

ENROLLED SENATE
BILL NO. 1169

By: Maddox and Dunlap of the
Senate

and

Rice, Pettigrew and
Peterson (Ron) of the
House

An Act relating to state government; amending 74 O.S. 2001, Section 5062.6, which relates to the Oklahoma Development Finance Authority and Oklahoma Industrial Finance Authority; deleting required compliance with certain Oklahoma Central Purchasing Act provisions; clarifying gender reference; modifying statutory reference; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 5062.6, is amended to read as follows:

Section 5062.6 A. Upon certification by the Governor of a public trust as qualifying to become the Oklahoma Development Finance Authority, the board of trustees of such trust shall become the governing board of the Oklahoma Development Finance Authority with the addition of two (2) other persons. From and after the effective date of this act, the Governor, the board of directors of the Oklahoma Development Finance Authority and the board of directors of the Oklahoma Industrial Finance Authority, governed by Section 851 of this title, shall begin the consolidation of the membership of the boards of both authorities. The Oklahoma Development Finance Authority is authorized to amend its trust indenture, to provide that its board shall be composed of the members of the board of directors of the Oklahoma Industrial Finance Authority except for the State Treasurer of Oklahoma and to provide that the terms of office of the board of directors of the Oklahoma Development Finance Authority shall be identical to the terms of the Oklahoma Industrial Finance Authority. Any director of the Oklahoma Development Finance Authority who is in office upon the effective date of this act, and who is not also at that time a member of the board of directors of the Oklahoma Industrial Finance Authority, shall finish the term for which he or she was appointed. Upon the end of such a director's term, or upon such a director vacating his or her office, the Governor shall appoint a member of the board of directors of the Oklahoma Industrial Finance Authority to fill the vacancy, or to the new term. The qualifications for the board of directors of the Oklahoma Development Finance Authority shall be

identical to the qualifications for the board of directors of the Oklahoma Industrial Finance Authority. As soon as the two boards of directors of each authority are composed of the same members, the boards shall be considered as consolidated. From and after that consolidation, persons appointed to the board of directors of the Oklahoma Industrial Finance Authority shall also become directors of the Oklahoma Development Finance Authority. Even though the membership of each board shall be identical, the authorities shall be considered and treated as separate legal entities. The funds of each authority shall not be commingled and shall be separately accounted for. This consolidation of board membership shall not be construed as effecting a merger of estates or otherwise be construed to terminate the trust status of the Oklahoma Development Finance Authority. The Oklahoma Development Finance Authority shall continue to exist as a public trust, created under the Oklahoma Public Trust Act, ~~Section 176 et seq. of Title 60 of the Oklahoma Statutes.~~ The S.S.C. Development Authority is hereby authorized to amend its trust indenture to permit the members of the Oklahoma Industrial Finance Authority to become the governing board of such trust. Any such amendment shall not affect the separate legal status of such trust. The governing and administrative powers of the Oklahoma Development Finance Authority shall be vested in the governing board as provided by this section.

B. Each appointive member may receive reimbursement for expenses pursuant to the provisions of the State Travel Reimbursement Act, ~~Section 500.1 et seq. of this title.~~ In addition, each appointive member shall receive a monthly stipend of Three Hundred Dollars (\$300.00) if, during the month, the member attended a meeting of the board of directors at which a quorum was present. Provided, a member who is also to receive a stipend for attending, during said month, a board meeting of the Oklahoma Industrial Finance Authority shall not receive a stipend pursuant to this subsection for said month except to the extent that payment to the member may be divided between the two boards in proportion to the service rendered by the member to each board.

C. Members shall annually elect from among the membership a ~~chairman~~ chair, ~~vice-chairman~~ vice-chair, secretary and treasurer, and may elect an assistant secretary or assistant secretaries who need not be members of the board. Four members of the board shall constitute a quorum and the affirmative vote of the majority of members present at a meeting of the board shall be necessary and sufficient for any action taken by the board, except that the affirmative vote of at least four members shall be required for the approval of any resolution authorizing the issuance of any bonds or approving any loan transaction pursuant to Section 5062.1 et seq. of this title.

