ENGROSSED HOUSE
BILL NO. 2346

BY: COTNER and WIDENER of the HOUSE

and

CAPPS of the SENATE

AN ACT RELATING TO WATER AND WATER RIGHTS; CREATING THE OKLAHOMA IRRIGATION DISTRICT ACT; AMENDING 82 O.S. 1991, SECTIONS 277.1, 277.2, 277.3, 277.4, 277.5, 277.6, 277.7, 277.8, 277.9, 277.10, 277.11, 277.12, 277.14, 277.15, 277.16, 277.17, 277.18, 277.19, 277.20, 277.21, 277.23 AND 277.24, WHICH RELATE TO IRRIGATION DISTRICTS; MODIFYING TERMS; PROVIDING FOR CREATION OF DISTRICTS; MODIFYING PETITIONS AND PROCEDURES; MODIFYING POWERS OF THE OKLAHOMA WATER RESOURCES BOARD; PROVIDING FOR BYLAWS; MODIFYING CONTENTS; PROVIDING FOR ELECTION OF DIRECTORS; SPECIFYING QUALIFICATIONS; PROVIDING FOR AND MODIFYING POWERS AND DUTIES OF THE BOARDS; REQUIRING PROCEDURES FOR PLAN OF OPERATIONS OR AMENDMENTS THERETO; MODIFYING DETERMINATION AND COLLECTION OF ASSESSMENTS; REQUIRING CERTAIN REPORTS; AUTHORIZING LIENS; PROVIDING PROCEDURES; REQUIRING CERTAIN ELECTIONS FOR CERTAIN PURPOSES; REQUIRING NOTICE; REQUIRING MEETINGS; PROVIDING FOR CERTAIN DECISIONS UPON CERTAIN CONDITIONS; PROVIDING FOR PROCEDURES FOR RECLASSIFICATION OF LAND; PROVIDING FOR APPEALS; MAKING CERTAIN RESOLUTIONS VOID; REQUIRING CERTAIN PAYMENTS;

PROVIDING FOR REDIVIDING OF CERTAIN DISTRICTS; AUTHORIZING CERTAIN TRANSFER AND SUBSTITUTIONS OF LAND; PROVIDING PROCEDURES; CLARIFYING LANGUAGE; AMENDING 51 O.S. 1991, SECTION 152, WHICH RELATES TO THE GOVERNMENTAL TORT CLAIMS ACT; ADDING IRRIGATION DISTRICTS AS POLITICAL SUBDIVISIONS; REPEALING 82 O.S. 1991, SECTIONS 277.13 AND 277.22, WHICH RELATE TO CERTAIN TOLLS AND CHARGES AND ENLARGEMENT OF DISTRICTS; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 277 of Title 82, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 25 of this act shall be known and may be cited as the "Oklahoma Irrigation District Act".

SECTION 2. AMENDATORY 82 O.S. 1991, Section 277.1, is amended to read as follows:

Section 277.1 As used in ~~this act~~ the Oklahoma Irrigation District Act:

1. "District" ~~shall mean~~ means an irrigation district, organized under the laws of ~~the State of Oklahoma~~ this state, including but not limited to those which have a contract with ~~the State of Oklahoma~~ this state or the United States Government, or agencies thereof, under the reclamation laws for the construction, maintenance and operation of an irrigation system~~.~~;

2. "Board" ~~shall mean~~ means the ~~Oklahoma Water Resources Board.~~ board of directors of an irrigation district;

3. ~~"Directors" shall mean the~~ "Director" means a director of an irrigation district~~.~~;

4. "Assessments" ~~shall mean the assessments~~ means any annual or special fee imposed by an irrigation district for ~~irrigation purposes.~~ the payment of organization, maintenance, operating and current expenses, water charges, cost of construction or improvements, emergency repairs and any other lawful expenditure authorized by the directors or the electors;

5. "Elector" ~~shall mean~~ means any person who is of legal voting age and is the owner in fee or the owner of a life estate in at least ten (10) acres or an undivided interest equaling ten (10) acres of irrigable land within said district or proposed district, or any trustee for a beneficiary or guardian of any ward who owns either in fee or a life estate in at least ten (10) acres of irrigable land; or an executor ~~or~~, administrator or trustee of any estate owning at least ten (10) acres of irrigable land in said district or proposed district. The owner of any remainder of any land subject to a life estate shall not be an elector~~. When the elector owns irrigable land in the division of the district in which he resides he shall be an elector and may serve as a director in that division, but if he does not, or resides outside the district, he shall be an elector and may serve as a director in the division in which the majority of his land is located. The vote of any corporation holding title to land within the district may be cast by said corporation through any officer or agent of said corporation, by presenting to the judge of the election, a certified copy of a resolution of its board of directors authorizing such vote~~;

6. "Irrigable land" ~~shall mean~~ means that land which ~~the owner declares to be subject to being irrigated~~ is principally used for the cultivation of crops or the raising and feeding of livestock where value or use can be enhanced by watering through irrigation channels or systems;

7. "Reclassification" means the process of including or excluding land within the boundaries of an irrigation district; and

8. "Transfer" means the process of substituting land which is assessed for other land within or immediately adjacent to the boundaries of an irrigation district.

SECTION 3. AMENDATORY 82 O.S. 1991, Section 277.2, is amended to read as follows:

Section 277.2 ~~Whenever,~~ If a minimum of ten or a majority of the holders of title to irrigable lands ~~susceptible to irrigation~~ from a common source or combined sources and by the same system or combined systems of works, desire to provide for the irrigation of ~~same~~ such irrigable lands, ~~they~~ the holders may propose the organization of an irrigation district by petition pursuant to the Oklahoma Irrigation District Act.

SECTION 4. AMENDATORY 82 O.S. 1991, Section 277.3, is amended to read as follows:

Section 277.3 The petition shall be signed by the petitioners, filed with the Oklahoma Water Resources Board, and shall contain the following information:

1. A specific description of the lands within the proposed district;

2. The names and addresses of all of the electors within the proposed district as reflected by the records of the county clerk of the county wherein the land is located;

3. The proposed plan of operation and such additional data and information required by rules and regulations of the Oklahoma Water Resources Board;

4. An attached map showing the boundaries of the proposed district; and

5. A ~~prayer~~ request that the district be organized.

SECTION 5. AMENDATORY 82 O.S. 1991, Section 277.4, is amended to read as follows:

Section 277.4 After receipt of the petition, the Oklahoma Water Resources Board shall:

