

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1323

By: Easley and Littlefield of
the Senate

and

Hutchison of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to Grand River Dam Authority; amending 82 O.S. 863A, which relates to the Grand River Dam Authority Board of Directors; modifying qualifications for certain board member position; modifying reference to certain Commission; modifying amount of certain contracts requiring approval by Board; creating the Grand Lake Advisory Commission; stating purpose; stating membership; stating terms of office; stating procedures for Commission; authorizing Commission to make certain recommendations; providing for Commission to appoint certain member to Board of Directors; stating eligibility of certain members to serve; creating the Lake Hudson Advisory Commission; stating purpose; stating membership; stating terms of office; stating procedures for Commission; authorizing Commission to make certain recommendations; amending 82 O.S. 2001, Section 862.1, which relates to powers of the Grand River Dam Authority; deleting reference to certain formula for distribution of certain federal funds; and amending 47 O.S. 2001, Section 2-105.6A, which relates to federal boat safety funds; modifying distribution of said funds; amending 82 O.S. 2001, Section 864, which relates to the powers of the Board of Directors of the Grand River Dam Authority; stating requirements for certain employee compensation study; authorizing certain employee compensation in excess of certain maximum; directing certain state agencies to participate in a comprehensive study to determine feasibility of designating Honey Creek as a Scenic River; directing Secretary of Environment to direct study and compile report; stating requirements; stating deadline for report; repealing 63 O.S. 2001, Section 4230.1, which relates to the Grand Lakes Advisory Commission; providing for codification; authorizing marina owners to dispense motor fuel without an attendant or supervisor on duty; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 82 O.S. 2001, Section 863A, is amended to read as follows:

Section 863A. A. The powers, rights, privileges and functions of the Grand River Dam Authority, hereinafter referred to as the district, shall be exercised by a board of nine (9) directors, which includes two ex officio voting members as set out below, herein called the Board, to be appointed by the Governor, by and with the advice and consent of the Senate, all of whom, except as herein specifically provided, shall be residents of the district.

Each director shall annually provide proof of residency by providing the Secretary of the Board a statement verified by the Oklahoma Tax Commission that the board member has filed an Oklahoma state income tax return for the current year. Nothing contained herein shall require a board member or the Oklahoma Tax Commission to produce or disclose an individual board member's income tax return to prove residency.

In the event a board member ceases to be a resident of the district, such office shall be immediately declared vacant and the subsequent appointment shall be made in the same manner as the original appointment. Any board member removed from office for failure to meet the residency requirements herein shall not be eligible for reappointment to the Board.

No more than two (2) directors shall be residents of the same county; provided, that no person shall be eligible for such appointment if the person, during the three (3) years prior to the appointment, has been employed by an investor-owned utility company of any kind or character whatsoever, or has held a federal, state or county office, elective or appointive. Each director, except as herein specifically provided, shall have lived in said district five (5) years prior to appointment of that director.

B. On and after January 1, 1999, as vacancies occur on the Board of Directors of the district, appointments shall be made by the Governor as follows:

1. For the vacancy occurring in January 1999, the rural electric cooperative customers of the district, ~~including which~~ include any rural electric distribution cooperative receiving its electricity from the district and any wholesale generation and transmission cooperative customer of owning or operating electric generation or transmission facilities with the district, including any rural electric distribution cooperative receiving its electricity from any such generation and transmission cooperative, shall meet and select three (3) nominees, which shall be officials of a rural electric cooperative served by the district or a member of any generation and transmission cooperative owning or operating electric facilities with the district, to forward to the Governor within thirty (30) days of the vacancy occurring in January 1999 and thereafter. The Governor shall appoint one person from the list of nominees submitted by the cooperative customers;

2. For the vacancy occurring in January 2000, the municipal customers of the district shall meet and select three (3) nominees, which shall be elected or appointed municipal officials or chief executive officers of a municipality served by the district, to forward to the Governor within thirty (30) days of the vacancy occurring in January 2000 and thereafter. The Governor shall appoint one person from the list of nominees submitted by the municipal customers;

