

An Act

ENROLLED SENATE
BILL NO. 1529

By: Leewright of the Senate

and

Dobrinski of the House

An Act relating to the Oklahoma Municipal Power Authority Act; amending 11 O.S. 2021, Section 24-104, which relates to members; removing certain time restraint; updating statutory language; amending 11 O.S. 2021, Section 24-105, which relates to definitions; modifying definitions; amending 11 O.S. 2021, Section 24-107, which relates to powers, rights, and privileges of Authority; updating statutory language; removing certain entities to which the Authority may not sell output; removing requirement that the Authority be subject to the Competitive Bidding Act; amending 11 O.S. 2021, Section 24-116, which relates to meetings and records; updating statutory reference; amending 11 O.S. 2021, Section 24-117, which relates to 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.

SUBJECT: Oklahoma Municipal Power Authority

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:

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

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

~~(iii)~~

3. Bylaws of the Authority.

~~(A)~~

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

~~(B)~~

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

- (1) the time, place, manner of calling, notice, quorum and voting provisions, and other procedural rules for regular and special meetings of the election committee of the Authority; and
- (2) the time, place, manner of calling, notice, quorum and voting provisions, and other procedural rules for regular and special meetings of the Board of Directors of the Authority; and
- (3) provisions for the number, election, term of office and removal of members of the Board of Directors and for filling vacancies on the Board of Directors; and
- (4) the titles, duties and manner of election, removal and replacement of officers of the Authority; and
- (5) provisions governing when the Authority may dissolve and the disposition of property of the Authority and the procedures to be followed in the event of such a dissolution; and provided, however, that any such dissolution shall not

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

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

~~(iv)~~

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

~~(b)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(f)~~ F. The Authority may perform any act authorized by ~~this act~~ the Oklahoma Municipal Power Authority Act through, or by means of, its officers, agents or employees or by contract with any person, including, without limitation, the employment of engineers, architects, attorneys, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the

Board of Directors, and fix and pay their compensation from funds available to the Authority therefor.

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

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

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

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

~~(k)~~ K. The Authority may borrow money and issue negotiable bonds, secured or unsecured, in accordance with ~~this act~~ Section 24-101 et seq. of this title, and may enter into interest rate swaps and other derivative products, and other financial instruments intended to hedge interest rate risk or manage interest rate costs, including any option to enter into or terminate any of them, that the Authority deems to be necessary or desirable in connection with any bonds issued prior to, at the same time as, or after entering into such arrangement, and containing such terms and provisions, and may be with such parties, as determined by the Authority. Provided, any action taken by the Authority pursuant to this subsection must first be approved by the Office of the ~~State Bond Adviser~~ Deputy Treasurer for Debt Management and the Council of Bond Oversight pursuant to the provisions of the Oklahoma Bond Oversight and Reform Act.

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

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

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

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

~~(p)~~ P. The Authority may contract with any eligible public agency, any public trust, or any other person for the sale of power and energy, transmission services, power supply development services or other services within or without ~~the State of Oklahoma~~ this state on such terms and conditions as the Board of Directors shall approve. Any such contract may be for the sale of output and services of a particular project or may be for output and services generally without regard to a specific project and may be for the supply of a specific quantity of output or a percentage of the output of a specific project or other specific facility or may be based on the requirements of the purchaser or may be on such other terms and conditions as the Board of Directors deems appropriate.

~~(q)~~ Q. The Authority may enter into any contract or agreement necessary, appropriate or incidental to the effectuation of its lawful purposes and the exercise of the powers granted by ~~this act,~~ the Oklahoma Municipal Power Authority Act including, without limitation, contracts or agreements for the purchase, sale, exchange, interchange, wheeling, pooling, transmission or storage of electric power and energy, and fuel and other supplies of any kind for any such purposes, within and without ~~the State of Oklahoma~~ this state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, on such terms and for such period of time as the Board of Directors determines, and derivative or other instruments intended to hedge fuel cost risk associated with any projects or power purchases or supply arrangements of the Authority, or to hedge fixed or variable interest rate exposure associated with permitted investments, including any option to enter into or terminate any of them, that the Authority deems to be necessary or

desirable, and containing such terms and provisions, and may be with such parties, as determined by the Authority.

~~(r)~~ R. In any case in which the Authority participates in a project as a joint owner with one or more persons, the Authority may enter into an agreement or agreements with respect to such project with the other person or persons participating therein, and any such agreement may contain such terms, conditions and provisions consistent with the provisions of the act as the parties thereto shall deem to be in their best interest. Any such agreement may include, but need not be limited to, provisions defining what constitutes a default thereunder and providing for the rights and remedies of the parties thereto upon the occurrence of such a default deemed appropriate by the Board of Directors including, to the extent deemed appropriate, the acquisition by nondefaulting parties of all or any part of the defaulting party's interest; provisions setting forth such restraints on alienation of the interests of the parties in the project as the Board of Directors deems appropriate; provisions for the construction, operation and maintenance of such electric generation or transmission facility by any one or more of the parties to such agreement which party or parties shall be designated in or pursuant to such agreement as agent or parties thereto or by such other means as may be determined by the parties thereto; and provisions for a method or methods of determining and allocating, among or between the parties, costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project. In exercising its power to participate in a project as a joint owner with one or more persons, the Authority may not loan its credit to any person which is a joint owner of such project; provided, however, the appropriate allocations of the costs of construction, operation, maintenance, renewals, replacements, improvements and disposals with respect to such project between the Authority and such persons shall not be a loan of credit by the Authority to such persons. In carrying out its functions and activities as such agent with respect to construction, operation and maintenance of a project, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating parties. Notwithstanding anything contained in any other law to the contrary, pursuant to the terms of any such agreement, the Authority may delegate its powers and duties with

respect to the construction, operation and maintenance of such project to the person acting as agent; and all actions taken by such agent in accordance with the provisions of such agreement may be made binding upon the Authority without further action or approval by the Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the Senate the 9th day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____