1. Set the petition for hearing before a hearing officer in a place of general convenience at the nearest county seat ~~and give~~. The Oklahoma Water Resources Board shall instruct the petitioners to publish, at their expense, notice of said hearing by legal publication for two (2) consecutive weeks in a newspaper of general circulation, published in each county containing lands within the boundaries of the proposed district. Such hearing date shall be set not earlier than ~~twenty (20)~~ thirty (30) days after the last publication date of said notice. In addition, owners of land included in the proposed district, as reflected by the records of the county clerk of the county wherein the land is located, shall be notified by the petitioners of the hearing by registered or certified mail. Such notice shall be mailed at least thirty (30) days prior to the date set for the hearing. ~~Such~~ The notice shall contain:

a. a brief statement describing the purpose of such hearing,

b. a description of the territory to be included within said district, and ~~containing notice to all persons residing or owning property within the proposed district that they may appear and be heard upon~~

c. the date and ~~at~~ the time and place of ~~said~~ the hearing at which all persons residing or owning property within the proposed district may appear and be heard concerning the petition;

2. Permit filing of statements supporting or opposing the same;

3. Approve or deny the petition and plan as the Oklahoma Water Resources Board deems advisable;

4. Include or exclude lands within the district, upon application of the owners thereof, provided the Oklahoma Water

Resources Board finds that it is in the best interest of the district and the owners of such land;

5. If the organization of the district is approved, issue an order describing the boundaries of the district ~~and naming the district~~. The order shall be filed of record within thirty (30) days after the date of issuance by the Oklahoma Water Resources Board in the office of the county clerk of each county or counties wherein lands included within the district are located; and

6. Call a meeting, and instruct the petitioners to give notice by mail of ~~a~~ such meeting, of the district electors for the purpose of adopting bylaws and electing directors.

SECTION 6. AMENDATORY 82 O.S. 1991, Section 277.5, is amended to read as follows:

Section 277.5 A. 1. Any elector in the division of the district in which he resides may serve as a director in that division.

2. If an elector does not own irrigable land in the division of the district in which he resides, or resides outside the district, such elector may serve as a director in the division in which the majority of his land is located.

B. At the time and place established by the Oklahoma Water Resources Board for the first meeting of the electors of the district, the electors shall~~:~~

~~1. Adopt~~ adopt bylaws ~~which shall be submitted to the Water Resources Board for its approval or rejection~~. In addition to any other provisions normally and properly included in bylaws, ~~said~~ the bylaws shall ~~require~~, at a minimum, include provisions regarding the following:

~~a. an annual meeting of the electors,~~

~~b. notice of each annual or special meeting to be given by mail to each elector not less than ten (10) days prior to the meeting,~~

~~c. limit each elector to one (1) vote,~~

~~d. provide that the term of office of each member elected at the organizational meeting shall be until the date of either the first, second or third annual meeting of the electors and successors shall be elected for three-year terms, and~~

~~e. remaining directors may fill a vacancy on the board of directors to serve only until the next annual meeting at which time the electors shall elect a director to complete the term;~~

~~2. Elect a board of directors of not less than three (3) members nor more than nine (9) with directors elected from divisions approximately equal in land area and in number of electors;~~

~~3. Adopt an official seal; and~~

~~4. Conduct such other business as may be necessary for the proper organization of the district.~~

1. Establishing the district's name and principal place of business;

2. Requiring an annual meeting of electors and providing that a notice of such annual meeting be given, by mail, to each elector not less than fifteen (15) days prior to the annual meeting;

3. Requiring special meetings of electors and providing that a notice of such special meeting be given, by mail, to each elector not less than fifteen (15) days prior to the special meeting;

4. Requiring that the electors pursuant to the provisions of this section shall:

a. establish qualifications and a process to elect a board of directors. The board of directors shall be composed of not less than five members nor more than nine. The board of directors shall be elected from divisions approximately equal in land area and number of electors. A director shall be twenty-one (21)

years of age or older and an elector in the district, and

b. set the director's terms of office. The terms of office of the initial board shall be until the date of the first, second, or third annual meeting of the electors. Successors shall be elected for terms of three (3) years. For any vacancy on the board due to resignation, death, or any cause resulting in an unexpired term, the board shall appoint a person to complete such unexpired term;

5. Requiring that any director who ceases to qualify as an elector or a director during his term of office shall immediately cease to be a director and his office shall be vacant;

6. Requiring that a director may be removed from his office by:

a. a majority vote of the electors in the electing division at any time, and for any reason at an election called upon a petition signed by at least sixty percent (60%) of the electors of the division, or

b. the district judge having jurisdiction of the district for dishonesty, incompetency or failure to perform the duties imposed upon him pursuant to the Oklahoma Irrigation District Act;

7. Requiring that each elector be entitled to one vote on any election, motion, resolution or proposal properly brought for vote before the electors;

8. Providing that each elector may vote in person, by proxy or by absentee ballot by procedures established and supervised by the directors; and

9. Providing for setting and modification of assessments.

C. Following the adoption of bylaws, the electors shall conduct such other business as may be necessary for the proper organization of the district including but not limited to:

1. Electing a board of directors pursuant to the district's bylaws; and

2. Adopting an official seal.

D. 1. Following the first meeting of electors, the board shall submit the initial bylaws to the Oklahoma Water Resources Board for their approval or disapproval. The Oklahoma Water Resources Board shall either approve or disapprove the bylaws within sixty (60) days after receiving written notification and a copy of the bylaws from the board. The failure of the Oklahoma Water Resources Board to disapprove the bylaws within sixty (60) days shall constitute approval.

2. Upon any subsequent modification or amendment of the bylaws by the electors, the modified or amended bylaws shall be submitted to the Oklahoma Water Resources Board for their approval or disapproval in the same manner and subject to the same conditions as the initial bylaws. Any modification or amendment of existing bylaws shall not become effective until the Oklahoma Water Resources Board has approved such modifications or amendments in whole, in part or as otherwise authorized by the Oklahoma Water Resources Board.

SECTION 7. AMENDATORY 82 O.S. 1991, Section 277.6, is amended to read as follows:

Section 277.6 ~~Upon election, the board of directors of the district:~~

~~1. Shall~~ A. Each director of the board shall take and subscribe to the official oath of office and execute a surety bond to the district conditioned upon the faithful discharge of ~~their~~ his duties~~;~~.

