

SB 656

Senate Bill No. 656
As Amended

SENATE BILL NO. 656 - By: EASLEY of the Senate and RICE of the House.

[municipalities and rural water - providing for contractual obligations - codification - emergency]

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 37-119, as amended by Section 1, Chapter 339, O.S.L. 1994 (11 O.S. Supp. 2000, Section 37-119), is amended to read as follows:

Section 37-119. A. All contracts for the wholesale sale or ~~furnishing of water from a source obtained by or on behalf of a municipality by permit or prior right under state law or by general obligation bonds~~ between a municipality or its public trust and a rural water district organized pursuant to Section 1324.2 of Title 82 of the Oklahoma Statutes, a non-profit corporation as defined in Section 1324.2 and Section 1324.30 of Title 82 of the Oklahoma Statutes or any other wholesale water purchaser shall be made ~~in the name of the municipality as provided for by statute or by charter~~ pursuant to written contracts in compliance with the provisions of this act.

1 B. ~~All such water sold and furnished to persons or public or~~
2 ~~private entities outside the corporate limits of the municipality~~
3 ~~shall be sold and furnished upon written contracts which~~ Wholesale
4 water rates shall be based on the actual direct cost of the
5 municipality or its public trust for water supply, treatment and
6 delivery of water to the wholesale water purchaser plus a reasonable
7 margin of profit. The municipality or its public trust shall not
8 include expenses for its public services or other proprietary
9 endeavors in its wholesale water rates. The municipality or its
10 public trust shall not subsidize its public services or other
11 proprietary endeavors by its wholesale water rates, except by use of
12 its margin of profit. The municipality or its public trust shall
13 use an accounting method which clearly delineates the actual direct
14 cost for water supply, treatment and delivery of water to the
15 wholesale water purchaser. The account shall be separately kept
16 from the accounts for all other public services and proprietary
17 functions. Such accounting shall be subject to the Oklahoma Open
18 Records Act, and shall be made freely available to any person
19 requesting such accounting. The contracts shall provide for an
20 annual review of the municipality's or its public trust's costs and
21 shall provide for contract modification of the wholesale rates to
22 permit the rates to be increased or decreased to the purchasers as
23 appropriate. ~~Any~~ The contractual rates and any modification shall

1 ~~be nondiscriminatorily allocated between the municipality's~~
2 ~~customers and the purchaser. Provided, however, that only those~~
3 ~~costs that are attributable to maintaining the ability of the~~
4 ~~municipality to provide water service to the purchaser shall be~~
5 ~~included in purchaser's rates~~ nondiscriminatory.

6 C. The contracts shall provide that the ~~persons or public or~~
7 ~~private entities~~ wholesale purchaser's retail customers located
8 outside the corporate limits of the municipality shall be subject to
9 a rationing program consistent with any rationing program ordered by
10 the municipality or its public trust for its retail water customers
11 located inside the municipality.

12 D. The following contractual provisions shall be prohibited
13 from being included in any wholesale water contract entered into on
14 or after the effective date of this act:

15 1. Buyout or takeover provisions of the wholesale purchaser's
16 facilities, customers or service areas;

17 2. Waiver of statutory rights, privileges or protections;

18 3. Requirements that the wholesale purchaser collect fees for
19 services not rendered by the wholesale purchaser;

20 4. Requirement that the wholesale purchaser build its
21 facilities to codes or specifications beyond those required by the
22 Department of Environmental Quality, or state or federal law unless

1 such facility codes or specifications are necessary to maintain the
2 integrity of the sellers' system; or

3 5. Contract terms and provisions which are not directly related
4 to the purchase of wholesale water.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1325.27 of Title 82, unless
7 there is created a duplication in numbering, reads as follows:

8 A. If a municipality annexes territory certified to a district,
9 as defined in Section 1324.2 of Title 82 of the Oklahoma Statutes
10 then:

11 1. The municipality may notify the district in writing that the
12 municipality desires to purchase the district's facilities used in
13 furnishing its services in the territory; or

14 2. A district may demonstrate within six (6) months after the
15 annexation by the municipality, as to a particular and contiguous
16 area encompassing no less than ten water customers, that the
17 municipality serves more than seventy percent (70%) of customers
18 that were served by the district on the date of annexation by the
19 municipality. These conditions having been met the municipality
20 shall obtain title to the water distribution facilities of the
21 district located within the annexed territory or the particular and
22 contiguous area upon the payment of just compensation to the
23 district.

1 B. The amount of just compensation to be paid by the
2 municipality to the district pursuant to subsection A of this
3 section may be determined by mutual agreement of the parties based
4 on the following factors:

5 1. The present-day reproduction cost of the water distribution
6 facilities being acquired, less depreciation computed on a straight-
7 line basis over thirty-five (35) years with such depreciation being
8 limited to twenty-five percent (25%) of such cost;

9 2. An amount equal to the cost of constructing, by the most
10 economical route, using the same size lines as those operated by the
11 district within the annexed territory or particular and contiguous
12 area, any necessary facilities to reintegrate the system of the
13 district located outside the municipality or the area annexed after
14 detaching the facilities encompassed in the annexed territory or
15 particular and contiguous area;

16 3. An annual amount, payable each year for a period of ten (10)
17 years following the date of purchase, equal to twenty-five percent
18 (25%) of the net revenues received by the municipality from the sale
19 to customers that were previously served by the district from the
20 facilities being purchased by the municipality; and

21 4. An annual amount, payable each year for a period of ten (10)
22 years following the date of purchase, equal to twenty-five percent
23 (25%) of the net revenues received by the municipality from the sale

1 of water to additional customers that come into existence in the
2 annexed territory or particular and contiguous area that could have
3 been served by the facilities of the district in said location as
4 said facilities existed on the date of purchase.

5 B. The amounts provided for in paragraphs 3 and 4 of subsection
6 A shall not include sales to customers for service to areas that
7 were used only for agricultural purposes and had no service
8 connection to the district's facilities on the date of purchase of
9 such facilities. In lieu of payments provided for by paragraphs 3
10 and 4 of subsection A, the municipality may pay in a lump sum an
11 amount equal to the present value of the anticipated payments.

12 C. Every reasonable effort shall be made by both parties to
13 reach an agreement under subsection A of this section. If the
14 parties are unable to mutually agree upon the amount of just
15 compensation within a reasonable time, either party may bring an
16 action for condemnation or inverse condemnation in the district
17 court for the county in which the property is located to determine
18 the amount to be paid pursuant to the factors stated in subsection A
19 of this section.

20 D. Nothing in this section shall prevent a municipality and
21 district from buying, selling, or exchanging water distribution
22 facilities, service rights, and other rights, property, and assets
23 by mutual agreement.

1 E. Nothing in this section shall impair the obligations of
2 existing contracts.

3 SECTION 3. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, ENVIRONMENTAL RESOURCES &
8 REGULATORY AFFAIRS, dated 2-22-01 - DO PASS, As Amended and
9 Coauthored.