

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 408

By: Easley of the Senate

and

Hutchison and Rice of the
House

COMMITTEE SUBSTITUTE

An Act relating to the Grand River Dam Authority; stating legislative intent; stating purpose; requiring the Grand River Dam Authority to purchase electric power from certain waste-powered plants; providing certain criteria for plants; requiring Grand River Dam Authority to purchase certain amount of power at certain cost; authorizing certain contracts; defining term; amending 82 O.S. 2001, Section 863A, which relates to the Grand River Dam Authority Board of Directors; requiring board members to provide proof of residency verified by the Oklahoma Tax Commission; prohibiting requirement to disclose certain information; prohibiting holdover of certain board members; modifying nomination process for certain board member; providing certain appointment of Governor also serve on certain other board; declaring certain vacancy in office; providing for subsequent appointment; declaring certain member ineligible for reappointment; modifying qualifications for certain board member positions; 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; providing for termination of Commission; 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 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; authorizing marina owners to dispense motor fuel without an attendant or supervisor on duty; amending 75 O.S. 2001, Section 250.4, as amended by Section 12, Chapter 402, O.S.L. 2002 (75 O.S. Supp. 2002, Section 250.4), which relates to the Administrative

Procedures Act; exempting the Grand River Dam Authority from Article I of the Administrative Procedures Act; repealing 63 O.S. 2001, Section 4230.1, which relates to the Grand River Dam Authority Lakes Advisory Commission; providing for codification; providing for noncodification; and declaring an emergency.

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 862.2 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature to not only encourage the use and development of renewable energy sources but in doing so to also address the environmental issue of the application of animal waste to land. The purpose of this section shall be to promote economic development in the state while also addressing both the renewable energy and environmental issues.

B. The Grand River Dam Authority shall be required to purchase electric power and energy produced by a poultry or other animal waste-powered electric generating plant or plants constructed after the effective date of this act that is:

1. Owned or operated by a corporation organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act and that holds a valid exemption from federal income taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 26 U.S.C., Section 501(a), and is listed as an exempt organization in Section 501(c) of the Internal Revenue Code, 26 U.S.C., Section 501(c); and

2. Located in the watershed area of the Grand River Dam Authority district as defined in Section 861 of Title 82 of the Oklahoma Statutes.

C. When made available, the Grand River Dam Authority shall be required to purchase the entire amount of electric power produced by a poultry or other animal waste-powered electric generating plant or

plants that meets the criteria set forth in subsection B of this section. If the average per kilowatt cost for the electric power generated by such a plant exceeds fifteen cents (\$0.15), the Authority may suspend purchase of the power until the average per kilowatt cost is fifteen cents (\$0.15) or less.

D. The Grand River Dam Authority shall enter into long-term contracts for the purchase of electric power produced by a poultry or other animal waste-powered electric generating plant or plants that meets the criteria set forth in subsection B of this section. The contracts shall run for a period of not to exceed fifty (50) years or the anticipated life expectancy of the poultry or other animal waste-powered electric generating facility, whichever is less. All contracts may contain such reasonable provisions as may be deemed advisable to safeguard the business and properties of all the parties to the contract.

E. For purposes of this section, "poultry waste" shall be defined as provided for in Section 10-9.1 of Title 2 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 82 O.S. 2001, Section 863A, is amended to read as follows:

Section 863A. A. 1. 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)~~ seven (7) 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.

2. In the event of a vacancy on the Board, if the nominee appointed by the Governor to fill an open position or an unexpired term is not confirmed with the advice and consent of the Senate, that position shall be deemed vacant and the Governor shall select another person eligible to fill that position. No member of the

Board shall be allowed to hold over in his or her position on the Board beyond the expiration of their term except as provided for in this section.

3. 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.

4. No more than two ~~(2)~~ directors shall be residents of the same county; ~~provided, that no.~~

5. 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.

