

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1108

By: Turner of the House

and

Shurden of the Senate

COMMITTEE SUBSTITUTE

[waters and water rights - water districts -
effective date]

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

SECTION 1. AMENDATORY 82 O.S. 2001, Section 1324.9, is amended to read as follows:

Section 1324.9 The board shall be the governing body of the district and shall meet annually on a date prescribed by the bylaws and at such other times as may be determined by the board or upon call by the chairman or any two (2) members of the board. Vacancies on the board shall be filled for the unexpired term, and until such appointee's successor is elected and has qualified, by appointment by the remaining members of the board. The board shall adopt such rules and regulations in conformity with the provisions of this act and the bylaws of the district as are deemed necessary for the conduct of the business of the district. The board may increase or diminish the territorial limits of the district as the board deems desirable for the benefit of the district and the landowners. Annexation of any lands shall not include any territory which lies within the boundaries of another district. It shall be the duty of the secretary to cause an entry to be made upon its records showing all of its minutes, decisions and orders made pursuant to the

provisions of this act. Within six (6) months of the enactment of this amended subsection, all districts shall file with the county clerk in each county in which at least part of the district is located, a map showing the current boundaries of the district. Thereafter, within thirty (30) days of any subsequent boundary change, either through annexation or release of lands, the board shall file with the county clerk in each county in which any part of the district is located, a revised map which reflects the changes in the district's territorial boundaries. The recording in the county clerk's office shall be conclusive evidence of the district's boundaries in all suits by or against the district.

SECTION 2. AMENDATORY 82 O.S. 2001, 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 the Rural Water, Sewer, Gas and Solid Waste Management Districts Act, and shall have power to:

1. Sue and be sued, complain and defend, in its corporate name;
2. Adopt a seal which may be altered at pleasure, and to use it, or a facsimile thereof, as required by law;
3. 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 the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;

4. 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, and, in connection with such loan or grant, to enter into such agreements as the United States of America 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;

5. Make bylaws for the management and regulation of its affairs;

6. 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 work or improvement as is proposed to be done within any such district, and the maintenance thereof;

7. 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;

8. In connection with the acquisition, construction, improvement, operation or maintenance of its transportation, and distribution lines, system, equipment, facilities or apparatus, use any street, road, alley or highway which is owned or held by the state, or any political subdivision or use any other public highway. 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 property. The district plans for locating lines shall comply with the written specifications for location of lines and facilities as set forth by the governing body of the county for property within their jurisdiction. If the governing body of the county does not have written specifications for location of lines and facilities for property within their jurisdiction, they shall concur with the district plans or provide the district with an alternative plan. The governing body of any such city, county or state agency may require that if a district attaches a gas line to any bridge, underpass or overpass, that such 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 gas line. Provided that 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 or on, across or under any

other public highway shall be performed at the sole cost of the district;

9. Make any and all contracts necessary or convenient for the exercise of the powers of the district;

10. 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 rates shall be just, reasonable and nondiscriminatory;

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;

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;

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;

14. Enter into contracts jointly with any other district, municipality, city or town, the state, the United States of America, or any governmental agency, for the purpose of purchasing water, constructing, acquiring, operating water facilities or purchasing or leasing reservoir space;

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

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 the Rural Water, Sewer, Gas and Solid Waste Management Districts Act outside of the state without consent of the Legislature.

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.

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. AMENDATORY 82 O.S. 2001, Section 1324.12, is amended to read as follows:

Section 1324.12 Plans, specifications, proposed operating budget, schedules of unit fees and benefit units, rules and regulations, estimates of cost for any proposed improvement authorized by this act shall be filed with the secretary of the district. The total benefits of any such improvement shall be divided into a suitable number of benefit units. Upon determining a schedule of benefit units and unit fees, the board of directors shall cause a declaration of availability of such units for

subscription to be entered in its minutes and except for residents of cities and towns as provided in paragraph 5 of Section 1324.2 of this title any individual who fails to become a participating member within thirty (30) days thereafter shall not be eligible to hold office as a director, nor shall any individual, firm, partnership, association, or corporation which fails to become a participating member within ninety (90) days after such declaration be qualified to participate at any meeting or vote at any election held thereafter unless such individual, firm, partnership, association, or corporation shall thereafter become a participating member. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners or tenants of land located within the district who are not participating members may subscribe to such units as the Board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. Benefit units heretofore of hereinafter subscribed shall be deemed to have run with the land to which they were purchased to serve, unless transfer thereof is approved by the board of directors.

