

1 **SENATE FLOOR VERSION**

2 March 3, 2022

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1529

By: Leewright of the Senate

and

Dobrinski of the House

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

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

3 Section 24-104. ~~(a)-(i)~~ A. 1. Election Committee. The
4 Oklahoma Municipal Power Authority shall be governed by a Board of
5 Directors consisting of seven members or such greater number, but in
6 no event more than eleven members, as provided in the bylaws of the
7 Authority as in effect from time to time. Members of the Board of
8 Directors of the Authority shall be eligible to succeed themselves
9 and shall be elected by the election committee as hereinafter
10 provided in this section. On or before the 90th day following ~~the~~
11 ~~effective date of this act~~ June 2, 1981, each of those eligible
12 public agencies which shall have, prior to such 90th day, by proper
13 resolution of its governing body or its public trust, declared its
14 intention to participate, or to have any public trust operating its
15 electric system participate, with the Authority in the development
16 of power supply resources, shall designate one person as its
17 representative on the election committee. All such resolutions of
18 declaration of intention to participate with the Authority shall be
19 filed with the Secretary of State and shall be presented to the
20 election committee at its first meeting which shall be held in the
21 office of the Municipal Electric Systems of Oklahoma at 11:00 a.m.
22 on the first Tuesday following such 90th day. At such meeting the
23 election committee shall organize and elect a chairman and such
24 other officers as may be desirable in the determination of the

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

3 ~~(ii)~~ 2. 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)~~

13 3. Bylaws of the Authority.

14 ~~(A)~~

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

1 ~~(B)~~

2 b. The bylaws of the Authority shall provide the
3 following:

4 (1) the time, place, manner of calling, notice,
5 quorum and voting provisions, and other
6 procedural rules for regular and special meetings
7 of the election committee of the Authority~~†~~†

8 (2) the time, place, manner of calling, notice,
9 quorum and voting provisions, and other
10 procedural rules for regular and special meetings
11 of the Board of Directors of the Authority~~†~~†

12 (3) provisions for the number, election, term of
13 office and removal of members of the Board of
14 Directors and for filling vacancies on the Board
15 of Directors~~†~~†

16 (4) the titles, duties and manner of election,
17 removal and replacement of officers of the
18 Authority~~†~~†

19 (5) provisions governing when the Authority may
20 dissolve and the disposition of property of the
21 Authority and the procedures to be followed in
22 the event of such a dissolution~~†~~†; provided,
23 however, that any such dissolution shall not
24

1 violate the provisions of Section ~~19 hereof;~~ 24-
2 119 of this title, and

3 (6) such other rules for regulating the affairs of
4 the Authority as the election committee or the
5 Board of Directors may deem necessary or
6 advisable.

7 ~~(iv)~~

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

19 ~~(b)~~

20 B. Additional Members of Election Committee. Each eligible
21 public agency declaring its intention, by proper resolution of its
22 governing body, to participate, or to have any public trust
23 operating its electric system participate, with the Authority in the
24 development of power supply resources ~~after the 90th day following~~

1 ~~the effective date of this act~~ shall promptly file such resolution
2 with the Secretary of State and give written notice to the Authority
3 of the adoption of such resolution and shall then designate one
4 person as an additional member of the election committee whose term
5 shall begin with the first meeting of the election committee which
6 is held following the expiration of ten (10) days from the date of
7 receipt of notice of the adoption of such resolution by the
8 Authority. Members of the election committee shall serve at the
9 pleasure of the governing body of the eligible public agency by
10 which they were appointed.

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

13 Section 24-105. Definitions. As used in ~~this act~~ Section 24-
14 101 et seq. of this title the following words shall have the
15 following meanings unless the context clearly indicates otherwise:

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

23 ~~(b)~~ B. "Board of Directors" shall mean the Board of Directors
24 elected by the election committee as set forth in Section ~~4~~ 24-104

1 of this ~~act~~ title which shall exercise all the powers and manage and
2 control all the affairs and property of the Authority unless
3 otherwise specifically provided herein or in the bylaws of the
4 Authority as in effect from time to time.

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

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

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

1 cooperative or business trust of any nature whatsoever organized and
2 existing under the laws of the United States or any state; or (vi)
3 any foreign country, any political subdivision or governmental unit
4 of any foreign country or any corporation, not for profit
5 corporation, firm, partnership, cooperative association, electric
6 cooperative or business trust of any nature whatsoever organized and
7 existing under the laws of any foreign country or of any political
8 subdivision or governmental entity thereof.

