

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 655

6 By: Schulz

7 COMMITTEE SUBSTITUTE

8 An Act relating to irrigation districts; amending 82  
9 O.S. 2001, Section 277.6, which relates to the Board  
10 of Directors of irrigation districts; modifying  
11 certain powers of Boards of Directors; and declaring  
12 an emergency.

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

14 SECTION 1. AMENDATORY 82 O.S. 2001, Section 277.6, is  
15 amended to read as follows:

16 Section 277.6 A. Each director of the board shall take and  
17 subscribe to the official oath of office and execute a surety bond  
18 to the district conditioned upon the faithful discharge of his  
19 duties.

20 B. The board shall:

21 1. Elect a president or chairman and vice-president or vice-  
22 chairman from its members and elect or appoint a secretary-  
23 treasurer. The secretary-treasurer of the board shall be bonded;  
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- 1           2. Conduct its business in open meeting, pursuant to the  
2 Oklahoma Open Meeting Act;
- 3           3. Maintain its records pursuant to the Oklahoma Open Records  
4 Act, except those records which are considered private or  
5 confidential under applicable laws of the United States;
- 6           4. Have standing to appear before any court of this state.  
7 Such standing shall extend to all matters germane to the powers and  
8 duties of the district including but not limited to questions of the  
9 validity of the establishment and operation of the district,  
10 contracts and collection of delinquent assessments;
- 11          5. On a date specified by the board, each year, prepare a  
12 budget, estimating the amount of money required for the ensuing year  
13 to meet all obligations of the district and determine the  
14 assessments necessary to pay those obligations. Assessments may be  
15 modified or adopted by the Board when determined necessary;
- 16          6. Determine collection procedures for all assessments imposed  
17 by the district. Assessments may be set by the board for all  
18 expenses of the district including the establishment and maintenance  
19 of a reserve fund, provided, however, that any assessments for  
20 construction or improvements and the principal indebtedness and  
21 interest which may be incurred relating thereto shall be approved by  
22 vote of the electors. The amount approved by the electors for  
23 construction or improvements may include additional amounts  
24 necessary for the establishment of a reasonable reserve and the

1 payment of costs of issuance and underwriters' discount. The  
2 maximum amount of principal indebtedness and interest shall not be  
3 less than one hundred ten percent (110%) of the estimated cost of  
4 such construction or improvement, in order to provide for  
5 contingencies. All plans of construction and improvements shall be  
6 submitted to the Oklahoma Water Resources Board;

7 7. Let contracts for public improvements or public construction  
8 projects of the district. Such improvements or construction  
9 projects shall be on sealed bids to the lowest and best responsible  
10 bidder and shall be conditioned upon the filing of a performance  
11 bond equal to one hundred percent (100%) of the contract price for  
12 the faithful performance of the contract except as otherwise  
13 provided by the Public Competitive Bidding Act;

14 8. Cause an independent auditor to prepare and furnish an  
15 annual certified audit of the financial condition of the district  
16 for the preceding year to the board. A copy of such audit shall be  
17 submitted to the Oklahoma Water Resources Board, and made available  
18 to the electors and creditors of the district; and

19 9. In the best interests of the entire district, establish a  
20 written comprehensive and reasonable plan of operation for the  
21 release, distribution, and use of water among the owners of lands  
22 within the district. Prior to the adoption of any final plan of  
23 operation or amendments thereto, the board shall provide for a  
24 meeting on the proposed or modified plan of operation. Notice of

1 the intended action shall be mailed to the electors. Copies of the  
2 plan or amendments thereto shall be made available, at no charge, to  
3 the electors. The board shall fully consider all written and oral  
4 submissions respecting the plan or amendments thereto. A final plan  
5 of operation or amendments thereto shall be submitted to the  
6 electors for approval at the annual meeting or at a special meeting  
7 of the electors called for such approval. Upon approval of such  
8 plan or amendments thereto, the plan or plan as amended shall  
9 constitute the official plan of operation for the district. Copies  
10 of the official plan of operation for the district shall be made  
11 available to the public.

