

1 ENGROSSED SENATE  
2 BILL NO. 1529

By: Leewright of the Senate

and

Dobrinski of the House

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5  
6 An Act relating to the Oklahoma Municipal Power  
7 Authority Act; amending 11 O.S. 2021, Section 24-104,  
8 which relates to members; removing certain time  
9 restraint; updating statutory language; amending 11  
10 O.S. 2021, Section 24-105, which relates to  
11 definitions; modifying definitions; amending 11 O.S.  
12 2021, Section 24-107, which relates to powers,  
13 rights, and privileges of Authority; updating  
14 statutory language; removing certain entities to  
15 which the Authority may not sell output; removing  
16 requirement that the Authority be subject to the  
17 Competitive Bidding Act; amending 11 O.S. 2021,  
18 Section 24-116, which relates to meetings and  
19 records; updating statutory reference; amending 11  
20 O.S. 2021, Section 24-117, which relates to  
21 construction; modifying certain construction;  
22 repealing 11 O.S. 2021, Section 24-105.1, which  
23 relates to joint interest in electric generation  
24 project; repealing 11 O.S. 2021, Section 24-114,  
which relates to acquisition and construction  
contracts; repealing 11 O.S. 2021, Section 24-120,  
which relates to personnel to be included in  
unclassified service; updating statutory references;  
and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 24-104, is  
amended to read as follows:

Section 24-104. ~~(a)~~~~(i)~~ A. 1. Election Committee. The  
Oklahoma Municipal Power Authority shall be governed by a Board of

1 Directors consisting of seven members or such greater number, but in  
2 no event more than eleven members, as provided in the bylaws of the  
3 Authority as in effect from time to time. Members of the Board of  
4 Directors of the Authority shall be eligible to succeed themselves  
5 and shall be elected by the election committee as hereinafter  
6 provided in this section. On or before the 90th day following ~~the~~  
7 ~~effective date of this act~~ June 2, 1981, each of those eligible  
8 public agencies which shall have, prior to such 90th day, by proper  
9 resolution of its governing body or its public trust, declared its  
10 intention to participate, or to have any public trust operating its  
11 electric system participate, with the Authority in the development  
12 of power supply resources, shall designate one person as its  
13 representative on the election committee. All such resolutions of  
14 declaration of intention to participate with the Authority shall be  
15 filed with the Secretary of State and shall be presented to the  
16 election committee at its first meeting which shall be held in the  
17 office of the Municipal Electric Systems of Oklahoma at 11:00 a.m.  
18 on the first Tuesday following such 90th day. At such meeting the  
19 election committee shall organize and elect a chairman and such  
20 other officers as may be desirable in the determination of the  
21 election committee. The election committee shall then determine the  
22 sufficiency of the resolutions presented to it.

23 ~~(ii)~~ 2. Election Committee Voting. For purposes of voting upon  
24 any matter which may properly come before the election committee,

1 each representative shall have one vote unless otherwise provided in  
2 the bylaws of the Authority as in effect from time to time. The  
3 presence at any meeting of the election committee of representatives  
4 entitled to cast a majority of the total votes to which the election  
5 committee shall be entitled shall, unless otherwise provided in the  
6 bylaws of the Authority as in effect from time to time, constitute a  
7 quorum of the election committee.

8 ~~(iii)~~

9 3. Bylaws of the Authority.

10 ~~(A)~~

11 a. The bylaws of the Authority shall be adopted by the  
12 election committee of the Authority by a majority vote  
13 of the election committee and may thereafter be  
14 amended at any time and from time to time in whole or  
15 in part by the election committee or by the Board of  
16 Directors by a majority of the total votes entitled to  
17 be cast at any properly called and constituted meeting  
18 thereof; provided, however, that any such amendment  
19 shall not violate the provisions of Section ~~19~~ hereof  
20 24-119 of this title.