6. Each director, except as herein specifically provided, shall have lived in said district five (5) years prior to their 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 board member or trustee 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~~7~~ 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. Within thirty (30) days of the effective date of this act and thereafter within thirty (30) days of any subsequent vacancy, if the industrial customers of the district fail to meet and select three nominees to forward to the Governor as provided in this paragraph the nomination process shall be as follows:

- a. the members of the Mid-America Industrial Park Plant Managers Association who represent facilities which purchase electric power from the district shall meet and select two nominees to forward to the Governor,
and
- b. the Board of the Mid-America Industrial Park shall meet and select one nominee to forward to the Governor.

Upon appointment by the Governor and confirmation by the Senate, such member shall also represent the Grand River Dam Authority on the board of the Mid-America Industrial Park;

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~~ Grand Lake 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; and

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 ~~Driver~~ 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 3. 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 ten (10) 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 Tourism and Recreation Department, 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; and

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.

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, 2003. 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 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 863A 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 4230.1 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 4. 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 Tourism and Recreation Department, 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, 2003. 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 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 5. 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. A 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. Each biannual 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, and thereafter as each biannual report is issued, 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, and biannually thereafter, 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~~ may increase the base payroll in excess of the recommendation in the Office of Personnel Management study.

SECTION 6. 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 exceed the maximums imposed by

the current OPM study the amount such salaries exceed the maximum retroactive to the date the salary limitations were exceeded.

SECTION 7. 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 8. AMENDATORY 75 O.S. 2001, Section 250.4, as amended by Section 12, Chapter 402, O.S.L. 2002 (75 O.S. Supp. 2002, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act.

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and E of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. The Oklahoma Military Department shall be exempt from the provisions of Article I of the Administrative Procedures Act to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the Grand River Dam Authority and the Board of Trustees of the Oklahoma College Savings Plan shall be exempt from Article I of the Administrative Procedures Act.

5. The Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall be exempt from Article I of the Administrative Procedures Act to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. The Oklahoma State Regents for Higher Education shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

8. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 303.2, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.

- b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference.
- c. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of this title.
- d. For any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

9. The Council on Judicial Complaints shall be exempt from Section 306 of Article I of the Administrative Procedures Act, with respect to review of the validity or applicability of a rule by an action for declaratory judgment, or any other relief based upon the validity or applicability of a rule, in the district court or by an appellate court. A party aggrieved by the validity or applicability of a rule made by the Council on Judicial Complaints may petition the Court on the Judiciary to review the rules and issue opinions based upon them.

10. The Oklahoma Department of Corrections, Board of Corrections, county sheriffs and managers of city jails shall be exempt from Article I of the Administrative Procedures Act with respect to:

- a. prescribing internal management procedures for the management of the state prisons, county jails and city jails and for the management, supervision and control of all incarcerated prisoners, and

- b. prescribing internal management procedures for the management of the probation and parole unit of the Department of Corrections and for the supervision of probationers and parolees.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The Oklahoma Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;
8. The Northeast Oklahoma Public Facilities Authority;
9. The Council on Judicial Complaints;
10. The Board of Trustees of the Oklahoma College Savings Plan;
11. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;
12. The Board of Regents or employees of any university, college, or other institution of higher learning, except with respect to expulsion of any student for disciplinary reasons; provided, that upon any alleged infraction by a student of rules of such institutions, with a lesser penalty than expulsion, such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, and the following grounds of misconduct, if properly alleged in disciplinary

proceedings against a student, shall be cause to be barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:

- a. participation in a riot as defined by the penal code,
- b. possession or sale of any drugs or narcotics prohibited by the penal code, Section 1 et seq. of Title 21 of the Oklahoma Statutes, or
- c. willful destruction of or willful damage to state property;

13. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules, or
- f. any filing of false information;

14. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

15. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

16. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

17. The Oklahoma Military Department;

18. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority;

19. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority; and

20. The position audit procedure, including the impartial review process, of the Office of Personnel Management pursuant to Section 840-4.3 of Title 74 of the Oklahoma Statutes. Provided, that any appeal from an impartial review determination to a court of competent jurisdiction shall be confined to the record in accordance with the provisions of Article II of the Administrative Procedures Act.

SECTION 9. REPEALER 63 O.S. 2001, Section 4230.1, is hereby repealed.

SECTION 10. 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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