~~2. Shall elect a president and vice-president from its members and elect or appoint a secretary-treasurer who shall be bonded;~~

~~3. Shall manage and conduct the business affairs of the district, make and execute all necessary contracts, employ such agents, officers and employees as may be required and prescribe their duties and compensation, establish equitable rules and regulations for the distribution and use of water among the owners of lands within the district, and generally perform all such acts as shall be necessary to conduct the affairs of the district;~~

~~4. Shall include each year, as part of any levy, assessment, toll or charge, an amount sufficient to meet all payments accruing under the terms of any contract;~~

~~5. Shall hold regular and special meetings, all of which must be public except meetings dealing with personnel;~~

~~6. Shall maintain records that are open to the public of all business of the district;~~

~~7. Shall, on or before the first of September of each year, determine the amount of money required for the ensuing year to meet construction obligations, maintenance, operating and current expenses; and determine the levies, tolls or charges necessary to provide the amount of money to pay the same;~~

~~8. Shall collect tolls and charges for water used;~~

~~9. Shall call special elections and submit to district electors a summary of the proposed plans of construction or improvements, tolls or charges proposed to be assessed or a range of tolls or charges proposed to be assessed on all lands and water users within the district to pay for the construction or improvement, and the maximum amount of principal indebtedness which may be incurred relating to such construction or improvement. Such amount may include additional amounts as required for the establishment of a reasonable reserve and the payment of costs of issuance and underwriter's discount. The maximum amount of principal~~

~~indebtedness shall not be less than one hundred ten percent (110%) of the estimated cost of such construction or improvement, in order to provide for contingencies. All plans of construction and extensions or modifications thereof shall be submitted to the Water Resources Board for its approval or rejection;~~

~~10. Shall make additional levies, tolls or charges as are necessary to make emergency repairs to the water supply and distribution system of the district and to pay maintenance, operating and current expenses;~~

~~11. Shall let contracts on sealed bids to the lowest and best responsible bidder on construction projects of the district conditioned upon the filing of a performance bond equal to one hundred percent (100%) of the contract price for the faithful performance of the contract;~~

~~12. Shall cause an independent auditor to prepare and furnish an annual certified audit of the financial condition of the district for the preceding year to the Water Resources Board, the electors and creditors;~~

~~13. May establish and maintain a reserve fund;~~

~~14. May commence an action in the district court to declare the validity of the establishment of the district or any act thereof;~~

~~15. May admit new lands into the district, with the consent of the owners thereof and the Water Resources Board by filing in the office of the county clerk wherein the land is located within thirty (30) days after the issuance an amended order issued by the Water Resources Board; or may release lands within the district, with the consent of the owners thereof, the Water Resources Board and any bondholders of the district, by filing in the office of the county clerk wherein the land is located within thirty (30) days after date of issuance an amended order issued by the Water Resources Board;~~

~~16. May, for the purposes of the district acquire by purchase, lease or grant, rights-of-way and improvement locations and release~~

~~the same; enter upon lands for the making of surveys, providing consent for such entry is first obtained; condemn lands in accordance with the procedure provided for condemnation of land by railroad corporations; provided that the acquisition or relocation of the property or facilities of public service corporations shall be accomplished as provided for by 69 O.S. 1971, Section 1722; purchase and acquire leases of water rights, make application for appropriations of water; construct, use, maintain, repair and improve canals, wells, reservoirs and water supply and distribution facilities and appurtenances of all kinds; and enter into contracts and obligations with the State of Oklahoma and the United States under the provisions of the Federal Reclamation Act and all other state and federal acts for the acquisition of water supply and distribution facilities. The power of eminent domain shall not be exercised to acquire water rights unless the land is acquired in fee. Oil, gas and minerals shall not be subject to the power of eminent domain, except to the extent necessary to prevent activities adversely affecting the purposes of the district;~~

~~17. May accept appointment of the district as fiscal agent of the United States or State of Oklahoma, or authorization of the district by the United States or State of Oklahoma to make collection of money for and on behalf of the United States or State of Oklahoma in connection with any federal or state project, and assume the duties and liabilities incident to such action, and do any and all things required by rules and regulations now or hereafter established by any agency or department of the federal or state government in regard thereto;~~

~~18. May perform any lawful act necessary to provide sufficient water to each elector in the district;~~

~~19. May institute, maintain and defend any and all actions, suits and proceedings, in person or by counsel, in the name of the district;~~

~~20. May receive a maximum of Twenty-five Dollars ($25.00) per day, not exceeding fifty (50) days each year, mileage at the rate of nine cents ($0.09) per mile and actual and necessary expenses while engaged on official business of the district;~~

~~21. May issue warrants for ninety percent (90%) of the assessment for the year of issuance and for all accumulated surplus from previous years;~~

~~22. May provide for the proper drainage of all lands affected by the operations of the district;~~

~~23. May submit a plan of dissolution to the electors of the district, provided such plan makes provision for payment of indebtedness and distribution of any assets among electors of the district;~~

~~24. May procure water either inside or outside of the State of Oklahoma;~~

~~25. May sell and dispose of the property of the district if provision is made for the payment of indebtedness thereon and consent is obtained from all lienholders. All property except easements shall be sold by sealed bid to the highest bidder but the Board has the right to reject all such bids. When real property has been acquired by the district through the exercise of the power of eminent domain or the imminent threat thereof and the district has determined that it shall be sold, then the immediate former owner, or his heirs at law or devisees, as the case may be, shall have the first option to repurchase the property at the price at which the property was purchased from the owner. When such property is not needed for immediate use, the former owner, or his heirs at law or devisees, as the case may be, shall have first option to lease the property until such time as the property is actually needed for district purposes;~~

~~26. May borrow money and issue special assessment bonds or notes, in such principal amounts as do not exceed the maximum amount~~

~~voted by the electors. All such bonds or notes may bear interest at such fixed or variable rate or rates, in any combination, as may be determined by the board of directors of the district. Provided, the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum; and~~

~~27. May accept gifts of money, property and services.~~

B. The board shall:

1. Elect a president or chairman and vice-president or vice-chairman from its members and elect or appoint a secretary-treasurer. The secretary-treasurer of the board shall be bonded;

2. Conduct its business in open meeting, pursuant to the Oklahoma Open Meeting Act;

3. Maintain its records pursuant to the Oklahoma Open Records Act, except those records which are considered private or confidential under applicable laws of the United States;

4. Have standing to appear before any court of this state. Such standing shall extend to all matters germane to the powers and duties of the district including but not limited to questions of the validity of the establishment and operation of the district, contracts and collection of delinquent assessments;

5. On a date specified by the board, each year, prepare a budget, estimating the amount of money required for the ensuing year to meet all obligations of the district and determine the assessments necessary to pay those obligations. Assessments may be modified or adopted by the Board when determined necessary;

6. Determine collection procedures for all assessments imposed by the district. Assessments may be set by the board for all expenses of the district including the establishment and maintenance of a reserve fund, provided, however, that any assessments for construction or improvements and the principal indebtedness and interest which may be incurred relating thereto shall be approved by vote of the electors. The amount approved by the electors for

construction or improvements may include additional amounts necessary for the establishment of a reasonable reserve and the payment of costs of issuance and underwriters' discount. The maximum amount of principal indebtedness and interest shall not be less than one hundred ten percent (110%) of the estimated cost of such construction or improvement, in order to provide for contingencies. All plans of construction and improvements shall be submitted to the Oklahoma Water Resources Board;

7. Let contracts for public improvements or public construction projects of the district. Such improvements or construction projects shall be on sealed bids to the lowest and best responsible bidder and shall be conditioned upon the filing of a performance bond equal to one hundred percent (100%) of the contract price for the faithful performance of the contract except as otherwise provided by the Public Competitive Bidding Act;

