

1 **SENATE FLOOR VERSION**

2 February 22, 2016

3 SENATE BILL NO. 1011

By: Justice of the Senate

4 and

5 Osborn of the House

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

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

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

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

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

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

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

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

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

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

22 D. No public trust in which the State of Oklahoma is the
23 beneficiary may be amended without a two-thirds (2/3) vote of
24 approval of the trustees of the trust; provided, that any amendment

1 is subject to the approval of the Governor of the State of Oklahoma.
2 Any amendments shall be sent to the Governor within fifteen (15)
3 days of their adoption.

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

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

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

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

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

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

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

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

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

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

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
23 February 22, 2016 - DO PASS
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