21 ~~(B)~~

22 b. The bylaws of the Authority shall provide the  
23 following:  
24

- 1 (1) the time, place, manner of calling, notice,  
2 quorum and voting provisions, and other  
3 procedural rules for regular and special meetings  
4 of the election committee of the Authority~~;~~,
- 5 (2) the time, place, manner of calling, notice,  
6 quorum and voting provisions, and other  
7 procedural rules for regular and special meetings  
8 of the Board of Directors of the Authority~~;~~,
- 9 (3) provisions for the number, election, term of  
10 office and removal of members of the Board of  
11 Directors and for filling vacancies on the Board  
12 of Directors~~;~~,
- 13 (4) the titles, duties and manner of election,  
14 removal and replacement of officers of the  
15 Authority~~;~~,
- 16 (5) provisions governing when the Authority may  
17 dissolve and the disposition of property of the  
18 Authority and the procedures to be followed in  
19 the event of such a dissolution~~;~~; provided,  
20 however, that any such dissolution shall not  
21 violate the provisions of Section ~~19 hereof;~~ 24-  
22 119 of this title, and
- 23 (6) such other rules for regulating the affairs of  
24 the Authority as the election committee or the

1 Board of Directors may deem necessary or  
2 advisable.

3 ~~(iv)~~

4 4. Board of Directors. The initial members of the Board of  
5 Directors of the Authority shall be elected by the election  
6 committee of the Authority. Members of the Board of Directors of  
7 the Authority shall be residents of ~~the State of Oklahoma~~ this  
8 state. Members of the Board of Directors of the Authority may, but  
9 need not, be members of the election committee. Each member of the  
10 Board of Directors of the Authority shall hold office until the  
11 adjournment of the annual meeting of the Board of Directors held at,  
12 or nearest to, the expiration of ~~his~~ the Director's term of office  
13 as provided in the bylaws of the Authority and until ~~his~~ a successor  
14 is elected.

15 ~~(b)~~

16 B. Additional Members of Election Committee. Each eligible  
17 public agency declaring its intention, by proper resolution of its  
18 governing body, to participate, or to have any public trust  
19 operating its electric system participate, with the Authority in the  
20 development of power supply resources ~~after the 90th day following~~  
21 ~~the effective date of this act~~ shall promptly file such resolution  
22 with the Secretary of State and give written notice to the Authority  
23 of the adoption of such resolution and shall then designate one  
24 person as an additional member of the election committee whose term

1 shall begin with the first meeting of the election committee which  
2 is held following the expiration of ten (10) days from the date of  
3 receipt of notice of the adoption of such resolution by the  
4 Authority. Members of the election committee shall serve at the  
5 pleasure of the governing body of the eligible public agency by  
6 which they were appointed.

7 SECTION 2. AMENDATORY 11 O.S. 2021, Section 24-105, is  
8 amended to read as follows:

9 Section 24-105. Definitions. As used in ~~this act~~ Section 24-  
10 101 et seq. of this title the following words shall have the  
11 following meanings unless the context clearly indicates otherwise:

12 ~~(a)~~ A. "Authority" shall mean the Oklahoma Municipal Power  
13 Authority hereby created and any successor or successors thereto.  
14 Any change in name or composition of the Authority shall in no way  
15 affect the vested rights of any person under the provisions of ~~this~~  
16 ~~act~~ Section 24-101 et seq. of this title or impair the obligations  
17 of any contracts existing under ~~this act~~ Section 24-101 et seq. of  
18 this title.

19 ~~(b)~~ B. "Board of Directors" shall mean the Board of Directors  
20 elected by the election committee as set forth in Section ~~4~~ 24-104  
21 of this ~~act~~ title which shall exercise all the powers and manage and  
22 control all the affairs and property of the Authority unless  
23 otherwise specifically provided herein or in the bylaws of the  
24 Authority as in effect from time to time.

1        ~~(c)~~ C. "Bonds" shall mean any revenue bonds, notes or other  
2 evidences of obligations of the Authority issued by the Authority  
3 under the provisions of ~~this act,~~ the Oklahoma Municipal Power  
4 Authority Act including, without limitation, bond anticipation notes  
5 and refunding bonds.

