

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2238

By: Schwartz of the House

and

7 Johnson (Mike) of the
8 Senate

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to waters and water rights; amending
12 82 O.S. 2001, Section 105.12, which relates to
13 approval of applications for stream water use;
14 clarifying statutory language; requiring
15 consideration of certain pending applications prior
16 to granting water rights for use outside of the
17 state; directing the Board of Directors of the Grand
18 River Dam Authority to select a director of
19 investments; requiring the director of investments to
20 be an officer or employee of the district; stating
21 duties; specifying certain qualifications; limiting
22 salary; amending 82 O.S. 2001, Section 874, as last
23 amended by Section 1, Chapter 163, O.S.L. 2007 (82
24 O.S. Supp. 2007, Section 874), which relates to the
mortgage, sale, or lease of Grand River Dam Authority
property; authorizing the district to sell certain
real and personal property to certain rural electric
cooperative corporations; making sales exempt from
certain requirements and limitations; providing for
codification; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.12, is
2 amended to read as follows:

3 Section 105.12 A. Before the Oklahoma Water Resources Board
4 takes final action on the application, the Board shall determine
5 from the evidence presented whether:

6 1. There is unappropriated water available in the amount
7 applied for;

8 2. The applicant has a present or future need for the water and
9 the use to which applicant intends to put the water is a beneficial
10 use. In making this determination, the Board shall consider the
11 availability of all stream water sources and ~~such~~ other relevant
12 matters as the Board deems appropriate, and may consider the
13 availability of groundwater as an alternative source;

14 3. The proposed use does not interfere with domestic or
15 existing appropriative uses; and

16 4. If the application is for the transportation of water for
17 use outside the stream system wherein the water originates, the
18 proposed use must not interfere with existing or proposed beneficial
19 uses within the stream system and the needs of the water users
20 therein. In making this determination, the Board shall utilize the
21 review conducted pursuant to subsection B of this section.

22 If so determined, and subject to subsection B of this section,
23 the Board shall approve the application by issuing a permit to
24 appropriate water. The permit shall state the time within which the

1 water shall be applied to beneficial use. In the absence of appeal
2 as provided by the Administrative Procedures Act, the decision of
3 the Board shall be final.

4 B. 1. In the granting of water rights for the transportation
5 of water for use outside the stream system wherein water originates,
6 pending applications to use water within such stream system shall
7 first be considered in order to assure that applicants within such
8 stream system shall have all of the water required to adequately
9 supply their beneficial uses.

10 2. In the granting of water rights for transportation of stream
11 water for use outside of the state, pending applications to use the
12 water within the state shall first be considered in order to assure
13 that applicants within the state shall have all of the water
14 required to adequately supply their beneficial uses.

15 3. The Board shall review the needs within such area of origin
16 every five (5) years to determine whether the water supply is
17 adequate for municipal, industrial, domestic, and other beneficial
18 uses.

19 C. The review conducted pursuant to subsection B of this
20 section shall not be used to reduce the quantity of water authorized
21 to be used pursuant to permits issued prior to such review. Such
22 permits, however, remain subject to loss, in whole or in part, due
23 to nonuse, forfeiture or abandonment, pursuant to this title.

24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 864.2 of Title 82, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Board of Directors of the Grand River Dam Authority
5 shall select a director of investments who shall be an officer or
6 employee of the district, but who is not a member of the Board. The
7 duties of the director of investments, which shall be in addition to
8 the existing duties of the director as an officer or employee of the
9 district, shall include, but not be limited to, the following:

10 1. Monitor current and existing investment strategies as they
11 relate to the operation of the electricity generation and
12 transmission facilities of the district;

13 2. Evaluate investment strategies designed to reduce price
14 fluctuations in fuels used by the district;

15 3. Provide recommendations to the Board regarding the most
16 cost-effective investment strategies with the goal of keeping fuel
17 prices low;

18 4. Be the liaison with market participants and service
19 providers in implementing investment strategies;

20 5. Monitor and evaluate all bond issuance strategies and make
21 recommendations to the Board regarding the most cost-effective
22 strategies for bond issues;

23 6. Be the liaison with market participants and service
24 providers in implementing bond issue strategies;

1 7. Monitor national and international standards for the
2 issuance of obligations by governmental entities;

3 8. Monitor conditions of and trends in national and
4 international markets for obligations of governmental entities;

5 9. Monitor qualifications and fees of underwriters, bond and
6 other counsel, financial advisors and consultants, trustees and
7 other fiduciaries, and paying agents;

8 10. Be the liaison to all rating agencies for the purpose of
9 maintaining or improving the investment grade status of all district
10 bonds and other obligations;

11 11. Monitor all district bond issues and other obligations to
12 protect district bondholder and obligation holder interests;

13 12. Be the liaison to the State Bond Advisor;

14 13. Be the liaison to all investment and commercial banks that
15 the district selects for any purpose related to investments, bond
16 issues, or other obligations issued on behalf of the district; and

17 14. Otherwise be responsible for monitoring the investments of
18 the district.

19 B. The director of investments shall possess one of the
20 following:

21 1. A license as a certified public accountant;

22 2. A Juris Doctorate degree; or

23 3. A Master of Business Administration degree.