8. Cause an independent auditor to prepare and furnish an annual certified audit of the financial condition of the district for the preceding year to the board. A copy of such audit shall be submitted to the Oklahoma Water Resources Board, and made available to the electors and creditors of the district; and

9. In the best interests of the entire district, establish a written comprehensive and reasonable plan of operation for the release, distribution, and use of water among the owners of lands within the district. Prior to the adoption of any final plan of operation or amendments thereto, the board shall provide for a meeting on the proposed or modified plan of operation. Notice of the intended action shall be mailed to the electors. Copies of the plan or amendments thereto shall be made available, at no charge, to the electors. The board shall fully consider all written and oral submissions respecting the plan or amendments thereto. A final plan of operation or amendments thereto shall be submitted to the electors for approval at the annual meeting or at a special meeting

of the electors called for such approval. Upon approval of such plan or amendments thereto, the plan or plan as amended shall constitute the official plan of operation for the district. Copies of the official plan of operation for the district shall be made available to the public.

C. The board shall have the power and authority to:

1. Manage and conduct the business affairs of the district;

2. Make and execute all necessary contracts;

3. Organize as a municipal corporation;

4. Employ such agents, officers and employees, including but not limited to a manager, as may be required and prescribe their duties and compensation;

5. Institute, maintain and defend any and all actions, suits and proceedings, in person or by counsel, in the name of the district;

6. Appear before the Oklahoma Water Resources Board to protest any application not in conformity with the district's plan of operation or not in the best interests of the district;

7. Perform any lawful act necessary to provide sufficient water to each elector in the district;

8. Provide for the proper drainage of all lands affected by the operations of the district;

9. Procure water either inside or outside of this state;

10. Develop comprehensive plans for efficient use of streams and groundwater and the control and prevention of waste. Such plans shall be filed with the Oklahoma Water Resources Board for informational purposes only;

11. Reclassify or authorize transfer of existing lands of the district as provided in the Oklahoma Irrigation District Act;

12. For the purposes of the district:

a. acquire by purchase, lease or grant, rights-of-way and improvement locations, and release such acquired

interests, provided that the acquisition or release of the property or facilities of public service corporations shall be accomplished as provided for by Section 1722 of Title 69 of the Oklahoma Statutes,

b. enter upon lands for the making of surveys, provided consent for such entry is first obtained,

c. condemn lands in accordance with the procedure provided for condemnation of land by railroad corporations. The power of eminent domain shall not be exercised to acquire water rights unless the land is acquired in fee. Oil, gas and minerals shall not be subject to the power of eminent domain, except to the extent necessary to prevent activities adversely affecting the purposes of the district,

d. purchase and acquire leases of water rights,

e. make application for appropriations of water,

f. construct, use, maintain, repair and improve canals, wells, reservoirs and water supply and distribution facilities and appurtenances of all kinds, and

g. enter into contracts and obligations with this state and the United States under the provisions of the Federal Reclamation Act and all other state and federal acts for the acquisition of water supply and distribution facilities;

13. Accept the appointment of the district as fiscal agent of the United States or this state, or accept authorization of the district by the United States or this state to make collection of money for and on behalf of the United States or this state in connection with any federal or state project, and assume the duties and liabilities incident to such action, and do any and all things required by rules and regulations now or hereafter established by

any agency or department of the federal or state government in regard thereto;

14. Accept gifts of money, property and services;

15. Sell and dispose of the property of the district if provision is made for the payment of indebtedness thereon and consent is obtained from all lienholders:

a. all property except easements shall be sold by sealed bid to the highest bidder but the board has the right to reject all such bids,

b. if real property has been acquired by the district through the exercise of the power of eminent domain or the imminent threat thereof and the district has determined that such property shall be sold, the immediate former owner, or his heirs at law or devisees, as the case may be, shall have the first option to repurchase the property at the price at which the property was purchased from the owner,

c. if any property acquired by the district through the exercise of the power of eminent domain or the imminent threat thereof is not needed for immediate use, the former owner, or his heirs at law or devisees, as the case may be, shall have first option to lease the property until such time as the property is actually needed for district purposes;

16. Make surveys;

17. Carry out research projects;

18. Upon vote of the electors, construct dams and drainage systems;

19. Upon vote of the electors, install pumps and equipment to recharge underground basins and subbasins;

20. Upon vote of the electors, purchase real property;

21. Upon vote of the electors, borrow money and issue special assessment bonds or notes, in such principal amounts as do not exceed the maximum amount voted by the electors. All such bonds or notes may bear interest at such fixed or variable rate or rates, in any combination, as may be determined by the directors of the district. Provided, the average coupon rate thereon shall in no event exceed fourteen percent (14%) per annum;

22. Appoint committees of electors to undertake studies and report to the board upon any issue germane to the operations and management of the district; and

23. Generally perform all such acts as shall be necessary to conduct the affairs of the district.

D. The provisions of this section shall not be construed to affect or supercede any laws of this state relating to the authority or the jurisdiction of any agency of this state or political subdivision of this state to implement their respective duties pursuant to law, but shall be held and construed as auxiliary and supplementary thereto.

SECTION 8. AMENDATORY 82 O.S. 1991, Section 277.7, is amended to read as follows:

Section 277.7 A. Each year, the board ~~of directors~~ shall determine the ~~assessment to be levied~~ assessments for the ensuing year~~, which assessment shall be on land only and shall not include any improvements, personal property, structures, facilities or equipment of whatsoever kind or nature located upon said lands~~.

B. 1. Except as otherwise provided by this subsection, the county treasurer shall be responsible for the collection of any assessments and delinquent assessments made pursuant to the provisions of the Oklahoma Irrigation District Act. Such assessments shall be collected as other special assessments according to law. The special assessment book maintained pursuant to subsection E of this section shall be the county treasurer's

warrant and authority to demand and receive the assessments and delinquent assessments plus interest due and owing. Such ~~assessment~~ assessments shall become due, payable and delinquent at the same time ad valorem taxes are due, payable and delinquent.

2. The Board may collect any assessments and delinquent assessments upon written notice to the county treasurer of such collection procedure and as provided for in the official plan of operation for the district. Such assessments shall be due, payable and delinquent on a specific date set by the board annually.

C. Any assessments remaining unpaid after they become delinquent shall bear a penalty of one and one-half percent (1 1/2%) per month, or any part of a month, from the date of delinquency until paid.

~~Such annual levy~~ D. 1. Assessments collected by the county treasurer shall be certified not later than the first of October of each year to the county treasurer of the county in which the property is situated.

2. Assessments to be collected by the board which become delinquent shall be certified to the county treasurer of the county in which the property is situated.