D. No vacancy in the membership of the board shall impair the right of a quorum to exercise all rights and perform all the duties of the board. Any action taken by the board may be authorized by resolution at any regular, special, or emergency meeting and shall take effect upon the date the ~~chairman~~ chair or ~~vice-chairman~~ vice-chair certifies the action of the Authority by affixing ~~his~~ a signature to the resolution unless some other date is otherwise provided in the resolution.

E. The board may delegate to its employees, persons under contract to provide administrative or staff services to the board, its members and/or officers of the Authority such duties as it deems necessary or convenient to carry out the purposes of this act. The board may contract with the Oklahoma Industrial Finance Authority to provide all or part of the board's administrative and staff services. Funds of the Oklahoma Development Finance Authority may be paid to the Oklahoma Industrial Finance Authority for services reasonably attributable to the operation of the Oklahoma Development Finance Authority.

F. Except as otherwise provided by law, no part of the funds of the Authority shall inure to the benefit of, or be distributed to its employees, officers, or board of directors, except that the Authority shall be authorized and empowered to pay its employees and agents reasonable compensation and benefits.

G. The meetings of the board of directors of the Oklahoma Development Finance Authority shall be subject to the Oklahoma Open Meeting Act, ~~Section 301 et seq. of Title 25 of the Oklahoma Statutes,~~ and the Oklahoma Open Records Act, ~~Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.~~ Any information submitted to or compiled by the Oklahoma Development Finance Authority with respect to the marketing plans, financial statements, trade secrets or any other commercially sensitive information of persons, firms, associations, partnerships, agencies, corporations or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the board of directors.

H. The Authority shall assist minority businesses in obtaining financial assistance. The terms and conditions of loans or other means of financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. The Authority shall solicit proposed minority business ventures for review and analysis.

I. The Authority shall not be subject to state laws regulating the classification, employment, promotion, suspension, disciplinary action or dismissal of state employees. ~~Except as otherwise provided by this act, the~~ The Oklahoma Development Finance Authority shall not be subject to the provisions of the Oklahoma Central Purchasing Act, ~~Section 85.1 et seq. of this title.~~ The Oklahoma Development Finance Authority shall be subject to the provisions of law governing administrative procedures pursuant to Title 75 of the Oklahoma Statutes.

J. If a member of the board of directors, officer, agent or employee of the Oklahoma Development Finance Authority has any direct or any indirect interest in any approval, contract or agreement upon which the member, officer, agent or employee may be called upon to act or vote, the board member, officer, agent or employee shall disclose the same to the secretary of the Authority prior to the taking of final action by the Authority concerning such

contract or agreement and shall so disclose the nature and extent of such interest and his or her acquisition thereof, which disclosure shall be publicly acknowledged by the Authority and entered upon the minutes of the Authority. If a board member, officer, agent or employee holds such an interest, he or she shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other board members, officers, agents or employees concerning said contract or agreement. Employees of the Oklahoma Development Finance Authority shall be subject to the provisions of ~~Section 4241 of this title~~ Rule 257:20-1-4, Rules of the Ethics Commission, 74 O.S. 2001, Ch. 62, App., in the same manner as other state employees. Notwithstanding any other provision of law, any contract or agreement entered into in conformity with this subsection shall not be void or invalid by reason of the interest described in this subsection, nor shall any person so disclosing the interest and refraining from further official involvement as provided for in this subsection be guilty of an offense, be removed from office, or be subject to any other penalty on account of such interest. Provided, any approval, contract or agreement made in violation of this section shall give rise to no action against the Authority.

Indirect interest shall include pecuniary or competitive advantage which exists or could foreseeably accrue as a result of the act or forbearance of the Authority.

SECTION 2. 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.

Passed the Senate the 3rd day of March, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 31st day of March, 2004.

Presiding Officer of the House
of Representatives

