

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3995

By: Dobrinski

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8                                   COMMITTEE SUBSTITUTE

9           An Act relating to cities and towns; amending 11 O.S.  
10       2021, Section 24-104, which relates to members of the  
11       Oklahoma Municipal Power Authority election  
12       committee; clarifying language of applicability in  
13       regards to filing date; amending 11 O.S. 2021,  
14       Section 24-105, which relates to definitions;  
15       modifying terms; amending 11 O.S. 2021, Section 24-  
16       107, which relates to the powers, rights, and  
17       privileges of the Authority; changing office  
18       responsible for approving actions taken by the  
19       Authority; modifying when the Authority may not sell  
20       output; modifying applicability; amending 11 O.S.  
21       2021, Section 24-116, which relates to meetings and  
22       records of the Authority; changing citation to  
23       applicable statute; amending 11 O.S. 2021, Section  
24       24-117, which relates to construction of act;  
      modifying limitation on the Authority; repealing 11  
      O.S. 2021, Section 24-105.1, which relates to joint  
      interest in Electric Generation Project; repealing 11  
      O.S. 2021, Section 24-120, which relates to personnel  
      included in unclassified service; repealing 11 O.S.  
      2021, Section 24-114, which relates to acquisition  
      and construction contracts; and providing an  
      effective date.

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

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

3       (a) (i) Election Committee. The Authority shall be governed by  
4 a Board of Directors consisting of seven members or such greater  
5 number, but in no event more than eleven members, as provided in the  
6 bylaws of the Authority as in effect from time to time. Members of  
7 the Board of Directors of the Authority shall be eligible to succeed  
8 themselves and shall be elected by the election committee as  
9 hereinafter provided in this section. On or before the 90th day  
10 following the effective date of this act, each of those eligible  
11 public agencies which shall have, prior to such 90th day, by proper  
12 resolution of its governing body or its public trust, declared its  
13 intention to participate, or to have any public trust operating its  
14 electric system participate, with the Authority in the development  
15 of power supply resources, shall designate one person as its  
16 representative on the election committee. All such resolutions of  
17 declaration of intention to participate with the Authority shall be  
18 filed with the Secretary of State and shall be presented to the  
19 election committee at its first meeting which shall be held in the  
20 office of the Municipal Electric Systems of Oklahoma at 11:00 a.m.  
21 on the first Tuesday following such 90th day. At such meeting the  
22 election committee shall organize and elect a chairman and such  
23 other officers as may be desirable in the determination of the  
24

1 election committee. The election committee shall then determine the  
2 sufficiency of the resolutions presented to it.

3 (ii) Election Committee Voting. For purposes of voting upon  
4 any matter which may properly come before the election committee,  
5 each representative shall have one vote unless otherwise provided in  
6 the bylaws of the Authority as in effect from time to time. The  
7 presence at any meeting of the election committee of representatives  
8 entitled to cast a majority of the total votes to which the election  
9 committee shall be entitled shall, unless otherwise provided in the  
10 bylaws of the Authority as in effect from time to time, constitute a  
11 quorum of the election committee.

12 (iii) Bylaws of the Authority.

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

21 (B) The bylaws of the Authority shall provide the following:

22 (1) the time, place, manner of calling, notice, quorum and  
23 voting provisions, and other procedural rules for  
24

1 regular and special meetings of the election committee  
2 of the Authority;

3 (2) the time, place, manner of calling, notice, quorum and  
4 voting provisions, and other procedural rules for  
5 regular and special meetings of the Board of Directors  
6 of the Authority;

7 (3) provisions for the number, election, term of office  
8 and removal of members of the Board of Directors and  
9 for filling vacancies on the Board of Directors;

10 (4) the titles, duties and manner of election, removal and  
11 replacement of officers of the Authority;

12 (5) provisions governing when the Authority may dissolve  
13 and the disposition of property of the Authority and  
14 the procedures to be followed in the event of such a  
15 dissolution, provided, however, that any such  
16 dissolution shall not violate the provisions of  
17 Section ~~19~~ hereof 24-119 of this title; and

18 (6) such other rules for regulating the affairs of the  
19 Authority as the election committee or the Board of  
20 Directors may deem necessary or advisable.

21 (iv) Board of Directors. The initial members of the Board of  
22 Directors of the Authority shall be elected by the election  
23 committee of the Authority. Members of the Board of Directors of  
24 the Authority shall be residents of the State of Oklahoma. Members

1 of the Board of Directors of the Authority may, but need not, be  
2 members of the election committee. Each member of the Board of  
3 Directors of the Authority shall hold office until the adjournment  
4 of the annual meeting of the Board of Directors held at, or nearest  
5 to, the expiration of ~~his~~ the Director's term of office as provided  
6 in the bylaws of the Authority and until ~~his~~ a successor is elected.