3. For the vacancy occurring in January 2001 and, thereafter, the Governor shall appoint an at-large director;

4. For the vacancy occurring in January 2002, the industrial customers of the district shall meet and select three (3) nominees to forward to the Governor within thirty (30) days of the vacancy occurring in January 2002 and thereafter. The Governor shall

appoint one person from the list of nominees submitted by the industrial customers;

5. For the vacancy occurring in January 2003, the Grand ~~River Dam Authority Lakes~~ Lake Advisory Commission shall meet and select three nominees to forward to the Governor within thirty (30) days of the vacancy occurring in January 2003 and thereafter. The Governor shall appoint one person from the list of nominees submitted by the Lakes Advisory Commission;

6. For the vacancy occurring in January 2004, the President Pro Tempore of the Senate shall submit three (3) nominees to the Governor within thirty (30) days of the vacancy for the appointment to the district of the vacancy occurring in January 2004 and thereafter. In the event the Governor rejects the nominees first submitted by the President Pro Tempore, the Governor may make a one-time request to the President Pro Tempore to submit a list of three different nominees. The Governor shall appoint one person from the nominees submitted by the President Pro Tempore;

7. For the vacancy occurring in January 2005, the Speaker of the House of Representatives shall submit three (3) nominees to the Governor within thirty (30) days of the vacancy for the appointment to the district of the vacancy occurring in January 2005 and thereafter. In the event the Governor rejects the nominees first submitted by the Speaker of the House of Representatives, the Governor may make a one-time request to the Speaker of the House of Representatives to submit a list of three different nominees. The Governor shall appoint one person from the nominees submitted by the Speaker of the House of Representatives;

8. On and after January 1, 1999, the State Bond Advisor or his or her designee, whether a resident of the district or not, shall serve as an ex officio, voting director of the district;

9. On and after January 1, 1999, the Oklahoma State Treasurer or the Treasurer's designee, whether a resident of the district or not, shall serve as an ex officio, voting director of the district.

C. 1. The terms of office of the directors first taking office after January 1, 1999 shall be for a term of seven (7) years and shall expire as provided in this section; one on the second Tuesday of January, 2008; one on the second Tuesday of January, 2009; one on the second Tuesday of January, 2010; one on the second Tuesday of January, 2011; one on the second Tuesday of January, 2012; one on the second Tuesday of January, 2013; and one on the second Tuesday of January, 2014.

2. A successor to a director of the Board shall be appointed in the same manner as the original directors and shall have a term of seven (7) years from the date of the expiration of the term for which the predecessor was appointed.

3. Any director appointed to fill a vacancy on the Board occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

4. No director shall be appointed to more than one full seven-year term; provided, however, that a director may fill the unexpired portion of a term in addition to one full seven-year term.

D. Each director shall qualify by taking the official oath of office prescribed by general statute. Any director may be removed from office for just cause by the Governor.

E. Each director shall have a demonstrated capacity in business, finance or professional fields.

F. Each director shall be allowed actual and necessary expenses incurred by the director in attending the meetings of the Board and in attending to the authorized business of the district pursuant to the State Travel Reimbursement Act. No director shall, at the same

time such director is serving on the Board, hold any other position with the Grand River Dam Authority.

G. The time and place of the regular meetings and the manner in which special meetings may be called shall be set forth in the bylaws of the said Authority. Four directors shall constitute a quorum at any meeting, and, except as otherwise provided in this act or in the bylaws, all action may be taken by the affirmative vote of the majority of the Board present at any such meeting, except that no contracts which involve an amount greater than ~~Five Thousand Dollars (\$5,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00), or which are to run for a longer period than one (1) year, and no bonds, notes or other evidence of indebtedness, and no amendment of the bylaws, shall be valid unless authorized or ratified by the affirmative vote of at least four directors.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 863B of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Grand Lake Advisory Commission. The purpose of the Commission is to provide a forum for interested persons to address issues related to the environmental concerns, recreational use, and economic development of Grand Lake O' the Cherokees on behalf of all lake enthusiasts, property owners and business persons who use, live or work on or around Grand Lake; and to assist the Grand River Dam Authority management and Board of Directors in the proper utilization of shoreline and surface water to enhance the economic development of Grand Lake.