E. 1. The certificate shall be substantially ~~as herein provided.~~

~~The certificate~~ in the following form and shall set forth a table or schedule showing in properly ruled columns:

~~1. The~~ a. the names of the owners of the property, which may be as they appear in the petition to establish the district until evidence is furnished the district of a change in ownership~~;~~,

~~2. The~~ b. the description of the property opposite the names of the owners~~;~~,

~~3. The~~ c. the total amount of ~~the annual assessment~~ all assessments on the property~~;~~,

~~4. The~~ d. the total amount of all delinquent ~~tolls and charges for the use of water~~ assessments on the property~~;~~,

~~5. The total assessment against the land for the year;~~

~~6. A~~ e. a blank column in which the county treasurer shall record ~~the amounts~~, as applicable, the delinquent assessments collected~~;~~ by the district or the assessments and delinquent assessments collected by the county treasurer,

~~7. A~~ f. a blank column in which the county treasurer shall record the date of payment~~;~~ of the amount due and owing to the district, and

~~8. A~~ g. a blank column in which the county treasurer shall report the name of the person who paid the amount due and owing to the district.

2. The certificate and report shall be prepared in triplicate in a book named "Assessment Book of Irrigation District No.___, or District Name _____, _____ County, Oklahoma". This district number or name shall also be printed at the top of each page.

3. Two copies of the certificate shall be forwarded to the county treasurer of the county wherein the land is located. The county treasurer shall receive the certificate as a special assessment book, and shall certify it as other special assessment records ~~and shall collect the assessment according to law. The special assessment book shall be the treasurer's warrant and authority to demand and receive the assessment due; and it~~.

4. It shall be unlawful for any county treasurer to accept payment of the ad valorem taxes levied against any property described therein until the owner has been notified that there is a special assessment noted in the special assessment book.

SECTION 9. AMENDATORY 82 O.S. 1991, Section 277.8, is amended to read as follows:

Section 277.8 ~~The~~ A. If the county treasurer of each county in which lands of the district are located collects any assessments and delinquent assessments, the county treasurer shall make monthly reports of the sums collected. On the first day of each month, the county treasurer shall issue a warrant payable to the district for all sums collected. The county treasurer shall make a report to the district, immediately after October 31 of each year, of the total sums collected and of the assessments not collected for the preceding year.

~~All assessments remaining unpaid after they become delinquent shall bear a penalty of one percent (1%) per month, or any part of a month, from the date of delinquency until paid.~~

B. If the board collects assessments and delinquent assessments, the board shall make monthly reports of the sums collected. The board shall make a report to the district, at the annual meeting of the electors, of the total sums collected and of the assessments not collected for the preceding year.

SECTION 10. AMENDATORY 82 O.S. 1991, Section 277.9, is amended to read as follows:

Section 277.9 A. 1. All assessments and all costs and expenses of collecting them shall constitute a lien on the lands against which the assessments have been levied. Such lien shall attach the date the assessment certificate is filed in the office of the county treasurer and shall continue until paid. Such lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other liens.

2. Delinquent assessments ~~shall~~ to be collected by the county treasurer pursuant to Section 277.7 of this title shall be collected in the same manner and at the same time as delinquent ad valorem

taxes are collected. Any tax sale shall include all charges, and such lien may be evidenced by any ad valorem tax sale certificate including said charge substantially in the form required by law.

3. For delinquent assessments to be collected by the board pursuant to Section 277.7 of this title, any actions by the board to enforce a lien established pursuant to this section shall be maintained in the same manner as actions to enforce a mortgage or deed of trust.

B. If any assessment is declared invalid, the board ~~of directors~~ shall immediately amend all proceedings, remedy all defects or irregularities and make and provide for the collection of new assessments.

C. Unless expressly declared to the contrary, no warranty deed or deed made pursuant to a judicial sale shall warrant against any portion of any assessment or assessments levied ~~hereunder~~ pursuant to this section except installments due before the date of such deed.

SECTION 11. AMENDATORY 82 O.S. 1991, Section 277.10, is amended to read as follows:

Section 277.10 Money judgments against the district shall be satisfied in the manner provided in Sections 365.1 through 365.6 of Title 62 of the Oklahoma Statutes, ~~1971,~~ for paying judgments against county or other municipal subdivisions of ~~the State of Oklahoma and the~~ this state. The district is authorized to levy special assessments to carry out ~~this provision~~ the provisions of this section.

SECTION 12. AMENDATORY 82 O.S. 1991, Section 277.11, is amended to read as follows:

Section 277.11 A. When the board ~~of directors~~ calls an election and submits to the electors ~~of the district~~ the question whether or not a construction plan and an assessment shall be levied to raise money to be used for any of the purposes provided in ~~this~~

~~act, such~~ the Oklahoma Irrigation District Act, the election shall be called upon notice and ~~the election~~ shall be held and the result thereof determined and declared in all respects in conformity with the bylaws of the district.

B. The notice ~~must~~ shall specify:

1. the proposed construction plan~~,~~;

2. the total amount of money proposed to be raised~~,~~;

3. the purpose for which it is intended to be used~~,~~;

4. the maximum annual assessments proposed to be levied; and

5. the number of years the assessment shall continue.

C. The ballots shall contain the words "Construction and Assessment - Yes" and "Construction and Assessment - No." If a majority of the votes are "Construction and Assessment - Yes," the Board shall, at the time of the annual levy thereunder, levy an assessment sufficient to raise the amount payable.

SECTION 13. AMENDATORY 82 O.S. 1991, Section 277.12, is amended to read as follows:

Section 277.12 No water shall be delivered to any land on which there are delinquent ~~levies, tolls or charges~~ assessments owed to the district. Before any water user who has been delinquent is entitled to the delivery of water, ~~he~~ such water user shall procure from the secretary-treasurer a certificate that all ~~levies, tolls and charges~~ assessments have been paid.

SECTION 14. AMENDATORY 82 O.S. 1991, Section 277.14, is amended to read as follows:

Section 277.14 Any irregularity or error in a description of land shall not be deemed jurisdictional if the land can otherwise be identified.

SECTION 15. AMENDATORY 82 O.S. 1991, Section 277.15, is amended to read as follows:

Section 277.15 ~~All~~ No claims ~~against~~ for goods or services shall be paid by the district ~~shall be verified before a notary~~

~~public as true and correct. Before the claim is approved, an employee of the district who has knowledge of the delivery of materials must certify that the materials were received or services were furnished as represented by said claim. After claims have been approved by the directors, warrants shall be issued thereon, signed by the president and countersigned by the secretary-treasurer. Claims against any fund shall not be allowed or warrants issued in any amount greater than previously determined and appropriated by the directors for that year~~ until the claims have been allowed by the board. The claims shall be paid only upon warrants signed by the manager and countersigned by the secretary-treasurer. The warrants shall state the date authorized by the board and for what purpose. No warrant shall be issued or obligation incurred unless the district has sufficient funds on hand to pay such warrant when it is presented for payment. The district shall keep records of each warrant as issued and as presented for payment, showing the date and amount of such warrant, to whom payable, the date of the presentation for payment, and the date of payment. All warrants shall be drawn payable to the claimant or bearer.