6        ~~(d)~~ D. "Eligible public agency" shall mean any municipality,  
7 authority or other public body which owns, maintains or operates an  
8 electrical energy generation, transmission or distribution system  
9 within ~~the State of Oklahoma on the date on which this act becomes~~  
10 ~~law~~ this state.

11        ~~(e)~~ E. "Person" shall mean (i) any natural person; (ii) any  
12 eligible public agency as defined herein; (iii) any public trust as  
13 defined herein; (iv) the United States, any state, any municipality,  
14 political subdivision, municipal corporation, unit of local  
15 government, governmental unit or public corporation created by or  
16 pursuant to the laws of the United States or any state, or any  
17 board, corporation or other entity or body declared by the laws of  
18 the United States or any state to be a department, agency or  
19 instrumentality thereof; (v) any corporation, not for profit  
20 corporation, firm, partnership, cooperative association, electric  
21 cooperative or business trust of any nature whatsoever organized and  
22 existing under the laws of the United States or any state; or (vi)  
23 any foreign country, any political subdivision or governmental unit  
24 of any foreign country or any corporation, not for profit

1 corporation, firm, partnership, cooperative association, electric  
2 cooperative or business trust of any nature whatsoever organized and  
3 existing under the laws of any foreign country or of any political  
4 subdivision or governmental entity thereof.

5 ~~(f)~~ F. "Project" shall mean any plant, works, system,  
6 facilities and real and personal property of any nature whatsoever,  
7 together with all parts thereof and appurtenances thereto, located  
8 within or without ~~the State of Oklahoma~~ this state, used or useful  
9 in the generation, production, transmission, purchase, sale,  
10 exchange or interchange of electrical energy and in the acquisition,  
11 extraction, processing, transportation or storage or of fuel of any  
12 kind for any such purposes or any interest in, or right to the use,  
13 services, output or capacity, of any such plant, works, system or  
14 facilities; ~~provided, however, a project shall not include (i) any~~  
15 ~~interest in any plant for the generation of electrical energy which~~  
16 ~~is to be owned jointly with any investor-owned utility if such plant~~  
17 ~~is not existing on May 10, 1981, or (ii) any interest in any nuclear~~  
18 ~~powered generating plant. For purposes of this definition, a plant~~  
19 ~~shall be considered to be existing if construction shall have been~~  
20 ~~commenced at the plant site, if orders have been placed for major~~  
21 ~~components of equipment or if the plant is to consist of an~~  
22 ~~additional unit at the site of an already existing unit which will~~  
23 ~~use in common any of the existing facilities at such site.~~

24

1       ~~(g)~~ G. "Public trust" shall mean any public trust created and  
2 existing under the provisions of the Trusts for Furtherance of  
3 Public Functions ~~Law~~, as provided by ~~Sections~~ Section 176 et seq. of  
4 Title 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as  
5 provided by ~~Sections 175~~ Section 175.1 et seq. of Title 60 of the  
6 Oklahoma Statutes, which has as its beneficiary a municipality and  
7 which owns, maintains or operates an electrical energy generation,  
8 transmission or distribution system serving the residents and  
9 consumers of such municipality ~~and existing on the date on which~~  
10 ~~this act becomes law or created hereafter with an eligible public~~  
11 ~~agency as the beneficiary.~~

12       SECTION 3.       AMENDATORY       11 O.S. 2021, Section 24-107, is  
13 amended to read as follows:

14       Section 24-107. ~~(a)~~ A. The Authority shall have and is hereby  
15 authorized to exercise all powers, rights and privileges enumerated  
16 in this section. Such powers, rights and privileges shall be  
17 exercised by its Board of Directors unless otherwise specifically  
18 provided herein or by the bylaws of the Authority as in effect from  
19 time to time.

