

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE BILL NO. 2408

By: Widener of the House

and

Harrison of the Senate

An Act relating to waters and water rights; amending  
82 O.S. 1991, Sections 1324.10 and 1324.16, as  
amended by Section 3, Chapter 175, O.S.L. 1994 (82  
O.S. Supp. 1995, Section 1324.16), which relate to  
Rural Water, Sewer, Gas and Solid Waste Management  
Districts Act; clarifying duties of districts;  
providing for construction of certain statute  
relating to continued employment of certain  
district employees; exempting such districts from  
certain laws relating to nepotism; and declaring an  
emergency.

AUTHORS: Add the following House Author and Coauthor: Remove  
Widener as principal House Author, substitute Beutler as  
principal House Author and retain Widener as coauthor

AMENDMENT NO. 1. Page 1, strike the title enacting clause, and  
entire bill and insert

"[ waters and water rights - Rural Water, Sewer, Gas and  
Solid Waste  
Management  
Districts Act -  
emergency]

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

SECTION 1. AMENDATORY 82 O.S. 1991, Section 105.11, as last amended by Section 2, Chapter 112, O.S.L. 1995 (82 O.S. Supp. 1995, Section 105.11), is amended to read as follows:

Section 105.11 A. Upon the acceptance of an application which complies with the provisions of this act, Section 105.1 et seq. of this title, and the rules and regulations established thereunder, the Oklahoma Water Resources Board shall instruct the applicant to publish, within the time required by the Board, a notice thereof, at the applicant's expense, in a form prescribed by the Board in a newspaper of general circulation in the county of the point of diversion, and in a newspaper of general circulation published within the adjacent downstream county and any other counties designated by the Board once a week for two (2) consecutive weeks; provided, however, that the Executive Director of the Board may administratively issue permits to use limited quantities of water pursuant to notice, procedures and for maximum quantities as established by Board rules. Such notice, except for permits to use limited quantities of water, shall give all the essential facts as to the proposed appropriation, among them, the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of applicant, the hearing date, time and place if a hearing is scheduled by the Board before instructions to publish notice are given, and the manner in which a protest to the application may be made. In case of failure to give such notice in accordance with the rules and regulations applicable thereto within the time required, or if such notice is defective, the priority of application shall be lost; however, if proper notice shall be given within thirty (30) days after the Board has given him notice of his failure to give effective and proper notice, the application shall thereafter carry the original date of filing, and

shall supersede any subsequent application to the same source of water supply. Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest.

B. If the Board does not schedule a hearing on the application before instructing the applicant to publish notice, a hearing shall be scheduled by the Board upon receipt of a protest which meets the requirements of the Board's rules, the Board shall notify the applicant and protestant of such hearing.

SECTION 2. AMENDATORY 82 O.S. 1991, Section 1020.8, as last amended by Section 6, Chapter 112, O.S.L. 1995 (82 O.S. Supp. 1995, Section 1020.8), is amended to read as follows:

Section 1020.8 Upon the filing of an application which complies with the provisions of this act, Section 1020.1 et seq. of this title, and the rules and regulations established thereunder, the Oklahoma Water Resources Board shall instruct the applicant to provide notice thereof, at the applicant's expense, and as required by the Board's rules; provided, however, that the Executive Director of the Board may administratively issue permits to use limited quantities of water pursuant to notice, procedures and for maximum quantities as established by Board rules. Such notice, except for permits to use limited quantities of water, shall give all the essential facts as to the proposed taking, among them, the places of taking and of use, amount of water, the purpose for which it is to be used, name and address of applicant, the hearing date, time and place if a hearing is scheduled by the Board before instructions to provide notice are given, and the manner in which a protest to the application may be made. No hearing shall be had upon the application until proper notice shall have been given. Any interested party shall have the right to protest said application and present evidence and testimony in support of such protest. If the Board does not schedule a hearing on the application before

instructing the applicant to provide notice, a hearing on the application shall be scheduled by the Board upon receipt of a protest which meets the requirements of the Board's rules and the Board shall notify the applicant and protestant of such hearing.

SECTION 3. AMENDATORY 82 O.S. 1991, 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 ~~Section 1325.1 et seq. of this title~~ the Rural Water, Sewer, Gas and Solid Waste Management Districts Act, and shall have power to:

1. ~~To sue~~ Sue and be sued, complain and defend, in its corporate name;
2. ~~To adopt~~ Adopt a seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;
3. ~~To acquire~~ 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~~ 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~~ Make bylaws for the management and regulation of its affairs-;

6. ~~To appoint~~ 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~~ 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~~ Make any and all contracts necessary or convenient for the exercise of the powers of the district-;

10. ~~To fix~~ 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~~ 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~~ 12. 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~~ 13. 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~~ 14. 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~~ 15. 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-; and

~~17. To have~~ 16. 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 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. No district organized hereunder shall sell or export water or gas under this act outside of the state without consent of the Legislature.

C. 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 4. AMENDATORY 82 O.S. 1991, Section 1324.16, as amended by Section 3, Chapter 175, O.S.L. 1994 (82 O.S. Supp. 1995, Section 1324.16), is amended to read as follows:

Section 1324.16 A. Except as otherwise provided by law:

1. The term of office of every member elected to an original board shall be until the date of the annual meeting of the participating members of either the first, second or third year following the year of the incorporation of the district and until their successors are elected and have qualified, and as nearly as possible the terms of an equal number of directors on any such board shall expire on each of said dates;;

2. At the annual meeting of each year after the year of the election of the original board members, elections shall be held to elect directors to fill any position on the board, the term of office of which has expired, and any director so elected shall hold office for a term of three (3) years and until his successor is elected and has qualified;; and

3. For the purpose of election of board members and for such other purposes as the bylaws may prescribe, annual meetings of participating members shall be held by each district each year following the year of incorporation of such district. The board of directors shall cause notice of the time and place of each annual

meeting and the purpose thereof to be given to each of its participating members. Each participating member shall be entitled to a single vote, regardless of the number of benefit units to which he has subscribed.

B. ~~Provided, from~~ 1. Beginning January 1, 1995, a requirement for qualification to serve as a board member for a rural water district shall be a written pledge that upon election such board member shall attend a minimum of six (6) hours of workshop training to be offered periodically on a regional basis within twelve (12) months following election of such board member, and to be organized by the Oklahoma Water Resources Board in cooperation with the Oklahoma Rural Water Association with the purpose of study and instruction in areas of district financing, law, and the ethics, duties and responsibilities of district board members; ~~provided further, that said.~~ Such requirement shall not apply to any board member who has had at least one (1) year of experience prior to the date of the board election as a member of the district board to which membership is sought.

2. The district shall reimburse all reasonable expenses incurred by any board member for attending such training workshop.

3. To avoid members having to interfere with their jobs or employment, such training sessions may be divided into three-hour segments, and insofar as possible be scheduled for evening sessions. Vocational-technical facilities, college facilities or other public facilities may be utilized in all parts of the state for convenience of the members. Such workshops must be offered within seventy-five (75) miles of the members' residences.

C. Upon the election of a board member, the provisions of Sections 481 through 487 of Title 21 of the Oklahoma Statutes shall not prohibit any employee already in the service of the district from continuing in such service or from promotion therein.

SECTION 5. 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 3rd day of April, 1996.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_, 1996.

Speaker of the House of Representatives