SECTION 16. AMENDATORY 82 O.S. 1991, Section 277.16, is amended to read as follows:

Section 277.16 Two or more districts desiring to consolidate into one district may file a petition with the Oklahoma Water Resources Board and shall attach the following:

1. A certified resolution authorizing the same approved by the board of directors of all the districts;

2. A certified resolution authorizing the same approved by the electors of the districts in a meeting called in each district for that purpose;

3. Approval by the bondholders of the districts; and

4. Any additional data and information required by rules and regulations of the Oklahoma Water Resources Board.

After receipt thereof, the Oklahoma Water Resources Board may approve or disapprove the petition as it deems advisable. If the petition is approved, an amended order shall be issued and filed of record in the office of the county clerk of each county or counties wherein lands included within the consolidated district are located within thirty (30) days after date of issuance.

SECTION 17. AMENDATORY 82 O.S. 1991, Section 277.17, is amended to read as follows:

Section 277.17 ~~Property~~ A. All property, owned or purchased by ~~districts formed hereunder~~ a district, both real and personal and reasonably necessary to accomplish the purposes of the district, shall be exempt from ~~all excise taxes of whatsoever kind or nature; and further, districts shall be exempt from payment of assessments in any general or special taxing district levied upon the property of said district, whether real, personal or mixed. Any and all securities and evidences of indebtedness issued by a district created pursuant to this act and the income interest and capital gains thereon shall not be subject to the income tax laws of this state and persons owning or holding said securities and evidences of indebtedness or their heirs, devisees, successors, or assigns shall not be required to pay to the State of Oklahoma income tax upon the profits and capital gains upon said securities and evidences of indebtedness~~ taxation by this state, or by any municipal corporation, county or other political subdivision or taxing district of this state. All property, products and benefits sold, leased or furnished by a district shall be exempt from sales tax.

B. All bonds, notes and warrants and the interest thereon issued pursuant to the provisions of the Oklahoma Irrigation District Act shall be exempt from taxation by this state or by any municipal corporation, county or other political subdivision or taxing district of this state.

C. 1. All districts organized under the provisions of the Oklahoma Irrigation District Act shall be exempt from the payment of sales and use taxes on purchases and use of tangible personal property in this state.

2. Districts shall be exempt from payment of the vehicle excise tax levied on the transfer for first registration of vehicles purchased and used in this state.

SECTION 18. AMENDATORY 82 O.S. 1991, Section 277.18, is amended to read as follows:

Section 277.18 A. Upon petition by twenty-five percent (25%) of the electors of a district, the board ~~of directors~~ shall call a special election to determine whether the district should be dissolved and a settlement of its financial obligations made.

B. The election shall be conducted as provided by the bylaws of the district. If the electors vote to dissolve the district, the ~~directors~~ board shall immediately notify all persons having claims against the district of the result of such election and shall adjust, settle and pay all claims.

C. If the amount realized from the sale of district property, together with other money of the district, is insufficient to pay the indebtedness of the district, assessments shall continue to be made against the land in the district until all obligations are paid.

D. Within thirty (30) days after all the property of the district has been disposed of and all of its obligations have been paid, the ~~directors of the district~~ board shall file a certificate of dissolution in the office of the county clerk of each county in which the district is located, and in the office of the Oklahoma Water Resources Board. The certificate shall be signed by the president and attested by the secretary-treasurer, with the seal of the district affixed. The certificate shall state that the district

has disposed of its property, has been dissolved and shall describe the lands released from the district.

SECTION 19. AMENDATORY 82 O.S. 1991, Section 277.19, is amended to read as follows:

Section 277.19 If a district is inactive, the district judge of the county ~~wherein~~ in which the greater part of the district is situated may designate a board of directors who shall act with the same authority and in the same manner in dissolving the district as if ~~they~~ such board had been duly elected officers of the district.

SECTION 20. AMENDATORY 82 O.S. 1991, Section 277.20, is amended to read as follows:

Section 277.20 The district shall hold title to its property in its corporate name for the uses and purposes of the district unless required to hold title in some other name or manner by the United States or this state. The formation of a district shall not transfer water rights to the district under lands included within the district. Any district which contracts with the State of Oklahoma or the United States may convey district property, with or without consideration, if such property is needed by ~~the State of Oklahoma~~ this state or the United States in connection with the construction, operation or maintenance of an irrigation project.

SECTION 21. AMENDATORY 82 O.S. 1991, Section 277.21, is amended to read as follows:

Section 277.21 A. Except for contracts of employment, directors and employees shall not be interested, directly or indirectly, in any contract entered into by the district unless the district court of the county wherein the principal office of the district is located considers the contract, the interest of such persons therein and approves the execution thereof.

B. Directors and employees shall not ~~receive any bonus, gratuity or bribe. They shall not spend funds of the district, directly or indirectly, for political purposes or political~~

~~educational purposes, shall not engage in political campaigns in the name of the district, and shall not permit any property of the district to be used for any such purpose. Any violation of this section shall be deemed a felony, shall work a forfeiture of office or employment and shall be punishable by a fine not exceeding Five Hundred Dollars ($500.00), or by imprisonment in the penitentiary not exceeding five (5) years, or both~~:

1. Directly or indirectly accept or request any compensation, gift, loan, entertainment, favor, or service given for the purpose of influencing such director and employee in the discharge of his official duties;

2. Directly or indirectly spend district funds or permit any property of the district to be used for political campaigns;

3. Engage in political campaigns in the name of the district;

4. Disclose confidential information acquired by reason of their official positions to any person, group, or others not entitled to receive such confidential information; or

5. Use confidential information acquired by reason of their official position for their personal gain or benefit.

C. A director shall immediately forfeit his office in the event he sues the district for any action, directly or indirectly, related to the operation of the district.

D. The failure of a director or employee to comply with these prohibitions shall constitute a willful neglect of duty and shall be grounds for removal from office.

E. Every person who knowingly and willfully violates this section shall, upon conviction, be guilty of a misdemeanor, and shall be punished by the imposition of a fine of not more than One Thousand Dollars ($1,000.00), or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 22. AMENDATORY 82 O.S. 1991, Section 277.23, is amended to read as follows:

Section 277.23 A. A municipality may become an elector in the district by action of the council or trustees in execution of the petition by the mayor or chairman and attestation by the clerk. The mayor or chairman may cast one vote on behalf of such municipality in all district elections and shall agree to pay an amount equal to the assessments against lands owned or held in trust by such municipality. Membership by such municipality shall not prevent residents therein who are qualified pursuant to the provisions of the Oklahoma Irrigation District Act from being electors of the district.