B. The Commission shall consist of twelve (12) members as follows:

1. The General Manager of the Grand River Dam Authority, or designee, who shall serve as a nonvoting, ex officio member; provided, however, the General Manager shall be allowed to vote in case of a tie vote of the Commission;

2. The Executive Director of the Oklahoma Department of Tourism and Recreation, or designee;

3. Two members appointed by the Grove Area Chamber of Commerce, at least one of which must own a waterfront home in the Grand Lake Area, and at least one of which must represent a waterfront business in the Grove area of Grand Lake;

4. Two members appointed by the Monkey Island Association, at least one of which must own a waterfront home in the Grand Lake area, and at least one of which must represent a waterfront business on Monkey Island;

5. Two members appointed by the South Grand Lake Area Chamber of Commerce, at least one of which must own a waterfront home in the South Grand Lake area, and at least one of which must represent a waterfront business in the South Grand Lake area;

6. Two members appointed by the Grand Lake Association, at least one of which must own a waterfront home in the Grand Lake area, and at least one of which must represent a waterfront business on Grand Lake;

7. One member appointed by the Jay Chamber of Commerce; and

8. One member appointed by the Grand Gateway Economic Development Association.

C. No member of the Commission shall be a member of the Oklahoma State Legislature.

D. Members of the Commission shall serve for a term of four (4) years. Any vacancy in the appointive membership of the Commission shall be filled for the unexpired term in the same manner as the original appointment. Appointees to the Commission shall serve at the pleasure of their appointing authorities. Appointing authorities may remove or replace appointees at their discretion.

E. At the first meeting of the Commission, a chair and vice-chair shall be elected from among the membership to serve a term of

one year. The chair shall be authorized to appoint other officers and committees as the Commission deems necessary.

F. The first meeting of the Commission shall be called by the General Manager of the Grand River Dam Authority. Members of the Commission shall be appointed by their respective appointing authorities no later than July 1, 2002. Future meetings of the Commission shall be set by the chair, or in the event of a vacancy in that position, the vice-chair, or by majority vote of the Commission. Staff support and legal representation for the Commission shall be provided by the Grand River Dam Authority.

G. The Grand Lake Advisory Commission may make recommendations regarding changes in state law and agency rules as they deem necessary by a majority vote of the Commission membership. The Commission shall make recommendations to the Grand River Dam Authority Management and the Authority's Assets Committee prior to final action on any dock permit, shoreline construction permit, designation of no-wake zones or changes in boating rules and regulations. The Commission may file reports with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Grand River Dam Authority Board of Directors or management, and the Department of Public Safety Lake Patrol Division as deemed necessary by the Commission.

H. The Commission shall submit a list of three persons who shall have a demonstrated ability in business, finance or professional fields, to the Governor for selection to the Board of Directors of the Grand River Dam Authority pursuant to the provisions of Section 863 of Title 82 of the Oklahoma Statutes.

I. Upon the effective date of this act, the Grand River Dam Authority Lakes Advisory Commission established pursuant to Section 4280 of Title 63 of the Oklahoma Statutes is hereby terminated. Members of that Commission may be eligible for appointment to the Grand Lake Advisory Commission created pursuant to this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 863C of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Lake Hudson Advisory Commission. The purpose of the Commission is to provide a forum for interested persons to address issues related to the environmental concerns, recreational use, and economic development of Lake Hudson on behalf of all lake enthusiasts, property owners and business persons who use, live or work on or around Lake Hudson.