20       ~~(b)~~ B. The Authority may plan, finance, acquire, construct,  
21 reconstruct, own, lease, operate, maintain, repair, improve, extend  
22 or otherwise participate, individually or jointly with other  
23 persons, in one or more projects, proposed, existing or under  
24 construction, and may act as agent, or designate one or more

1 persons, whether or not participating in a project, to act as its  
2 agent, in connection with the planning, financing, acquisition,  
3 construction, reconstruction, ownership, lease, operation,  
4 maintenance, repair, extension or improvement of the project.

5 ~~(c)~~ C. The Authority may investigate the desirability of and  
6 necessity for additional sources and supplies of electrical energy  
7 and fuel and other supplies of any kind for such purpose, and make  
8 studies, surveys and estimates as may be necessary to determine the  
9 feasibility and cost thereof.

10 ~~(d)~~ D. The Authority may cooperate with other persons in the  
11 development of sources and supplies of electrical energy and fuel  
12 and other supplies of any kind for such purposes, and give  
13 assistance with personnel and equipment in any project.

14 ~~(e)~~ E. The Authority may apply to any person for consents,  
15 authorizations or approvals required for any project within its  
16 powers and take all actions necessary to comply with the conditions  
17 thereof.

18 ~~(f)~~ F. The Authority may perform any act authorized by ~~this act~~  
19 the Oklahoma Municipal Power Authority Act through, or by means of,  
20 its officers, agents or employees or by contract with any person,  
21 including, without limitation, the employment of engineers,  
22 architects, attorneys, appraisers, financial advisors and such other  
23 consultants and employees as may be required in the judgment of the  
24

1 Board of Directors, and fix and pay their compensation from funds  
2 available to the Authority therefor.

3 ~~(g)~~ G. The Authority may acquire, hold, use and dispose of  
4 income, revenues, funds and money.

5 ~~(h)~~ H. The Authority may, individually or jointly with other  
6 persons, acquire, own, hire, use, operate and dispose of personal  
7 property and any interest therein.

8 ~~(i)~~ I. The Authority may, individually or jointly with other  
9 persons, acquire, own, use, lease as lessor or lessee, operate and  
10 dispose of real property and interests in real property, including  
11 projects existing, proposed or under construction, and make  
12 improvements thereon.

13 ~~(j)~~ J. The Authority may grant the use by franchise, lease or  
14 otherwise and make charges for the use of any property or facility  
15 owned or controlled by it.

16 ~~(k)~~ K. The Authority may borrow money and issue negotiable  
17 bonds, secured or unsecured, in accordance with ~~this act~~ Section 24-  
18 101 et seq. of this title, and may enter into interest rate swaps  
19 and other derivative products, and other financial instruments  
20 intended to hedge interest rate risk or manage interest rate costs,  
21 including any option to enter into or terminate any of them, that  
22 the Authority deems to be necessary or desirable in connection with  
23 any bonds issued prior to, at the same time as, or after entering  
24 into such arrangement, and containing such terms and provisions, and

1 may be with such parties, as determined by the Authority. Provided,  
2 any action taken by the Authority pursuant to this subsection must  
3 first be approved by the Office of the ~~State Bond Advisor~~ Deputy  
4 Treasurer for Debt Management and the Council of Bond Oversight  
5 pursuant to the provisions of the Oklahoma Bond Oversight and Reform  
6 Act.

7 ~~(l)~~ L. The Authority may invest money of the Authority not  
8 required for immediate use, including proceeds from the sale of any  
9 bonds.

10 ~~(m)~~ M. The Authority may exercise the power of eminent domain  
11 in accordance with the provisions of Section 24-110 of this title.

12 ~~(n)~~ N. The Authority may determine the location and character  
13 of, and all other matters in connection with, any and all projects  
14 it is authorized to acquire, hold, establish, effectuate, operate or  
15 control.

16 ~~(o)~~ O. The Authority may contract with any person for the  
17 planning, development, construction, operation, sale or lease as  
18 lessor or lessee of any project or for any interest therein, on such  
19 terms and for such period of time as its Board of Directors shall  
20 determine.

