

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3995

By: Dobrinski

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 2021, Section 24-104, which relates to members of the Oklahoma Municipal Power Authority election committee; clarifying language of applicability in regards to filing date; amending 11 O.S. 2021, Section 24-105, which relates to definitions; modifying terms; amending 11 O.S. 2021, Section 24-107, which relates to the powers, rights, and privileges of the Authority; changing office responsible for approving actions taken by the Authority; modifying when the Authority may not sell output; amending 11 O.S. 2021, Section 24-114, which relates to acquisition and construction contracts; modifying applicability; amending 11 O.S. 2021, Section 24-116, which relates to meetings and records of the Authority; changing citation to applicable statute; amending 11 O.S. 2021, Section 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; 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:

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

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

10 (iii) Bylaws of the Authority.

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

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

20 (1) the time, place, manner of calling, notice, quorum and
21 voting provisions, and other procedural rules for
22 regular and special meetings of the election committee
23 of the Authority;
24

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

19 (iv) Board of Directors. The initial members of the Board of
20 Directors of the Authority shall be elected by the election
21 committee of the Authority. Members of the Board of Directors of
22 the Authority shall be residents of the State of Oklahoma. Members
23 of the Board of Directors of the Authority may, but need not, be
24 members of the election committee. Each member of the Board of

1 Directors of the Authority shall hold office until the adjournment
2 of the annual meeting of the Board of Directors held at, or nearest
3 to, the expiration of ~~his~~ the Director's term of office as provided
4 in the bylaws of the Authority and until ~~his~~ a successor is elected.

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

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

22 As used in this act the following words shall have the following
23 meanings unless the context clearly indicates otherwise:
24

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

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

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

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

22 (e) "Person" shall mean (i) any natural person; (ii) any
23 eligible public agency as defined herein; (iii) any public trust as
24 defined herein; (iv) the United States, any state, any municipality,

1 political subdivision, municipal corporation, unit of local
2 government, governmental unit or public corporation created by or
3 pursuant to the laws of the United States or any state, or any
4 board, corporation or other entity or body declared by the laws of
5 the United States or any state to be a department, agency or
6 instrumentality thereof; (v) any corporation, not for profit
7 corporation, firm, partnership, cooperative association, electric
8 cooperative or business trust of any nature whatsoever organized and
9 existing under the laws of the United States or any state; or (vi)
10 any foreign country, any political subdivision or governmental unit
11 of any foreign country or any corporation, not for profit
12 corporation, firm, partnership, cooperative association, electric
13 cooperative or business trust of any nature whatsoever organized and
14 existing under the laws of any foreign country or of any political
15 subdivision or governmental entity thereof.

16 (f) "Project" shall mean any plant, works, system, facilities
17 and real and personal property of any nature whatsoever, together
18 with all parts thereof and appurtenances thereto, located within or
19 without the State of Oklahoma, used or useful in the generation,
20 production, transmission, purchase, sale, exchange or interchange of
21 electrical energy and in the acquisition, extraction, processing,
22 transportation or storage or of fuel of any kind for any such
23 purposes or any interest in, or right to the use, services, output
24 or capacity, of any such plant, works, system or facilities.

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

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

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

24

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

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

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

20 (d) The Authority may cooperate with other persons in the
21 development of sources and supplies of electrical energy and fuel
22 and other supplies of any kind for such purposes, and give
23 assistance with personnel and equipment in any project.
24

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

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

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

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

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

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.~~

15 SECTION 4. AMENDATORY 11 O.S. 2021, Section 24-114, is
16 amended to read as follows:

17 The Authority shall be ~~subject to the provisions of the Public~~
18 ~~Competitive Bidding Act, as provided by Sections 101 et seq. of~~
19 exempt from Title 61 of the Oklahoma Statutes, ~~provided, however,~~
20 ~~where the Authority is purchasing an undivided interest in a project~~
21 ~~that is being constructed or operated by another person, the initial~~
22 ~~purchase of such interest by the Authority and any contracts entered~~
23 ~~into by such person while acting as agent for the Authority in~~
24

1 ~~connection with such project shall not be subject to the provisions~~
2 ~~of such act.~~

3 SECTION 5. AMENDATORY 11 O.S. 2021, Section 24-116, is
4 amended to read as follows:

5 All meetings of the Authority shall be subject to the provisions
6 of the Oklahoma Open Meeting Act, as provided by Sections 301 et
7 seq. of Title 25 of the Oklahoma Statutes. All records of the
8 Authority shall be subject to the provisions of ~~Section 24~~ the
9 Oklahoma Open Records Act, as provided by Section 24A.1 et seq. of
10 Title 51 of the Oklahoma Statutes.

11 SECTION 6. AMENDATORY 11 O.S. 2021, Section 24-117, is
12 amended to read as follows:

13 This act and all the terms and provisions hereof shall be
14 liberally construed to effectuate the purposes set forth herein;
15 provided however, nothing in this act shall be construed to
16 authorize the Authority to loan its credit to any investor-owned
17 utility ~~nor to acquire or subsidize any nuclear powered generating~~
18 ~~plant.~~

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

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

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

58-2-9253 MJ 01/18/22