

ENROLLED SENATE
BILL NO. 148

BY: TALIAFERRO of the SENATE

and

GRIESER of the HOUSE

AN ACT RELATING TO WATERS AND WATER RIGHTS;
AMENDING 82 O.S. 1981, SECTION 1324.10, AS LAST
AMENDED BY SECTION 2, CHAPTER 124, O.S.L. 1987
(82 O.S. SUPP. 1990, SECTION 1324.10), WHICH
RELATES TO POWERS OF RURAL WATER, SEWER, GAS AND
SOLID WASTE MANAGEMENT DISTRICTS; CLARIFYING
RIGHT OF EMINENT DOMAIN; AND DECLARING AN
EMERGENCY.

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

SECTION 1. AMENDATORY 82 O.S. 1981, Section 1324.10, as last amended by Section 2, Chapter 124, O.S.L. 1987 (82 O.S. Supp. 1990, Section 1324.10), is amended to read as follows:

Section 1324.10 A. Every district incorporated hereunder shall have perpetual existence, subject to dissolution as provided by ~~this act~~, Section 1325.1 et seq. of this title, and shall have power:

1. To sue and be sued, complain and defend, in its corporate name;
2. To adopt a seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;
3. To acquire by purchase, lease, gift, or in any other manner, and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein; and to acquire and own water rights or rights to natural gas under the laws of this state, and to construct, erect, purchase, lease as lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange and mortgage plants, buildings, works, machinery, supplies, equipment, apparatus, facilities, property rights and transportation and distribution lines, facilities, equipment or systems necessary to transport, distribute, sell, furnish and dispose of water or gas, and either subsequent to, or in connection with, the installation of water distribution, sewage facilities, gas distribution facilities or solid waste management system, to construct, operate and maintain sewage disposal facilities or solid waste management system to serve the users of the district. Provided, all projects of the district shall be self-liquidating, and the costs of construction shall be payable solely from the income, revenues, and properties of the district, and all property, assets and revenues of the district shall constitute a special fund for the accomplishment of the purposes and objectives of this act.
4. To borrow money and otherwise contract indebtedness for the purposes set forth in this act, and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and, in

connection with such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require; and to issue its notes or obligations therefor, and to secure the payment thereof by mortgage, pledge or deed of trust on all or any property, assets, franchises, rights, privileges, licenses, rights-of-way, easements, revenues, or income of the said district.

5. To make bylaws for the management and regulation of its affairs.

6. To appoint officers, agents and employees, to prescribe their duties and to fix their compensation; and to employ such common and skilled labor and professional and other services as may be necessary to the proper performance of such work or improvement as is proposed to be done within any such district, and the maintenance thereof.

7. To sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the district.

8. In connection with the acquisition, construction, improvement, operation or maintenance of its transportation, and distribution lines, system, equipment, facilities or apparatus, to use any street, road, alley or highway which is owned or held by the state, or any political subdivision. The location of sewer, gas or water lines or other facilities connected with the water, sewer, gas or solid waste management district in such streets, roads, alleys or highways, must be concurred in by the governing or appropriate bodies of the cities, counties or state, which have jurisdiction over said property. The governing body of any such city, county or state agency may require, as a condition of the governing body's concurrence in the attachment of a gas line to any bridge, underpass or overpass, that such district furnish liability insurance in an amount to be determined by the governing body, covering damage which may be occasioned to such bridge, underpass or overpass, as a result of fire or explosion originating from said gas line. Provided that the relocation or rearrangement of any public utility's or common carrier's facilities of service required to be made to permit or accommodate installation or maintenance of a district's facilities on, across or under any such publicly owned or held real property or interest therein shall be performed at the sole cost of the district.

9. To make any and all contracts necessary or convenient for the exercise of the powers of the district.

10. To fix, regulate and collect rates, fees, rents or other charges for water, gas and any other facilities, supplies, equipment or services furnished by the district. Said rates shall be just, reasonable and nondiscriminatory.

11. No district organized hereunder shall sell or export water or gas under this act outside of the state without consent of the Legislature.

12. To do and perform all acts and things, and to have and exercise any and all powers as may be necessary, convenient or appropriate to effectuate the purposes for which the district is created.

13. To buy from or sell water or gas to any municipality, or to another district created under this act, or to any other legal entity engaged in the distribution and storage of water or gas, provided quantities of water sold do not exceed any vested right of appropriation granted by the Oklahoma Water Resources Board.

14. To enter into contracts with the United States of America, or any agency thereof, or the state, or any political subdivision or

agency thereof, for the construction, operation and maintenance of structures needed to provide water storage to meet present and future anticipated needs and demands of the district.

15. To enter into contracts jointly with any other district, municipality, city or town, the state, the United States of America, or any other governmental agency, or any of them, for the purpose of purchasing water, constructing, acquiring, operating water facilities or purchasing or leasing reservoir space.

16. To enter into contracts for fire protection and to construct, enlarge, extend or otherwise improve community facilities providing essential services to rural residents, including, but not limited to, fire protection, ambulance service, community centers and outdoor recreational facilities.

17. To have and exercise the right of eminent domain in the same manner and according to the procedures provided for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes, provided, that the use of said eminent domain provisions, shall be restricted to the purpose of developing and providing rural gas distribution, water ~~supply~~ works and sewage disposal facilities. Provided, however, no personal or real property, easement or right-of-way of any utility may be acquired by eminent domain.

B. Appropriative rights to water held by the district shall not be alienated or encumbered apart from the alienation or encumbrance of the facilities of the district.

C. The board of directors shall, on or before July 1 of each year, file with the county clerk of each county in which any part of said district is located, an annual report for the preceding calendar year. Such report shall list all monies collected and all monies disbursed during said calendar year. Said report shall also specify any and all indebtedness outstanding at the end of the calendar year.

SECTION 2. 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 Senate the 7th day of March, 1991.

President of the Senate

Passed the House of Representatives the 4th day of April, 1991.

Speaker of the House of Representatives