7 (b) Additional Members of Election Committee. Each eligible  
8 public agency declaring its intention, by proper resolution of its  
9 governing body, to participate, or to have any public trust  
10 operating its electric system participate, with the Authority in the  
11 development of power supply resources ~~after the 90th day following~~  
12 ~~the effective date of this act~~ shall promptly file such resolution  
13 with the Secretary of State and give written notice to the Authority  
14 of the adoption of such resolution and shall then designate one  
15 person as an additional member of the election committee whose term  
16 shall begin with the first meeting of the election committee which  
17 is held following the expiration of ten (10) days from the date of  
18 receipt of notice of the adoption of such resolution by the  
19 Authority. Members of the election committee shall serve at the  
20 pleasure of the governing body of the eligible public agency by  
21 which they were appointed.

22 SECTION 2. AMENDATORY 11 O.S. 2021, Section 24-105, is  
23 amended to read as follows:  
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1 As used in this act the following words shall have the following  
2 meanings unless the context clearly indicates otherwise:

3 (a) "Authority" shall mean the Oklahoma Municipal Power  
4 Authority hereby created and any successor or successors thereto.  
5 Any change in name or composition of the Authority shall in no way  
6 affect the vested rights of any person under the provisions of this  
7 act or impair the obligations of any contracts existing under this  
8 act.

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

15 (c) "Bonds" shall mean any revenue bonds, notes or other  
16 evidences of obligations of the Authority issued by the Authority  
17 under the provisions of this act, including, without limitation,  
18 bond anticipation notes and refunding bonds.

19 (d) "Eligible public agency" shall mean any municipality,  
20 authority or other public body which owns, maintains or operates an  
21 electrical energy generation, transmission or distribution system  
22 within the State of Oklahoma ~~on the date on which this act becomes~~  
23 ~~law.~~

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

19       (f) "Project" shall mean any plant, works, system, facilities  
20 and real and personal property of any nature whatsoever, together  
21 with all parts thereof and appurtenances thereto, located within or  
22 without the State of Oklahoma, used or useful in the generation,  
23 production, transmission, purchase, sale, exchange or interchange of  
24 electrical energy and in the acquisition, extraction, processing,

1 transportation or storage or of fuel of any kind for any such  
2 purposes or any interest in, or right to the use, services, output  
3 or capacity, of any such plant, works, system or facilities;  
4 ~~provided, however, a project shall not include (i) any interest in~~  
5 ~~any plant for the generation of electrical energy which is to be~~  
6 ~~owned jointly with any investor-owned utility if such plant is not~~  
7 ~~existing on May 10, 1981, or (ii) any interest in any nuclear~~  
8 ~~powered generating plant. For purposes of this definition, a plant~~  
9 ~~shall be considered to be existing if construction shall have been~~  
10 ~~commenced at the plant site, if orders have been placed for major~~  
11 ~~components of equipment or if the plant is to consist of an~~  
12 ~~additional unit at the site of an already existing unit which will~~  
13 ~~use in common any of the existing facilities at such site.~~

14 (g) "Public trust" shall mean any public trust created and  
15 existing under the provisions of the Trusts for Furtherance of  
16 Public Functions Law, as provided by Sections 176 et seq. of Title  
17 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as provided  
18 by Sections 175 et seq. of Title 60 of the Oklahoma Statutes, which  
19 has as its beneficiary a municipality and which owns, maintains or  
20 operates an electrical energy generation, transmission or  
21 distribution system serving the residents and consumers of such  
22 municipality ~~and existing on the date on which this act becomes law~~  
23 ~~or created hereafter with an eligible public agency as the~~  
24 ~~beneficiary.~~



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

3       (a)   The Authority shall have and is hereby authorized to  
4 exercise all powers, rights and privileges enumerated in this  
5 section.  Such powers, rights and privileges shall be exercised by  
6 its Board of Directors unless otherwise specifically provided herein  
7 or by the bylaws of the Authority as in effect from time to time.

8       (b)   The Authority may plan, finance, acquire, construct,  
9 reconstruct, own, lease, operate, maintain, repair, improve, extend  
10 or otherwise participate, individually or jointly with other  
11 persons, in one or more projects, proposed, existing or under  
12 construction, and may act as agent, or designate one or more  
13 persons, whether or not participating in a project, to act as its  
14 agent, in connection with the planning, financing, acquisition,  
15 construction, reconstruction, ownership, lease, operation,  
16 maintenance, repair, extension or improvement of the project.

17       (c)   The Authority may investigate the desirability of and  
18 necessity for additional sources and supplies of electrical energy  
19 and fuel and other supplies of any kind for such purpose, and make  
20 studies, surveys and estimates as may be necessary to determine the  
21 feasibility and cost thereof.