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

1 ~~components of equipment or if the plant is to consist of an~~
2 ~~additional unit at the site of an already existing unit which will~~
3 ~~use in common any of the existing facilities at such site.~~

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

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

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

23 ~~(b)~~ B. The Authority may plan, finance, acquire, construct,
24 reconstruct, own, lease, operate, maintain, repair, improve, extend

1 or otherwise participate, individually or jointly with other
2 persons, in one or more projects, proposed, existing or under
3 construction, and may act as agent, or designate one or more
4 persons, whether or not participating in a project, to act as its
5 agent, in connection with the planning, financing, acquisition,
6 construction, reconstruction, ownership, lease, operation,
7 maintenance, repair, extension or improvement of the project.

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

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

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

21 ~~(f)~~ F. The Authority may perform any act authorized by ~~this act~~
22 the Oklahoma Municipal Power Authority Act through, or by means of,
23 its officers, agents or employees or by contract with any person,
24 including, without limitation, the employment of engineers,

1 architects, attorneys, appraisers, financial advisors and such other
2 consultants and employees as may be required in the judgment of the
3 Board of Directors, and fix and pay their compensation from funds
4 available to the Authority therefor.

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

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

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

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

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

1 any bonds issued prior to, at the same time as, or after entering
2 into such arrangement, and containing such terms and provisions, and
3 may be with such parties, as determined by the Authority. Provided,
4 any action taken by the Authority pursuant to this subsection must
5 first be approved by the Office of the ~~State Bond Advisor~~ Deputy
6 Treasurer for Debt Management and the Council of Bond Oversight
7 pursuant to the provisions of the Oklahoma Bond Oversight and Reform
8 Act.

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

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

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

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

23 ~~(p)~~ P. The Authority may contract with any eligible public
24 agency, any public trust, or any other person for the sale of power

1 and energy, transmission services, power supply development services
2 or other services within or without ~~the State of Oklahoma~~ this state
3 on such terms and conditions as the Board of Directors shall
4 approve. Any such contract may be for the sale of output and
5 services of a particular project or may be for output and services
6 generally without regard to a specific project and may be for the
7 supply of a specific quantity of output or a percentage of the
8 output of a specific project or other specific facility or may be
9 based on the requirements of the purchaser or may be on such other
10 terms and conditions as the Board of Directors deems appropriate.

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

1 or to hedge fixed or variable interest rate exposure associated with
2 permitted investments, including any option to enter into or
3 terminate any of them, that the Authority deems to be necessary or
4 desirable, and containing such terms and provisions, and may be with
5 such parties, as determined by the Authority.

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

1 agent or parties thereto or by such other means as may be determined
2 by the parties thereto; and provisions for a method or methods of
3 determining and allocating, among or between the parties, costs of
4 construction, operation, maintenance, renewals, replacements,
5 improvements and disposals with respect to such project. In
6 exercising its power to participate in a project as a joint owner
7 with one or more persons, the Authority may not loan its credit to
8 any person which is a joint owner of such project; provided,
9 however, the appropriate allocations of the costs of construction,
10 operation, maintenance, renewals, replacements, improvements and
11 disposals with respect to such project between the Authority and
12 such persons shall not be a loan of credit by the Authority to such
13 persons. In carrying out its functions and activities as such agent
14 with respect to construction, operation and maintenance of a
15 project, such agent shall be governed by the laws and regulations
16 applicable to such agent as a separate legal entity and not by any
17 laws or regulations which may be applicable to any of the other
18 participating parties. Notwithstanding anything contained in any
19 other law to the contrary, pursuant to the terms of any such
20 agreement, the Authority may delegate its powers and duties with
21 respect to the construction, operation and maintenance of such
22 project to the person acting as agent; and all actions taken by such
23 agent in accordance with the provisions of such agreement may be

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1 made binding upon the Authority without further action or approval
2 by the Authority.

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

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

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

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

20 ~~(w)~~ W. Notwithstanding any other provision herein seemingly to
21 the contrary, the Authority may not sell output (i) at retail to the
22 ultimate consumers thereof, or (ii) to any municipality which does
23 not ~~qualify as an eligible public agency under the definition set~~
24 ~~forth in subsection (d) of Section 24-105 of this title, or (iii) to~~

1 ~~any trust created and existing under the provisions of the Local~~
2 ~~Industrial Development Act, as provided by Sections 651 et seq. of~~
3 ~~Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of~~
4 ~~Public Functions Law, as provided by Sections 176 et seq. of Title~~
5 ~~60 of the Oklahoma Statutes, which does not qualify as a public~~
6 ~~trust under the definition set forth in subsection (g) of Section~~
7 ~~24-105 of this title~~ own an electrical energy distribution system.

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

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

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

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

3 | SECTION 6. REPEALER 11 O.S. 2021, Section 24-105.1, is
4 | hereby repealed.

5 | SECTION 7. REPEALER 11 O.S. 2021, Section 24-114, is
6 | hereby repealed.

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

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

10 | COMMITTEE REPORT BY: COMMITTEE ON ENERGY
11 | March 3, 2022 - DO PASS AS AMENDED

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