B. The Commission shall consist of nine (9) members as follows:

1. The General Manager of the Grand River Dam Authority, or designee, who shall serve as a nonvoting, ex officio member;
2. The Executive Director of the Oklahoma Department of Tourism and Recreation, or designee;
3. Two members appointed by the Salina Chamber of Commerce;
4. Two members appointed by the City of Salina;
5. Two members appointed by the Lake Hudson Association; and
6. One member appointed by the Grand Gateway Economic Development Association.

C. No member of the Commission shall be a member of the Oklahoma State Legislature.

D. Members of the Commission shall serve for a term of four (4) years. Any vacancy in the appointive membership of the Commission shall be filled for the unexpired term in the same manner as the original appointment. Appointees to the Commission shall serve at the pleasure of their appointing authorities. Appointing authorities may remove or replace appointees at their discretion.

E. At the first meeting of the Commission, a chair and vice-chair shall be elected from among the membership to serve a term of one year. The chair shall be authorized to appoint other officers and committees as the Commission deems necessary.

F. The first meeting of the Commission shall be called by the General Manager of the Grand River Dam Authority. Members of the Commission shall be appointed by their respective appointing authorities no later than July 1, 2002. The Commission shall meet at the call of the chair, or in the absence of a chair, the vice-chair. Future meetings may be established by a majority vote of the Commission but shall not be less than twice annually. Staff support and legal representation for the Commission shall be provided by the Grand River Dam Authority.

G. The Lake Hudson Advisory Commission may make recommendations regarding changes in state law and agency rules as they deem necessary by a majority vote of the Commission membership. The Commission may file reports with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Grand River Dam Authority Board of Directors or management, and the Department of Public Safety Lake Patrol Division as deemed necessary by the Commission.

SECTION 4. AMENDATORY 82 O.S. 2001, Section 862.1, is amended to read as follows:

Section 862.1 A. In addition to the powers, rights and privileges enumerated in Section 862 of ~~Title 82 of the Oklahoma Statutes~~ this title, the Grand River Dam Authority shall be exempt from the provisions of the:

1. Oklahoma Open Records Act, exclusively limited to customer proprietary information the Authority is contractually obligated to keep confidential; and

2. Oklahoma Open Meeting Act, exclusively limited to authorizing the Grand River Dam Authority Board of Directors to confer on matters pertaining to:

- a. coal or gas supply contracts, and
- b. rail or truck transportation contracts.

B. The Grand River Dam Authority is hereby authorized to accept its portion of any federal funds distributed by the Department of Public Safety for the purpose of providing boat safety functions. ~~Such funds will be made available by the Department of Public Safety using a formula based on the number of permanently moored boats located on each of the eligible waters of this state pursuant to the provisions of Section 8 of this act.~~

SECTION 5. AMENDATORY 47 O.S. 2001, Section 2-105.6A, is amended to read as follows:

Section 2-105.6A In addition to the powers, duties and responsibilities authorized by Section 2-105.6 of ~~Title 47 of the Oklahoma Statutes~~ this title, the Department of Public Safety Lake Patrol is hereby directed and authorized to distribute all federal funds, ~~available to~~ received by the Department for boat safety functions, ~~using a formula based on the number of permanently moored boats located on each of the eligible waters of the state, which shall include the waters of the Grand River within the jurisdiction of the Grand River Dam Authority, unless otherwise directed by federal law~~ as follows: beginning in fiscal year 2003, twenty-five percent (25%), in fiscal year 2004, thirty-five percent (35%), and in fiscal year 2005 and thereafter, fifty percent (50%) of all available funds shall annually be distributed by the Department to the Grand River Dam Authority to fund boat safety functions as directed by the Grand River Dam Authority consistent with federal guidelines.

SECTION 6. AMENDATORY 82 O.S. 2001, Section 864, is amended to read as follows:

Section 864. A. 1. The Board of Directors of the Grand River Dam Authority shall select a secretary who shall keep true and complete records of all proceedings of the Board. Until the appointment of a secretary, or in the event of absence or inability to act, a secretary pro tempore shall be selected by the Board.

2. The Board shall also select a general manager, who shall be the chief executive officer of the district, and a treasurer, who may also hold the office of secretary.