22       (d)   The Authority may cooperate with other persons in the  
23 development of sources and supplies of electrical energy and fuel  
24

1 and other supplies of any kind for such purposes, and give  
2 assistance with personnel and equipment in any project.

3 (e) The Authority may apply to any person for consents,  
4 authorizations or approvals required for any project within its  
5 powers and take all actions necessary to comply with the conditions  
6 thereof.

7 (f) The Authority may perform any act authorized by this act  
8 through, or by means of, its officers, agents or employees or by  
9 contract with any person, including, without limitation, the  
10 employment of engineers, architects, attorneys, appraisers,  
11 financial advisors and such other consultants and employees as may  
12 be required in the judgment of the Board of Directors, and fix and  
13 pay their compensation from funds available to the Authority  
14 therefor.

15 (g) The Authority may acquire, hold, use and dispose of income,  
16 revenues, funds and money.

17 (h) The Authority may, individually or jointly with other  
18 persons, acquire, own, hire, use, operate and dispose of personal  
19 property and any interest therein.

20 (i) The Authority may, individually or jointly with other  
21 persons, acquire, own, use, lease as lessor or lessee, operate and  
22 dispose of real property and interests in real property, including  
23 projects existing, proposed or under construction, and make  
24 improvements thereon.

1 (j) The Authority may grant the use by franchise, lease or  
2 otherwise and make charges for the use of any property or facility  
3 owned or controlled by it.

4 (k) The Authority may borrow money and issue negotiable bonds,  
5 secured or unsecured, in accordance with this act, and may enter  
6 into interest rate swaps and other derivative products, and other  
7 financial instruments intended to hedge interest rate risk or manage  
8 interest rate costs, including any option to enter into or terminate  
9 any of them, that the Authority deems to be necessary or desirable  
10 in connection with any bonds issued prior to, at the same time as,  
11 or after entering into such arrangement, and containing such terms  
12 and provisions, and may be with such parties, as determined by the  
13 Authority. Provided, any action taken by the Authority pursuant to  
14 this subsection must first be approved by the Office of the ~~State~~  
15 ~~Bond Advisor~~ Deputy Treasurer for Debt Management and the Council of  
16 Bond Oversight pursuant to the provisions of the Oklahoma Bond  
17 Oversight and Reform Act.

18 (l) The Authority may invest money of the Authority not  
19 required for immediate use, including proceeds from the sale of any  
20 bonds.

21 (m) The Authority may exercise the power of eminent domain in  
22 accordance with the provisions of Section 24-110 of this title.

23 (n) The Authority may determine the location and character of,  
24 and all other matters in connection with, any and all projects it is

1 authorized to acquire, hold, establish, effectuate, operate or  
2 control.

3 (o) The Authority may contract with any person for the  
4 planning, development, construction, operation, sale or lease as  
5 lessor or lessee of any project or for any interest therein, on such  
6 terms and for such period of time as its Board of Directors shall  
7 determine.

8 (p) The Authority may contract with any eligible public agency,  
9 any public trust, or any other person for the sale of power and  
10 energy, transmission services, power supply development services or  
11 other services within or without the State of Oklahoma on such terms  
12 and conditions as the Board of Directors shall approve. Any such  
13 contract may be for the sale of output and services of a particular  
14 project or may be for output and services generally without regard  
15 to a specific project and may be for the supply of a specific  
16 quantity of output or a percentage of the output of a specific  
17 project or other specific facility or may be based on the  
18 requirements of the purchaser or may be on such other terms and  
19 conditions as the Board of Directors deems appropriate.

20 (q) The Authority may enter into any contract or agreement  
21 necessary, appropriate or incidental to the effectuation of its  
22 lawful purposes and the exercise of the powers granted by this act,  
23 including, without limitation, contracts or agreements for the  
24 purchase, sale, exchange, interchange, wheeling, pooling,

1 transmission or storage of electric power and energy, and fuel and  
2 other supplies of any kind for any such purposes, within and without  
3 the State of Oklahoma, in such amounts as it shall determine to be  
4 necessary and appropriate to make the most effective use of its  
5 powers and to meet its responsibilities, on such terms and for such  
6 period of time as the Board of Directors determines, and derivative  
7 or other instruments intended to hedge fuel cost risk associated  
8 with any projects or power purchases or supply arrangements of the  
9 Authority, or to hedge fixed or variable interest rate exposure  
10 associated with permitted investments, including any option to enter  
11 into or terminate any of them, that the Authority deems to be  
12 necessary or desirable, and containing such terms and provisions,  
13 and may be with such parties, as determined by the Authority.

