not limited to, budgets, financial  
24 reports, bond indentures, and audits. Amendments to the adopted

1 budget shall be approved by the trustees of the public trust and  
2 recorded as such in the official minutes of such trust.

3 I. Contracts for ~~construction, labor,~~ equipment, material or  
4 repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be  
5 awarded by public trusts to the lowest and best competitive bidder,  
6 pursuant to public invitation to bid, which shall be ~~published in~~  
7 ~~the manner provided in the preceding section hereof; the~~  
8 ~~advertisements shall appear~~ advertised at least once a week for two  
9 (2) successive weeks in a newspaper of general circulation in the  
10 county where the work, or the major part of it, is to be done, or  
11 the equipment or materials are to be delivered, or the services are  
12 to be rendered; provided, however, should the trustee or the  
13 trustees find that an immediate emergency exists, which findings  
14 shall be entered in the journal of the trust proceedings, by reason  
15 of which an immediate outlay of trust funds in an amount exceeding  
16 Seventy-five Thousand Dollars (\$75,000.00) is necessary in order to  
17 avoid loss of life, substantial damage to property, or damage to the  
18 public peace or safety, then the contracts may be made and entered  
19 into without public notice or competitive bids; provided that the  
20 provisions of this subsection shall not apply to contracts of  
21 industrial and cultural trusts. Contracts for construction of  
22 public improvements shall be awarded pursuant to the Oklahoma  
23 Competitive Bidding Act of 1974, Sections 101 through 138 of Title  
24 61 of the Oklahoma Statutes, when required pursuant to that Act.

1 Notwithstanding the provisions of this subsection, equipment ~~or,~~  
2 materials or repairs may be purchased by a public trust directly  
3 from any contract ~~duly~~ approved or awarded by this state or any  
4 state agency under The Oklahoma Central Purchasing Act, or from any  
5 contract ~~duly~~ approved or awarded by a governmental entity which is  
6 the beneficiary of the public trust.

7 J. Any public trust created pursuant to the provisions of this  
8 section shall have the power to acquire lands by use of eminent  
9 domain in the same manner and according to the procedures provided  
10 for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes.

11 Any exercise of the power of eminent domain by a public trust  
12 pursuant to the provisions of this section shall be limited to the  
13 furtherance of public purpose projects involving revenue-producing  
14 utility projects of which the public trust retains ownership;  
15 provided, for public trusts in which the State of Oklahoma is the  
16 beneficiary the exercise of the power of eminent domain may also be  
17 used for public purpose projects involving air transportation.

18 Revenue-producing utility projects shall be limited to projects for  
19 the transportation, delivery, treatment, or furnishing of water for  
20 domestic purposes or for power, including, but not limited to, the  
21 construction of lakes, pipelines, and water treatment plants or for  
22 projects for rail transportation. Any public trust formed pursuant  
23 to this section which has a county as its beneficiary shall have the  
24 power to acquire, by use of eminent domain, any lands located either



1 inside the county, or contiguous to the county pursuant to the  
2 limitations imposed pursuant to this section.

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

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

12 SECTION 2. This act shall become effective November 1, 2019.

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