

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2197

By: Steidley of the House

and

Easley of the Senate

COMMITTEE SUBSTITUTE

(Waters and water rights - amending 82 O.S., Section
1324.2 - Rural Water, Sewer, Gas and Solid Waste
Management District Act - effective date)

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

SECTION 1. AMENDATORY 82 O.S. 1991, Section 1324.2, as amended by Section 1, Chapter 175, O.S.L. 1994 (82 O.S. Supp. 1995, Section 1324.2), is amended to read as follows:

Section 1324.2 As used in ~~this act~~ the Rural Water, Sewer, Gas and Solid Waste Management District Act, unless the context clearly requires otherwise:

1. "District" means a public nonprofit water district, a nonprofit sewer district, a public nonprofit natural gas distribution district or a nonprofit solid waste management district or a district for the operation of all or a combination of waterworks, sewage facilities, natural gas distribution facilities and solid waste management systems, created pursuant to ~~this act~~ the Rural Water, Sewer, Gas and Solid Waste Management District Act;

2. "Board" means the governing body of a district;

3. ~~The terms "board~~ "Board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any proposed rural water district, rural sewer district, rural natural gas distribution district or rural solid waste management district is located;

4. "Corporation" means a not-for-profit corporation organized:

- a. pursuant to the provisions of the Oklahoma General Corporation Act for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly to its shareholders or members as such and having no capital stock, and
- b. for the purpose of developing and providing rural water supplies to serve rural residents;

5. "Rural resident" means any natural person, firm, partnership, association, corporation, business trust, federal agency, state agency, state or political subdivision thereof, municipality of ten thousand (10,000) persons or less, or any other legal entity, owning or having an interest in lands within the rural area located within the boundaries of the district;

6. "Rural area" means any area lying outside the corporate limits of any municipal corporation and includes any areas of open country, unincorporated communities, and, with the consent of the governing body thereof by ordinance duly adopted, may include the area within the corporate limits of any municipality having a population of less than ten thousand (10,000) persons according to the last decennial census, when said municipality is one of the petitioners for creation of a district or for the annexation of additional territory as provided by Section 1324.13 of this title; provided, further, that:

- a. when a water, sewer, natural gas or solid waste management district is totally within the municipal city limits of a city with ten thousand (10,000) population or less, the board of directors of the sewer, natural gas, water or solid waste management district shall be the governing body of the town. ~~Provided, further, that,~~
- b. when a city or town with a population of ten thousand (10,000) or less receives the majority of its water from a rural water, natural gas, sewer or solid waste management district, any resident of said city or town shall be eligible to serve on the board of directors. ~~Provided, further, that, and~~
- c. areas lying within the corporate limits of any municipality having a population of more than ten thousand (10,000) persons according to the last decennial census may be included in a water, sewer, natural gas or solid waste management district with the consent of the governing body by ordinance duly adopted when such water, sewer, natural gas or solid waste services are not and cannot be provided in a reasonable time by other sources and any area included within the boundaries of any city, town or village as a result of incorporation, annexations, population growth, or otherwise, in which area a district or corporation commenced or commences the construction or operation of water works, sewage facilities, natural gas distribution facilities, and/or solid waste management facilities or the furnishing of water, gas, sewer, or solid waste services prior to such incorporation, annexation or population growth;

7. "Benefit unit" means a legal right to one service connection to the district's facilities and to participate in the affairs of the district;

8. "Participating member" means any rural resident who has subscribed to one or more benefit units;

9. "Sewage facilities" means the necessary facilities of collection, transportation, storage, treatment or processing and disposal or release of sewage;

10. "Solid waste management system" means the entire process of collection, transportation, storage, processing and disposal of solid wastes;

11. "Water works" means the necessary facilities from the initial source to the place for consumer utilization, and includes supply, storage, treatment, transportation and distribution;

12. "Solid waste" means all putrescible and nonputrescible refuse in solid or semisolid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial wastes and hazardous wastes including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes; and

13. "Gas distribution facilities" means the necessary facilities from the initial source to the place for consumer utilization and includes supply, transportation and distribution.

SECTION 2. 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 District 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 or from the Water Resources Fund operated and maintained by the Oklahoma Water Resources Board or from such other funds authorized by law to provide loans and grants to rural water districts, and, in connection with such loan or grant, to enter into such agreements as

the United States of America, the State of Oklahoma 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-; i

5. ~~To make~~ Make bylaws for the management and regulation of its affairs-; i

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~~ the work or improvement as is proposed to be done within any ~~such~~ district, and the maintenance thereof-; i

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-; i

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~~ the 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~~ the 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~~ the gas line.

Provided that:

- a. 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, and
- b. in case an area has been or shall be included, as a result of incorporation, annexation, population growth, or otherwise within the boundaries of a city, town or village, a district which was furnishing water, gas, sewer and/or solid waste services, or was constructing or operating sewer, gas, water, and/or solid waste management facilities, in such area, prior to such inclusion, shall be entitled to construct, maintain and operate sewer, gas, water, and/or solid waste management facilities connected with water, sewer, gas and/or solid waste management services along, upon, under, and across all existing and future public thoroughfares, and to continue and extend the furnishing of sewer, gas, water, and/or solid waste management services or the construction and operation of sewer, gas, water, and/or solid waste management facilities in such area without obtaining the consent, franchise, license, permit or other authority of such city, town or village subject, however, to compliance with the lawful safety requirements of such city, town or village as to the manner of constructing and maintaining facilities on such thoroughfares, and

subject to payment of taxes of such city, town or village that may be levied and assessed as provided in Section 2601 of Title 68 of the Oklahoma Statutes; and provided further that if such city, town or village in which an area has been or shall be included, as aforesaid, owns and operates a system for the furnishing of electric energy to its inhabitants, the cooperative furnishing electric energy in such area shall transfer to such city, town or village, upon its request, the cooperative's electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, subject, however, to the following requirement: The city, town or village shall pay to the cooperative an amount to compensate the cooperative for the fair value of the cooperative's facilities to be acquired by the city, town or village. If such cooperative and city, town or village cannot agree upon the amount to be paid to the cooperative, the city, town or village is authorized to file a proceeding in the district court of the county in which such city, town or village, or any part thereof, is located, for the acquisition of the cooperative's electric distribution facilities used in furnishing electric energy in said area, other than facilities used in furnishing electric energy for resale or to premises of the cooperative, and the procedure followed and the method of ascertaining just compensation to be paid the cooperative will be as provided in Section 24 of Article 2 of the Oklahoma

Constitution and Sections 53 through 58, inclusive, of
Title 66 of the Oklahoma Statutes;

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~~ The 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~~ 11. 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 pursuant to Rural Water, Sewer, Gas and Solid Waste Management District Act outside of the state without consent of the Legislature.

~~B. C.~~ 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. D.~~ D. 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 3. This act shall become effective November 1, 1996.

45-2-2688

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