SECTION 4. AMENDATORY 82 O.S. 2001, Section 1324.13, is amended to read as follows:

Section 1324.13 Lands outside the boundaries of any district, which can economically be served by the facilities of the district are not located within the boundaries of any other district, may be annexed to such district. Any two as the board deems desirable for the benefit of the district and the landowners. A board member or any one or more owners of such lands shall file a petition for annexation with the county clerk addressed to the board of county

~~commissioners~~, which shall give the legal descriptions of the lands owned by the petitioners and other lands which the petitioners propose to be annexed to such district, and shall state:

1. The name of the district to which annexation is desired;

2. ~~That such lands are without an adequate water supply, sewage facilities, gas distribution system or solid waste management system;~~

~~3.~~ That annexation to said district will be conducive to and will promote the public health, convenience and welfare of rural residents in the district; and

~~4.~~ 3. That adequate water is available to the district or has been appropriated to the district by the Oklahoma Water Resources Board.

SECTION 5. AMENDATORY 82 O.S. 2001, Section 1324.14, is amended to read as follows:

Section 1324.14 Notice shall be given, ~~as provided in Section 5~~ by the board, of the filing of a petition for annexation or for a release of lands fixing the time and place of hearing, by legal publication for two (2) consecutive weeks in a newspaper published in each county containing lands embraced within the boundaries of the proposed annexation or release. Said newspapers must have a general circulation in the county of publication. Provided, however, if there is a county in which there is no newspaper of general circulation published, notice of such hearing shall be given by posting in five public places within said county, one of which shall be the county courthouse. Such notice shall contain: a brief and concise statement describing the purpose of such hearing; a description of the territory to be annexed or released; a notice to all persons residing or owning property and incorporated municipalities within the proposed annexation or released lands that they may appear upon the date and at the time and place of said hearing to show cause, if any there be, why said petition should not

be granted. In addition, the board shall at least ten (10) days before the date fixed for said hearing, hand deliver or send by certified mail notice thereof to each of the petitioners.

SECTION 6. AMENDATORY 82 O.S. 2001, Section 1324.15, is amended to read as follows:

Section 1324.15 At the time and place set for the hearing and consideration of the petition, the board ~~of county commissioners~~ shall ascertain whether proper notice has been given and whether the statements contained in the petition are true. If true, and if a majority of the members of the board ~~of the district to which annexation is desired do not object to such statement~~ determines by a majority vote that the annexation is desirable for the benefit of the district and of the landowners, the board ~~of county commissioners~~ shall enter into its minutes such findings and shall set forth in said minutes a description of the new boundaries of such district. Thereafter, owners of land located within the annexed territory shall be entitled to subscribe to such benefit units upon such terms and conditions as the board in its discretion may provide. Any owner of land located within any territory annexed to a district who shall subscribe to one or more benefit units and comply with terms and conditions provided by the board, shall be entitled to the same rights as participating members. Any lands heretofore annexed to a district are hereby validated; and from and after the effective date of this amendatory act, all previously annexed lands shall be deemed to have been annexed pursuant to and subject to the provisions of this act.

SECTION 7. AMENDATORY 82 O.S. 2001, Section 1324.16, is amended to read as follows:

Section 1324.16 A. Except as otherwise provided by law:

1. The term of office of every member elected to an original board shall be until the date of the annual meeting of the participating members of either the first, second or third year

following the year of the incorporation of the district and until their successors are elected and have qualified, and as nearly as possible the terms of an equal number of directors on any such board shall expire on each of said dates;

2. At the annual meeting of each year after the year of the election of the original board members, elections shall be held to elect directors to fill any position on the board, the term of office of which has expired, and any director so elected shall hold office for a term of three (3) years and for a maximum term of six (6) years as determined by the district's bylaws, and until his or her successor is elected and has qualified; and

3. For the purpose of election of board members and for such other purposes as the bylaws may prescribe, annual meetings of participating members shall be held by each district each year following the year of incorporation of such district. The board of directors shall cause notice of the time and place of each annual meeting and the purpose thereof to be given to each of its participating members. Each participating member shall be entitled to a single vote, regardless of the number of benefit units to which the member has subscribed.

