

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 1281

By: Gustafson of the Senate

and

Langmacher and Ramsey of  
the House

COMMITTEE SUBSTITUTE

( Public securities - advisors to counties -  
effective date )

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 339.4 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section the following definitions shall apply:

1. An "independent advisor" shall include but not be limited to the following: financial advisor, bond counsel, or attorney. The independent advisor shall be a person knowledgeable of the current market conditions and the Oklahoma financial community and shall have been engaged in services relating to public securities for five (5) or more years. The independent advisor shall render advice concerning the appropriateness of costs, fees and the feasibility of any proposed public security transaction pursuant to this section. The independent advisor shall not have a direct or indirect interest

in the public security transaction other than his or her reasonable fees for advisory services; and

2. A "public security" shall mean a bond, note, certificate of indebtedness or other obligation for the payment of money, issued by a county or public trust where the county is a beneficiary.

B. In all cases where a county or public trust where the county is a beneficiary proposes to issue a public security where sales tax revenue is utilized to retire the indebtedness incurred by the public security, an independent advisor, as defined in this section, shall be hired by the governing body of such county or public trust to render advice pursuant to this section. However, the governing body of the county or public trust may contract with the State Bond Advisor for advice and assistance pursuant to Section 695.9 of Title 62 of the Oklahoma Statutes in lieu of hiring an independent advisor pursuant to this section.

C. An independent advisor, as defined in this section, shall sign, at the time such independent advisor is hired, an affidavit of non-collusion stating that he or she does not have a direct or indirect interest in the public security other than his or her reasonable fee for advisory services. Persons convicted of willfully violating this paragraph shall be guilty of perjury as a felony pursuant to Section 500 of Title 21 of the Oklahoma Statutes.

D. The governing body shall request proposals for an independent advisor, as defined in this section, through a competitive proposal process. The governing body shall publish a notice of the request for proposal at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the governing body of the county or public trust where the county is a beneficiary is located. The notice shall specify a deadline for when proposals shall be submitted. Publication of the notice shall be made prior to this deadline. If no proposals are submitted by the date specified in the notice, then the governing

body may either republish the notice with a new deadline for proposals or terminate the process. The request for proposal shall require information on the qualifications and fees of the independent advisor and such other evaluation factors as chosen by the governing body. All proposals submitted by the offeror(s) shall contain the information that is requested in the request for proposal. The governing body shall review the proposals and shall consider the ability of the offeror(s) to provide the services requested as well as the following factors:

1. Specialized experience in the type of work contemplated;
2. Past performance; and
3. Fees for services.

The governing body shall negotiate a contract for services with the offeror that best meets the requirements of the request for proposal, as determined by the governing body. This offeror shall be the first-choice offeror. If the governing body and the first-choice offeror cannot reach an agreement within a reasonable time as set forth by the governing body, then negotiations shall be terminated and negotiations with the second-choice offeror shall commence. If an agreement cannot be reached with the second-choice offeror, then the governing body may either terminate negotiations and publish a new notice of the request for proposal or may continue negotiations with other offerors, in accordance with this subsection and until an agreement is reached. If negotiations are not terminated, the contract for services shall be awarded to the offeror whose proposal, following negotiations, is determined to be the best offer by the governing body.

SECTION 2. This act shall become effective July 1, 1998.

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