21 ~~(p)~~ P. The Authority may contract with any eligible public  
22 agency, any public trust, or any other person for the sale of power  
23 and energy, transmission services, power supply development services  
24 or other services within or without ~~the State of Oklahoma~~ this state

1 on such terms and conditions as the Board of Directors shall  
2 approve. Any such contract may be for the sale of output and  
3 services of a particular project or may be for output and services  
4 generally without regard to a specific project and may be for the  
5 supply of a specific quantity of output or a percentage of the  
6 output of a specific project or other specific facility or may be  
7 based on the requirements of the purchaser or may be on such other  
8 terms and conditions as the Board of Directors deems appropriate.

9 ~~(e)~~ Q. The Authority may enter into any contract or agreement  
10 necessary, appropriate or incidental to the effectuation of its  
11 lawful purposes and the exercise of the powers granted by ~~this act,~~  
12 the Oklahoma Municipal Power Authority Act including, without  
13 limitation, contracts or agreements for the purchase, sale,  
14 exchange, interchange, wheeling, pooling, transmission or storage of  
15 electric power and energy, and fuel and other supplies of any kind  
16 for any such purposes, within and without ~~the State of Oklahoma~~ this  
17 state, in such amounts as it shall determine to be necessary and  
18 appropriate to make the most effective use of its powers and to meet  
19 its responsibilities, on such terms and for such period of time as  
20 the Board of Directors determines, and derivative or other  
21 instruments intended to hedge fuel cost risk associated with any  
22 projects or power purchases or supply arrangements of the Authority,  
23 or to hedge fixed or variable interest rate exposure associated with  
24 permitted investments, including any option to enter into or

1 terminate any of them, that the Authority deems to be necessary or  
2 desirable, and containing such terms and provisions, and may be with  
3 such parties, as determined by the Authority.

4 ~~(r)~~ R. In any case in which the Authority participates in a  
5 project as a joint owner with one or more persons, the Authority may  
6 enter into an agreement or agreements with respect to such project  
7 with the other person or persons participating therein, and any such  
8 agreement may contain such terms, conditions and provisions  
9 consistent with the provisions of the act as the parties thereto  
10 shall deem to be in their best interest. Any such agreement may  
11 include, but need not be limited to, provisions defining what  
12 constitutes a default thereunder and providing for the rights and  
13 remedies of the parties thereto upon the occurrence of such a  
14 default deemed appropriate by the Board of Directors including, to  
15 the extent deemed appropriate, the acquisition by nondefaulting  
16 parties of all or any part of the defaulting party's interest;  
17 provisions setting forth such restraints on alienation of the  
18 interests of the parties in the project as the Board of Directors  
19 deems appropriate; provisions for the construction, operation and  
20 maintenance of such electric generation or transmission facility by  
21 any one or more of the parties to such agreement which party or  
22 parties shall be designated in or pursuant to such agreement as  
23 agent or parties thereto or by such other means as may be determined  
24 by the parties thereto; and provisions for a method or methods of

1 determining and allocating, among or between the parties, costs of  
2 construction, operation, maintenance, renewals, replacements,  
3 improvements and disposals with respect to such project. In  
4 exercising its power to participate in a project as a joint owner  
5 with one or more persons, the Authority may not loan its credit to  
6 any person which is a joint owner of such project; provided,  
7 however, the appropriate allocations of the costs of construction,  
8 operation, maintenance, renewals, replacements, improvements and  
9 disposals with respect to such project between the Authority and  
10 such persons shall not be a loan of credit by the Authority to such  
11 persons. In carrying out its functions and activities as such agent  
12 with respect to construction, operation and maintenance of a  
13 project, such agent shall be governed by the laws and regulations  
14 applicable to such agent as a separate legal entity and not by any  
15 laws or regulations which may be applicable to any of the other  
16 participating parties. Notwithstanding anything contained in any  
17 other law to the contrary, pursuant to the terms of any such  
18 agreement, the Authority may delegate its powers and duties with  
19 respect to the construction, operation and maintenance of such  
20 project to the person acting as agent; and all actions taken by such  
21 agent in accordance with the provisions of such agreement may be  
22 made binding upon the Authority without further action or approval  
23 by the Authority.