B. A corporation may become an elector in the district by action of its board of directors and execution of the petition by its president and chairman and attestation by its secretary-treasurer. The president or chairman may cast one vote on behalf of such corporation in all district elections and shall agree to pay an amount equal to the assessments against lands owned or held in trust by such corporations.

C. The United States or the State of Oklahoma or any agency or instrumentality thereof, and the Commissioners of the Land Office, may become electors in districts organized ~~hereunder~~ pursuant to the Oklahoma Irrigation District Act and are authorized to agree to pay an amount equal to the assessments against lands owned or held in trust by such governmental entity, agency, instrumentality or department responsible for the supervision of land within a district, shall have one vote in the district and may exercise such vote through the chief officer of such agency or his designated representative.

SECTION 23. AMENDATORY 82 O.S. 1991, Section 277.24, is amended to read as follows:

Section 277.24 The provisions of ~~this act~~ the Oklahoma Irrigation District Act shall not apply to the taking, use, or disposal of salt water associated with the exploration, production and recovery of oil and gas.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 277.25 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The reclassification of land within any irrigation district now or hereafter organized under the provisions of the Oklahoma Irrigation District Act, may be changed in the manner prescribed by this section. Such reclassification shall not impair or affect the irrigation district's organization, or its rights in or to property or any of its rights or privileges of whatsoever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it or the owner of lands therein were or might become liable or chargeable had such reclassification not been made.

B. The holder or holders of title or evidence of title of any body of land situated within the boundaries of any irrigation district, may file with the board a petition in writing, requesting that such land be reclassified. The petition shall describe the tracts or body of land owned by the petitioners. The petition shall be deemed to give the assent of the petitioners to the reclassification in said district of the lands described in the petition and such petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged.

C. 1. Upon the filing of a petition for reclassification and payment, by the petitioners to the secretary-treasurer, of sufficient monies to pay the costs of all proceedings on the petition, the secretary-treasurer of the district shall cause notice of such petition to be published once in a newspaper published in the county where the office of the directors is situated. If any

portion of said district or land lies within another county or counties then said notice shall be published in a newspaper published within each of said counties. The notice shall inform the public of:

a. the filing of such petition,

b. the description of the lands mentioned in said petition which are desired to be reclassified in the district,

c. the reason for reclassification, and

d. a meeting at which all persons interested may appear at the office of the board at the time named in said notice and show cause, if any, why said petition should be granted or denied.

2. The directors shall consider the petition at any regular or special meeting of the board and at the established office and place of business of the district upon a date not earlier than ten (10) days after the publication of the notice.

3. A copy of the notice, as published, shall be by the secretary-treasurer of the district mailed to each and all of the then owners of the tracts or parcels of land proposed to be reclassified. The notice shall be so mailed not later than ten (10) days prior to the date set for the hearing.

D. The board at the time and place mentioned in the notice shall proceed to hear and consider any written comments which may have theretofore been filed by any person interested in said petition for reclassification, and arguments, if any, by persons interested, in support or opposition to the petition.

E. 1. If, after giving due consideration, the board determines that:

a. the reclassification is not in the best interest of the district,

b. the reclassification will impair the current or future needs of the then existing electors, or

c. the land is not irrigable, not suitable for irrigation or not otherwise necessary for the irrigation district,

the board shall, by resolution, order that the petition be denied. The resolution shall be included in the minutes of the regular or special meeting of the board held for such purpose.

2. If, after giving due consideration, the board determines that:

a. the reclassification is in the best interest of the district,

b. the reclassification will not impair the current or future needs of the existing electors, and

c. the land is irrigable, is suitable for irrigation or is otherwise necessary for the irrigation district,

the board shall, by resolution, reclassify the lands mentioned in the petition or determine that some defined portion thereof be reclassified. The resolution shall be included in the minutes of the regular or special meeting of the board held for such purpose.

3. If, within thirty (30) days from the making of such determination, three-fourths (3/4) of the qualified electors of the district, in writing to the board, protest against the determination of the board, such determination shall be void.

F. 1. When the reclassification of land is commenced by petition, the board to whom such petition is presented may require as a condition precedent to the granting of the same that the petitioners severally pay to the district such respective sums, as nearly as the same can be estimated by the board, as the petitioners or their grantors would have been required to pay for:

a. their pro rata share of all bonds and the interest thereon which may have previously thereto been issued

by said district had the lands been included in the district at the time the same was originally formed or when the bonds were so issued, and

b. irrigation works or water rights purchased other than by issue of bonds.

2. The board shall prepare an itemized expenditure listing of such costs incurred which shall also include information detailing how any such estimated sums were determined.

G. 1. Upon the reclassification of land in the district and if no protest has been filed with the board within thirty (30) days after the entry of said resolution as provided in subsection E of this section, a certified copy of the minutes of the board making such change, and a plat of such district showing such change, certified by the president or chairman and secretary-treasurer, shall be filed for record in the office of the county clerk of each county in which the lands of the district are situated. The district shall remain an irrigation district as fully to all intents and purposes as if the lands which were reclassified in the district had been included or excluded at the organization of the district. The district as so changed and all the lands therein shall be liable for all existing obligations and indebtedness of the organized district.

2. Upon filing of the copies of the minutes and the plat, copies thereof, certified by said county clerk, shall be admissible in evidence to prove the reclassification of said lands in the district.

H. 1. Lands within the boundaries of the district may also be reclassified by resolution of the board. Notice of the resolution to reclassify shall be given in the same manner as if the reclassification were by petition of the landowners except that the district shall bear all costs of publication and of the proceedings. The board at the time and place mentioned in the notice shall

proceed to hear and consider any written objections which may have theretofore been filed by any person interested in the reclassification, and arguments, if any, by persons interested in support or opposition to the resolution.

2. The board shall give the same consideration required by subsection E of this section for determining whether the lands specified in the resolution should be reclassified. If, after the proceeding provided by this section, the board determines that the lands specified in the resolution should be reclassified, the board shall adopt the resolution. The resolution shall be included in the minutes of any regular or special meeting of the directors held for such purpose.

3. If, within thirty (30) days from the meeting of such determination, three-fourths (3/4) of the qualified electors of the district protest in writing to the board against the reclassification, the reclassification shall be void.

4. If any owner of the property reclassified pursuant to this subsection disputes the reclassification of such land, the owner may appeal the decision of the district court of the county having jurisdiction over the lands specified by the resolution.

I. In case of reclassification of any lands by proceedings under this section, the board shall, at least thirty (30) days prior to the next succeeding regular election, make an order redividing such district for the purpose of electing directors to ensure equality in land area and number of electors.

J. In case of the reclassification of any lands by proceedings under this section, the owners of the reclassified lands if they are to become assessable irrigable lands shall pay the reasonable costs of construction necessary to commence water delivery to said lands.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 277.26 of Title 82, unless there is created a duplication in numbering, reads as follows:

A landowner who owns assessed irrigable land which is no longer useful or suitable for irrigation may transfer and substitute such land for other land owned by such landowner within the district or to land outside of but adjacent to the district when such transfer is approved by the board of directors of the district. The unsuitable land from which the transfer is made shall become nonirrigable land and the land to which the transfer is made shall become irrigable land.