14 (r) In any case in which the Authority participates in a  
15 project as a joint owner with one or more persons, the Authority may  
16 enter into an agreement or agreements with respect to such project  
17 with the other person or persons participating therein, and any such  
18 agreement may contain such terms, conditions and provisions  
19 consistent with the provisions of the act as the parties thereto  
20 shall deem to be in their best interest. Any such agreement may  
21 include, but need not be limited to, provisions defining what  
22 constitutes a default thereunder and providing for the rights and  
23 remedies of the parties thereto upon the occurrence of such a  
24 default deemed appropriate by the Board of Directors including, to

1 the extent deemed appropriate, the acquisition by nondefaulting  
2 parties of all or any part of the defaulting party's interest;  
3 provisions setting forth such restraints on alienation of the  
4 interests of the parties in the project as the Board of Directors  
5 deems appropriate; provisions for the construction, operation and  
6 maintenance of such electric generation or transmission facility by  
7 any one or more of the parties to such agreement which party or  
8 parties shall be designated in or pursuant to such agreement as  
9 agent or parties thereto or by such other means as may be determined  
10 by the parties thereto; and provisions for a method or methods of  
11 determining and allocating, among or between the parties, costs of  
12 construction, operation, maintenance, renewals, replacements,  
13 improvements and disposals with respect to such project. In  
14 exercising its power to participate in a project as a joint owner  
15 with one or more persons, the Authority may not loan its credit to  
16 any person which is a joint owner of such project; provided,  
17 however, the appropriate allocations of the costs of construction,  
18 operation, maintenance, renewals, replacements, improvements and  
19 disposals with respect to such project between the Authority and  
20 such persons shall not be a loan of credit by the Authority to such  
21 persons. In carrying out its functions and activities as such agent  
22 with respect to construction, operation and maintenance of a  
23 project, such agent shall be governed by the laws and regulations  
24 applicable to such agent as a separate legal entity and not by any

1 laws or regulations which may be applicable to any of the other  
2 participating parties. Notwithstanding anything contained in any  
3 other law to the contrary, pursuant to the terms of any such  
4 agreement, the Authority may delegate its powers and duties with  
5 respect to the construction, operation and maintenance of such  
6 project to the person acting as agent; and all actions taken by such  
7 agent in accordance with the provisions of such agreement may be  
8 made binding upon the Authority without further action or approval  
9 by the Authority.

10 (s) The Authority may procure insurance against any losses in  
11 connection with its property, operations or assets in such amounts  
12 and from such insurers as it deems desirable, or may self-insure  
13 against such losses.

14 (t) The Authority may contract for and accept any gifts, grants  
15 or loans of funds or property or financial or other aid in any form  
16 from any person, and may comply, subject to the provisions of this  
17 act, with the terms and conditions thereof.

18 (u) The Authority may adopt a corporate seal and may sue or be  
19 sued.

20 (v) The Authority may exercise all other powers not  
21 inconsistent with the Constitution of the State of Oklahoma or the  
22 United States Constitution, which powers may be reasonably necessary  
23 or appropriate for or incidental to effectuate its authorized  
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1 purposes or to the exercise of any of the powers enumerated in this  
2 act.

3 (w) Notwithstanding any other provision herein seemingly to the  
4 contrary, the Authority may not sell output (i) at retail to the  
5 ultimate consumers thereof, (ii) to any municipality which does not  
6 ~~qualify as an eligible public agency under the definition set forth~~  
7 ~~in subsection (d) of Section 24-105 of this title, or (iii) to any~~  
8 ~~trust created and existing under the provisions of the Local~~  
9 ~~Industrial Development Act, as provided by Sections 651 et seq. of~~  
10 ~~Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of~~  
11 ~~Public Functions Law, as provided by Sections 176 et seq. of Title~~  
12 ~~60 of the Oklahoma Statutes, which does not qualify as a public~~  
13 ~~trust under the definition set forth in subsection (g) of Section~~  
14 ~~24-105 of this title~~ own an electrical energy distribution system.

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

17 All meetings of the Authority shall be subject to the provisions  
18 of the Oklahoma Open Meeting Act, as provided by Sections 301 et  
19 seq. of Title 25 of the Oklahoma Statutes. All records of the  
20 Authority shall be subject to the provisions of ~~Section 24~~ the  
21 Oklahoma Open Records Act, as provided by Section 24A.1 et seq. of  
22 Title 51 of the Oklahoma Statutes.

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



1        This act and all the terms and provisions hereof shall be  
2        liberally construed to effectuate the purposes set forth herein;  
3        provided however, nothing in this act shall be construed to  
4        authorize the Authority to loan its credit to any investor-owned  
5        utility ~~nor to acquire or subsidize any nuclear powered generating~~  
6        ~~plant.~~

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

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

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

13       SECTION 9.        This act shall become effective November 1, 2022.

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15       COMMITTEE REPORT BY: COMMITTEE ON UTILITIES, dated 03/01/2022 - DO  
16       PASS, As Amended.

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