B. 1. A requirement for qualification to serve as a board member for a rural water district or a nonprofit rural water corporation shall be a written pledge that upon election such board member shall attend a minimum of six (6) hours of workshop training to be offered periodically on a regional basis within twelve (12) months following election of such board member, and to be organized by the Oklahoma Water Resources Board in cooperation with the Oklahoma Rural Water Association with the purpose of study and instruction in areas of district financing, law, and the ethics, duties and responsibilities of district board members. Beginning July 1, 2001, all new and existing board members shall be required

to obtain continuing education by attending a minimum of six (6) hours of workshop training every three (3) years.

2. The district or corporation shall reimburse all reasonable expenses incurred by any board member for attending such training workshop.

3. To avoid members having to interfere with their jobs or employment, such training sessions may be divided into three-hour segments, and insofar as possible be scheduled for evening sessions. Technology center school facilities, college facilities or other public facilities may be utilized in all parts of the state for convenience of the members. Such workshops must be offered within seventy-five (75) miles of the members' residences.

4. If a board member has attended a training workshop on the subject matter of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, or the Competitive Bidding Act which was sponsored by the State Board of Education, such training workshop attendance, if authorized by the Oklahoma Rural Water Association, may be counted towards compliance with or substituted for the requirements of the provisions of this subsection.

C. Should any pledging board member fail to attend the workshop training as required in subsection B of this section, he or she shall be deemed ineligible to serve as a board member commencing at the next regularly scheduled meeting of the board following the twelve-month period. The remaining board members shall select from the membership, as provided by the district or corporation bylaws, another qualified member to fill the vacancy and that person shall pledge to attend the workshop training provided for in this section. The appointed member shall only serve until the next regularly scheduled election of board members and an election shall be held to fill the unexpired term of the vacated position.

D. Upon the election of a board member, the provisions of Sections 481 through 487 of Title 21 of the Oklahoma Statutes

relating to nepotism shall not prohibit any employee already in the service of the district from continuing in such service or from promotion therein. Provided, however, the board member related to the employee shall excuse himself from the board meeting during any discussion of or action taken on any matter that could affect the employment or compensation for employment of such employee.

SECTION 8. AMENDATORY 82 O.S. 2001, Section 1324.21, is amended to read as follows:

Section 1324.21 In the event that landowners within a district desire to withdraw from such district, fifty-one percent (51%) of the affected landowners or ~~the~~ any board of ~~directors~~ ~~by resolution~~ ~~member~~ may petition the ~~county commissioners board~~ to release those lands from the district. The petition shall describe by section or fraction thereof and by township and range the lands affected. After a finding that the granting of the petition is ~~to the best interests of the affected landowners and~~ desirable for the benefit of the district and of the landowners, the board of ~~county commissioners~~ shall ~~issue a certificate stating~~ enter into its minutes such findings and state that the lands involved are released and separated from the district. ~~Full minutes of the hearing shall be entered in the journal of the board of county commissioners and the certificate shall be delivered to the secretary of the district who shall, within thirty (30) days, cause the records of the district to be amended to exclude the lands affected.~~ Notice shall be given, as provided in Section ~~1324.5~~ 1324.14 of this title, of the filing of a petition for release of lands ~~as provided herein, fixing the time and place of hearing, and a copy of said notice shall be sent by certified mail to the chairman of the board of directors of the district in which the said lands are located.~~ An appeal of a petition requesting release of lands may be made to the district court, and shall be in the same manner provided for petitions requesting annexation.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1324.21A of Title 82, unless there is created a duplication in numbering, reads as follows:

The board shall grant or deny the request contained in a petition for annexation or for a release of lands within sixty (60) days after the last publication of the notice. An appeal of the board's decision denying the request may be made by filing a petition in the district court in the county in which the situs of the board is located. Notice of the filing shall be served upon the board.

SECTION 10. This act shall become effective November 1, 2003.

49-1-1322 MJM 6/12/2015 1:56:04 PM