24

1       ~~(s)~~ S. The Authority may procure insurance against any losses  
2 in connection with its property, operations or assets in such  
3 amounts and from such insurers as it deems desirable, or may self-  
4 insure against such losses.

5       ~~(t)~~ T. The Authority may contract for and accept any gifts,  
6 grants or loans of funds or property or financial or other aid in  
7 any form from any person, and may comply, subject to the provisions  
8 of ~~this act~~ the Oklahoma Municipal Power Authority Act, with the  
9 terms and conditions thereof.

10       ~~(u)~~ U. The Authority may adopt a corporate seal and may sue or  
11 be sued.

12       ~~(v)~~ V. The Authority may exercise all other powers not  
13 inconsistent with the Oklahoma Constitution ~~of the State of Oklahoma~~  
14 or the United States Constitution, which powers may be reasonably  
15 necessary or appropriate for or incidental to effectuate its  
16 authorized purposes or to the exercise of any of the powers  
17 enumerated in ~~this act~~ the Oklahoma Municipal Power Authority Act.

18       ~~(w)~~ W. Notwithstanding any other provision herein seemingly to  
19 the contrary, the Authority may not sell output (i) at retail to the  
20 ultimate consumers thereof, or (ii) to any municipality which does  
21 not ~~qualify as an eligible public agency under the definition set~~  
22 ~~forth in subsection (d) of Section 24-105 of this title, or (iii) to~~  
23 ~~any trust created and existing under the provisions of the Local~~  
24 ~~Industrial Development Act, as provided by Sections 651 et seq. of~~

1 ~~Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of~~  
2 ~~Public Functions Law, as provided by Sections 176 et seq. of Title~~  
3 ~~60 of the Oklahoma Statutes, which does not qualify as a public~~  
4 ~~trust under the definition set forth in subsection (g) of Section~~  
5 ~~24-105 of this title~~ own an electrical energy distribution system.

6 SECTION 4. AMENDATORY 11 O.S. 2021, Section 24-116, is  
7 amended to read as follows:

8 Section 24-116. Meetings and Records. All meetings of the  
9 Authority shall be subject to the provisions of the Oklahoma Open  
10 Meeting Act, as provided by ~~Sections~~ Section 301 et seq. of Title 25  
11 of the Oklahoma Statutes. All records of the Authority shall be  
12 subject to the provisions of ~~Section 24 of~~ the Oklahoma Open Records  
13 Act, as provided by Section 24A.1 et seq. of Title 51 of the  
14 Oklahoma Statutes.

15 SECTION 5. AMENDATORY 11 O.S. 2021, Section 24-117, is  
16 amended to read as follows:

17 Section 24-117. Construction. ~~This act~~ Section 24-101 et seq.  
18 of this title and all the terms and provisions hereof shall be  
19 liberally construed to effectuate the purposes set forth herein;  
20 provided, however, nothing in ~~this act~~ the Oklahoma Municipal Power  
21 Authority Act shall be construed to authorize the Authority to loan  
22 its credit to any investor-owned utility ~~nor to acquire or subsidize~~  
23 ~~any nuclear powered generating plant.~~

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1 SECTION 6. REPEALER 11 O.S. 2021, Section 24-105.1, is  
2 hereby repealed.

3 SECTION 7. REPEALER 11 O.S. 2021, Section 24-114, is  
4 hereby repealed.

5 SECTION 8. REPEALER 11 O.S. 2021, Section 24-120, is  
6 hereby repealed.

7 SECTION 9. This act shall become effective November 1, 2022.  
8 Passed the Senate the 9th day of March, 2022.

9  
10 \_\_\_\_\_  
11 Presiding Officer of the Senate

12 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
13 2022.

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15 \_\_\_\_\_  
16 Presiding Officer of the House  
17 of Representatives

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