24

1 C. Notwithstanding the provisions of Section 3601.2 of Title
2 74 of the Oklahoma Statutes, the compensation for the director of
3 investments shall not exceed ninety percent (90%) of the
4 compensation authorized for the General Manager of the Oklahoma
5 Municipal Power Authority.

6 SECTION 3. AMENDATORY 82 O.S. 2001, Section 874, as last
7 amended by Section 1, Chapter 163, O.S.L. 2007 (82 O.S. Supp. 2007,
8 Section 874), is amended to read as follows:

9 Section 874. A. Nothing in Sections 861 through 890 of this
10 title shall be construed as authorizing the district and it shall
11 not be authorized to mortgage or otherwise encumber any of its
12 property of any kind, real, personal or mixed, or any interest
13 therein, or to acquire any property or interest subject to a
14 mortgage or conditional sale, provided that this section shall not
15 be construed as preventing the pledging of the revenues of the
16 district as herein authorized.

17 B. Nothing in Sections 861 through 890 of this title shall be
18 construed as authorizing the sale, lease or other disposition of any
19 property or interest of the district by the district or any receiver
20 of any of its properties or through any court proceeding or
21 otherwise.

22 C. 1. The district may sell for cash, subject to competitive
23 bidding as provided by the Board of Directors of the Grand River Dam
24 Authority, any property or interest in an aggregate value not

1 exceeding the sum of Five Hundred Thousand Dollars (\$500,000.00) in
2 any one (1) year, except that the district may sell any or all
3 surplus property that the district may have acquired without regard
4 to the limitations herein, if the Board, by the affirmative vote of
5 five or more of the members, shall have determined that the same is
6 not necessary to the business of the district and shall have
7 approved the terms of any sale.

8 2. Notwithstanding any other provision of law, the district may
9 sell real and personal property used for an electrical substation,
10 transformer station, switch station, or similar purpose to a rural
11 electric cooperative corporation which has an ownership interest in
12 an electricity generating station in which the district also has an
13 ownership interest. Sales pursuant to this paragraph shall be
14 exempt from the requirements and limitations of paragraph 1 of this
15 subsection and from the requirements of Section 129.4 of Title 74 of
16 the Oklahoma Statutes.

17 ~~B.~~ D. The district may lease any of its lands if the Board, by
18 the affirmative vote of five or more of the members, shall have
19 determined that the same can be leased without injury to or without
20 interference with the operations of the project, and shall have
21 approved the terms of any lease. Except as otherwise provided, no
22 shorelands (lands lying between the low and high water marks) shall
23 be leased for a term longer than two (2) years and not more than
24 one-fourth (1/4) mile of the lake front shall be leased to any one

1 person, firm or corporation. The district may lease shorelands for
2 a term longer than two (2) years and more than one-fourth (1/4) mile
3 of lake front may be leased to any one person, firm, or corporation
4 without regard to the limitations herein, if the Board, by the
5 affirmative vote of a majority of the members, determines that the
6 lease is necessary or beneficial to the business of the district.
7 The district may lease shorelands to political subdivisions,
8 agencies of the State of Oklahoma, or tax-exempt public trusts, for
9 any public purpose, on such terms as are mutually satisfactory to
10 the parties, notwithstanding the limitations herein. No lease shall
11 deprive the owner of any land adjacent to the shorelands or lake
12 front, or abutting thereon, of ingress or egress to and from the
13 water of the lakes and shall not deprive the owner of any wharf,
14 dock or boat anchorage privileges that would belong to the owner if
15 the shorelands or lake front were not leased.

16 ~~E.~~ E. It is the intention of Sections 861 through 890 of this
17 title that, except by sale, lease or agreement as expressly
18 authorized in Sections 861 through 890 of this title, no property or
19 interest of the district shall ever come into the ownership or
20 control, directly or indirectly, of any person, firm or corporation
21 other than a public authority created under the laws of the State of
22 Oklahoma.

23 F. Nothing in this section shall be construed as preventing the
24 district from contracting with the United States or any agency

1 thereof for the temporary possession, control and use of properties
2 by the United States or any agency thereof for the safety and
3 defense of the United States in time of a national emergency or in
4 anticipation thereof.

5 ~~D.~~ G. All property of the district shall be at all times
6 exempted from forced sale, and nothing contained in Sections 861
7 through 890 of this title shall authorize the sale of any of the
8 property of the district under any judgment rendered in any suit,
9 and such sales are hereby prohibited and forbidden. The provisions
10 of this subsection shall not apply to any property constructed on a
11 lease or the interest in a lease of shoreland that has been entered
12 into by the district pursuant to subsection B of this section for a
13 term of longer than two (2) years, provided the provisions of the
14 lease authorizing the mortgage and forced sale of the property or
15 lease interest has been approved by an affirmative vote of a
16 majority of the members of the Board.

17 ~~E.~~ H. The provisions of this section shall not apply to any
18 sale agreement, lease agreement or other agreement entered into by
19 the district pursuant to paragraphs (f) or (g) of Section 862 of
20 this title, provided that the agreement is in compliance with any
21 applicable provision restricting the sale or leasing of property by
22 the district contained in any resolution of the district providing
23 for the issuance of revenue bonds.

24

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

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