3. All such officers shall have the powers and duties, and shall hold office for such term and be subject to removal in such manner as may be provided in the compensation of such officers. The Board may appoint such officers, fix their compensation and term of office and the method by which they may be removed and delegate to them such other powers and duties as it may deem appropriate.

4. Except for the purpose of inquiry, the Board and its members shall deal with the operations of the district solely through the general manager. The Board and its members shall not:

- a. direct or request the general manager or other authority to appoint or remove officers or employees except as herein provided,
- b. participate in any manner in the appointment or removal of officers and employees of the district, except as provided by law, or
- c. give orders or ordinary administrative matters to any subordinate of the general manager either publicly or privately.

B. The general manager may appoint such other officers, agents, and employees, fix their compensation pursuant to the provisions of this section, and term of office and the method by which they may be removed, and delegate to them such of its power and duties as the general manager may deem proper.

C. Except as provided in subsection A of this section, the compensation of employees of the Grand River Dam Authority shall be computed as follows:

1. Beginning July 1, 1993, and biannually thereafter, the Office of Personnel Management shall conduct a comprehensive classification and compensation study of all positions in the Grand

River Dam Authority. The study shall ~~include, but not~~ be limited to, an analysis of prevailing rates of pay for all positions in electrical generating utilities for jobs comparable to those performed by employees of the Grand River Dam Authority. Such study shall compare all positions within the Grand River Dam Authority, including support and maintenance staff employees, with comparable positions within other electrical generating utilities only. A report shall be provided to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Board of Directors of the Grand River Dam Authority by January 1, 1994. The report shall include an analysis of all positions and classifications and recommend an average comparable pay scale developed through the study. The Grand River Dam Authority shall bear the cost of the study;

2. Beginning July 1, 1994, the Board of Directors of the Grand River Dam Authority shall implement the classification and compensation recommendations as appropriate if fiscal constraints and commitments to ratepayers permit. Such implementation shall be within existing guidelines of the Merit System as determined by the Office of Personnel Management. If the recommendations are not implemented by the Authority, then it shall report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives why such recommendations were not implemented within thirty (30) days of making a decision not to implement the recommendations; and

3. Beginning July 1, 1997, the Board of Directors of the Grand River Dam Authority may implement adjustments in compensation to correct internal inequities as determined by the Board of Directors. The total of these adjustments and those described in paragraph 2 of this subsection shall not increase the base payroll in excess of the recommendation in the Office of Personnel Management study.

SECTION 7. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Grand River Dam Authority is hereby authorized to pay those classified employees whose salaries currently exceed pay band maximums the amount such salaries exceed the maximum retroactive to the date the pay bands were exceeded.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1480 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby authorized a comprehensive study to determine the economic and environmental feasibility of designating the waters of Honey Creek within this state as a Scenic River. The state environmental agencies required to participate in this study are: the Department of Agriculture; the Oklahoma Water Resources Board; the Department of Environmental Quality; the Oklahoma Conservation Commission and the Department of Wildlife Conservation. Other agencies or entities may be asked to participate in said study as deemed necessary by the Secretary of Environment. The Secretary of Environment shall direct the study and compile a report. The study shall include, but not be limited to:

1. Requiring the named environmental agencies to document their agency's rules and policies which impact the environment of Honey Creek and the surrounding area; and

2. Requiring the named environmental agencies to submit recommendations within their areas of jurisdiction which would be necessary for Honey Creek to be designated as Scenic River.

B. The Office of the Secretary of Environment shall compile a report which shall be delivered to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than February 1, 2003.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4222 of Title 63, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any statute or agency rule to the contrary, marina owners or operators in this state operating a motor fuel dispensing facility shall not be required to have an attendant or supervisor on duty to supervise, observe or control the dispensing of fuel.

SECTION 10. REPEALER 63 O.S. 2001, Section 4230.1, is hereby repealed.

SECTION 11. This act shall become effective July 1, 2002.

SECTION 12. 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.

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