SECTION 26. AMENDATORY 51 O.S. 1991, Section 152, is amended to read as follows:

Section 152. As used in ~~this act, Section 151 et seq. of this title~~ the Governmental Tort Claims Act:

1. "Action" means a proceeding in a court of competent jurisdiction by which one party brings a suit against another.

2. "Agency" means any board, commission, committee, department or other instrumentality or entity designated to act in behalf of the state or a political subdivision.

3. "Claim" means any written demand presented by a claimant or his authorized representative in accordance with this act to recover money from the state or political subdivision as compensation for an act or omission of a political subdivision or the state or an employee.

4. "Claimant" means the person or his authorized representative who files notice of a claim in accordance with this act. Only the following persons and no others may be claimants:

a. any person holding an interest in real or personal property which suffers a loss, provided that the claim of said person shall be aggregated with claims of all other persons holding an interest in the property and the claims of all other persons which are derivative of the loss, and that multiple claimants shall be considered a single claimant,

b. the individual actually involved in the accident or occurrence who suffers a loss, provided that he shall aggregate in his claim the losses of all other persons which are derivative of his loss, or

c. in the case of death, an administrator, special administrator or a personal representative who shall aggregate in his claim all losses of all persons which are derivative of the death.

5. "Employee" means any person who is authorized to act in behalf of a political subdivision or the state whether that person is acting on a permanent or temporary basis, with or without being compensated or on a full-time or part-time basis.

a. Employee also includes:

~~a.~~ (1) all elected or appointed officers, members of governing bodies and other persons designated to act for an agency or political subdivision, but the term does not mean a person or other legal entity while acting in the capacity of an independent contractor or an employee of an independent contractor,

~~b.~~ (2) from September 1, 1991, through June 30, 1996, licensed physicians, licensed osteopathic physicians and certified nurse-midwives providing prenatal, delivery or infant care services to State Department of Health clients pursuant to a contract entered into with the State Department of Health in accordance with paragraph (3) of subsection (b) of Section 1-106 of Title 63 of the Oklahoma Statutes but only insofar as services authorized by and in conformity with the terms of the contract and the requirements of

Section ~~3 of this act~~ 1-233 of Title 63 of the Oklahoma Statutes.

b. For the purpose of this act, the following are employees of this state, regardless of the place in this state where duties as employees are performed:

~~a.~~ (1) physicians acting in an administrative capacity,

~~b.~~ (2) resident physicians and resident interns participating in a graduate medical education program of the University of Oklahoma Health Sciences Center or the College of Osteopathic Medicine of Oklahoma State University,

~~c.~~ (3) faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University, while engaged in teaching duties.

Physician faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University not acting in an administrative capacity or engaged in teaching duties are not employees or agents of the state. However, in no event shall the state be held liable for the tortious conduct of any physician, resident physician or intern while practicing medicine or providing medical treatment to patients.

6. "Loss" means death or injury to the body or rights of a person or damage to real or personal property or rights therein.

7. "Municipality" means any incorporated city or town, and all institutions, agencies or instrumentalities of a municipality.

8. "Political subdivision" means:

a. a municipality,

b. a school district,

c. a county,

d. a public trust where the sole beneficiary or beneficiaries are a city, town, school district or county. For purposes of the Governmental Tort Claims Act, a public trust shall include a municipal hospital created pursuant to Section 30-101 et seq. of Title 11 of the Oklahoma Statutes, a county hospital created pursuant to Section 781 et seq. of Title 19 of the Oklahoma Statutes, or is created pursuant to a joint agreement between such governing authorities, that is operated for the public benefit by a public trust created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes and managed by a governing board appointed or elected by the municipality, county, or both, who exercises control of the hospital, subject to the approval of the governing body of the municipality, county, or both, provided, this subparagraph shall not apply to hospitals or trusts which purchase advertising or which belong to organizations which purchase advertising, in which public funds have been used, in any media the purpose of which is to influence legislation on the civil justice system or to advocate support for or opposition to a candidate for public office,

e. for the purposes of the Governmental Tort Claims Act~~, Section 151 et seq. of this title,~~ only, a housing authority created pursuant to the provisions of the Oklahoma Housing Authority Act, Section 1051 et seq. of Title 63 of the Oklahoma Statutes,

f. for the purposes of the Governmental Tort Claims Act only, corporations organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act for the primary purpose of developing and

providing rural water supply and sewage disposal facilities to serve rural residents,

g. for the purposes of the Governmental Tort Claims Act only, districts formed pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act,

h. for the purposes of the Governmental Tort Claims Act, Section 151 et seq. of this title, only, a fire protection district created pursuant to the provisions of Section 901.1 et seq. of Title 19 of the Oklahoma Statutes,

i. for the purposes of the Governmental Tort Claims Act~~, Section 151 et seq. of this title,~~ only, a benevolent or charitable corporate volunteer or full-time fire department for an unincorporated area created pursuant to the provisions of Section 592 et seq. of Title 18 of the Oklahoma Statutes,

j. for purposes of the Governmental Tort Claims Act~~, Section 151 et seq. of this title,~~ only, an Emergency Services Provider rendering services within the boundaries of a Supplemental Emergency Services District pursuant to an existing contract between the Emergency Services Provider and the Oklahoma State Department of Health. Provided, however, that the acquisition of commercial liability insurance covering the activities of such Emergency Services Provider performed within the State of Oklahoma shall not operate as a waiver of any of the limitations, immunities or defenses provided for political subdivisions pursuant to the terms of the Governmental Tort Claims Act,

k. for purposes of the Governmental Tort Claims Act only, a conservation district created pursuant to the

provisions of Section 1501-101 of Title 82 of the Oklahoma Statutes,

l. for purposes of the Governmental Tort Claims Act, districts formed pursuant to the Oklahoma Irrigation District Act,

and all their institutions, instrumentalities or agencies.

9. "Scope of employment" means performance by an employee acting in good faith within the duties of his office or employment or of tasks lawfully assigned by a competent authority including the operation or use of an agency vehicle or equipment with actual or implied consent of the supervisor of the employee, but shall not include corruption or fraud.

10. "State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality thereof.

11. "Tort" means a legal wrong, independent of contract, involving violation of a duty imposed by general law or otherwise, resulting in a loss to any person, association or corporation as the proximate result of an act or omission of a political subdivision or the state or an employee acting within the scope of employment.

SECTION 27. REPEALER 82 O.S. 1991, Sections 277.13 and 277.22, are hereby repealed.

SECTION 28. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 20th day of February, 1992.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1992.

President of the Senate