

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1011

By: Justice

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5
6 AS INTRODUCED

7 An Act relating to public trusts; amending 60 O.S.
8 2011, Section 176, which relates to trusts for
9 benefit of state, county or municipality; modifying
voting requirement for certain municipalities; and
providing an effective date.

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

13 SECTION 1. AMENDATORY 60 O.S. 2011, Section 176, is
14 amended to read as follows:

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

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

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

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

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

23 B. A municipality may convey title to real property which is
24 used for an airport to the trustees of an industrial development

1 authority trust whose beneficiary is the municipality. The
2 industrial development authority trust must already have the
3 custody, management, or control of the real property. The
4 conveyance must be approved by a majority of the governing body of
5 the municipality. A conveyance pursuant to this section may be made
6 only for the sole purpose of allowing the authority to sell the
7 property for fair market value when the property is to be used for
8 industrial development purposes. Conveyances made pursuant to this
9 subsection shall be made subject to any existing reversionary
10 interest or other restrictions burdening the property and subject to
11 any reversionary interest or other restriction considered prudent by
12 the municipality.

13 C. The trustees of a public trust having the State of Oklahoma
14 as beneficiary shall make and adopt bylaws for the due and orderly
15 administration and regulation of the affairs of the public trust.
16 All bylaws of a public trust having the State of Oklahoma as
17 beneficiary shall be submitted in writing to the Governor of the
18 State of Oklahoma. The Governor must approve the proposed bylaws
19 before they take effect.

20 D. No public trust in which the State of Oklahoma is the
21 beneficiary may be amended without a two-thirds (2/3) vote of
22 approval of the trustees of the trust; provided, that any amendment
23 is subject to the approval of the Governor of the State of Oklahoma.
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1 Any amendments shall be sent to the Governor within fifteen (15)
2 days of their adoption.

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

16 F. All bonds described in subsection E of this section, after
17 December 1, 1976, except bonds sold to the federal government or any
18 agency thereof or to any agency of the State of Oklahoma, shall be
19 awarded to the lowest and best bidder based upon open competitive
20 public offering, advertised at least once a week for two (2)
21 successive weeks in a newspaper of general circulation in the county
22 where the principal office of the trust is located prior to the date
23 on which bids are received and opened; provided, competitive bidding
24 may be waived on bond issues with the approval of three-fourths

1 (3/4) of the trustees, and a three-fourths (3/4) vote of the
2 governing body of the beneficiary, unless the beneficiary is a
3 county in which case a two-thirds (2/3) vote of the members of the
4 governing body shall be required, or three-fourths (3/4) vote of the
5 governing bodies of each of the beneficiaries of the trust, unless
6 one of the beneficiaries is a county in which case a two-thirds
7 (2/3) vote of the members of the governing body of such county shall
8 be required. No bonds shall be sold for less than par value, except
9 upon approval of three-fourths (3/4) of the trustees, unless the
10 beneficiary is a county in which case a two-thirds (2/3) vote of the
11 members of the governing body shall be required. In no event shall
12 bonds be sold for less than sixty-five percent (65%) of par value;
13 provided, however, in no event shall the original purchaser from the
14 issuer of any bonds issued by any public trust for any purpose
15 receive directly or indirectly any fees, compensation, or other
16 remuneration in excess of four percent (4%) of the price paid for
17 the bonds by the purchaser of the bonds from the original purchaser;
18 and further provided, that the average coupon rate thereon shall in
19 no event exceed fourteen percent (14%) per annum. No public trust
20 shall sell bonds for less than ninety-six percent (96%) of par value
21 until the public trust has received from the underwriter or
22 financial advisor or, in the absence of an underwriter or financial
23 advisor, the initial purchaser of the bonds, an estimated
24 alternative financing structure or structures showing the estimated

1 total interest and principal cost of each alternative. At least one
2 alternative financing structure shall include bonds sold to the
3 public at par. Any estimates shall be considered a public record of
4 the public trust. Bonds, notes or other evidences of indebtedness
5 issued by any public trust shall be eligible for purchase by any
6 state banking association or corporation subject to such limitations
7 as to investment quality as may be imposed by regulations, rules or
8 rulings of the State Banking Commissioner.

9 G. Public trusts created pursuant to this section shall file
10 annually, with their respective beneficiaries, copies of financial
11 documents and reports sufficient to demonstrate the fiscal activity
12 of such trust, including, but not limited to, budgets, financial
13 reports, bond indentures, and audits. Amendments to the adopted
14 budget shall be approved by the trustees of the public trust and
15 recorded as such in the official minutes of such trust.

16 H. Contracts for construction, labor, equipment, material or
17 repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be
18 awarded by public trusts to the lowest and best competitive bidder,
19 pursuant to public invitation to bid, which shall be published in
20 the manner provided in the preceding section hereof; the
21 advertisements shall appear in the county where the work, or the
22 major part of it, is to be done, or the equipment or materials are
23 to be delivered, or the services are to be rendered; provided,
24 however, should the trustee or the trustees find that an immediate

1 emergency exists, which findings shall be entered in the journal of
2 the trust proceedings, by reason of which an immediate outlay of
3 trust funds in an amount exceeding Fifty Thousand Dollars
4 (\$50,000.00) is necessary in order to avoid loss of life,
5 substantial damage to property, or damage to the public peace or
6 safety, then the contracts may be made and entered into without
7 public notice or competitive bids; provided that the provisions of
8 this subsection shall not apply to contracts of industrial and
9 cultural trusts. Notwithstanding the provisions of this subsection,
10 equipment or materials may be purchased by a public trust directly
11 from any contract duly awarded by this state or any state agency
12 under the Oklahoma Central Purchasing Act, or from any contract duly
13 awarded by a governmental entity which is the beneficiary of the
14 public trust.

15 I. Any public trust created pursuant to the provisions of this
16 section shall have the power to acquire lands by use of eminent
17 domain in the same manner and according to the procedures provided
18 for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes.
19 Any exercise of the power of eminent domain by a public trust
20 pursuant to the provisions of this section shall be limited to the
21 furtherance of public purpose projects involving revenue-producing
22 utility projects of which the public trust retains ownership;
23 provided, for public trusts in which the State of Oklahoma is the
24 beneficiary the exercise of the power of eminent domain may also be

1 used for public purpose projects involving air transportation.
2 Revenue-producing utility projects shall be limited to projects for
3 the transportation, delivery, treatment, or furnishing of water for
4 domestic purposes or for power, including, but not limited to the
5 construction of lakes, pipelines, and water treatment plants or for
6 projects for rail transportation. Any public trust formed pursuant
7 to this section which has a county as its beneficiary shall have the
8 power to acquire, by use of eminent domain, any lands located either
9 inside the county, or contiguous to the county pursuant to the
10 limitations imposed pursuant to this section.

11 J. Provisions of this section shall not apply to entities
12 created under Sections 1324.1 through 1324.26 of Title 82 of the
13 Oklahoma Statutes.

14 K. Any trust created under this act, in whole or in part, to
15 operate, administer or oversee any county jail facility shall
16 consist of not less than five members and include a county
17 commissioner and the county sheriff, or their designee, and one
18 member appointed by each of the county commissioners. The appointed
19 members shall not be elected officials.

20 SECTION 2. This act shall become effective November 1, 2016.
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