12 C. The board shall have the power and authority to:

13 1. Manage and conduct the business affairs of the district;

14 2. Make and execute all necessary contracts;

15 3. Organize as a municipal corporation;

16 4. Employ such agents, officers and employees, including but  
17 not limited to a manager, as may be required and prescribe their  
18 duties and compensation;

19 5. Institute, maintain and defend any and all actions, suits  
20 and proceedings, in person or by counsel, in the name of the  
21 district;

22 6. Appear before the Oklahoma Water Resources Board to protest  
23 any application not in conformity with the district's plan of  
24 operation or not in the best interests of the district;

- 1        7. Perform any lawful act necessary to provide sufficient water  
2 to each elector in the district;
- 3        8. Provide for the proper drainage of all lands affected by the  
4 operations of the district;
- 5        9. Procure water either inside or outside of this state;
- 6        10. Develop comprehensive plans for efficient use of streams  
7 and groundwater and the control and prevention of waste. Such plans  
8 shall be filed with the Oklahoma Water Resources Board for  
9 informational purposes only;
- 10       11. Reclassify or authorize transfer of existing lands of the  
11 district as provided in the Oklahoma Irrigation District Act;
- 12       12. For the purposes of the district:
- 13           a. acquire by purchase, lease or grant, rights-of-way and  
14 improvement locations, and release such acquired  
15 interests, provided that the acquisition or release of  
16 the property or facilities of public service  
17 corporations shall be accomplished as provided for by  
18 Section 1722 of Title 69 of the Oklahoma Statutes,
- 19           b. enter upon lands for the making of surveys, provided  
20 consent for such entry is first obtained,
- 21           c. condemn lands in accordance with the procedure  
22 provided for condemnation of land by railroad  
23 corporations. The power of eminent domain shall not  
24 be exercised to acquire water rights unless the land

1 is acquired in fee. Oil, gas and minerals shall not  
2 be subject to the power of eminent domain, except to  
3 the extent necessary to prevent activities adversely  
4 affecting the purposes of the district,

- 5 d. purchase and acquire leases of water rights,
- 6 e. make application for appropriations of water,
- 7 f. construct, use, maintain, repair and improve canals,  
8 wells, reservoirs and water supply and distribution  
9 facilities and appurtenances of all kinds, and
- 10 g. enter into contracts and obligations with this state  
11 and the United States under the provisions of the  
12 Federal Reclamation Act and all other state and  
13 federal acts for the acquisition of water supply and  
14 distribution facilities;

15 13. Accept the appointment of the district as fiscal agent of  
16 the United States or this state, or accept authorization of the  
17 district by the United States or this state to make collection of  
18 money for and on behalf of the United States or this state in  
19 connection with any federal or state project, and assume the duties  
20 and liabilities incident to such action, and do any and all things  
21 required by rules and regulations now or hereafter established by  
22 any agency or department of the federal or state government in  
23 regard thereto;

24 14. Accept gifts of money, property and services;

1 15. Sell and dispose of the property of the district if  
2 provision is made for the payment of indebtedness thereon and  
3 consent is obtained from all lienholders:

4 a. all property except easements shall be sold by sealed  
5 bid to the highest bidder but the board has the right  
6 to reject all such bids,

7 b. if real property has been acquired by the district  
8 through the exercise of the power of eminent domain or  
9 the imminent threat thereof and the district has  
10 determined that such property shall be sold, the  
11 immediate former owner, or his heirs at law or  
12 devisees, as the case may be, shall have the first  
13 option to repurchase the property at the price at  
14 which the property was purchased from the owner,

15 c. if any property acquired by the district through the  
16 exercise of the power of eminent domain or the  
17 imminent threat thereof is not needed for immediate  
18 use, the former owner, or his heirs at law or  
19 devisees, as the case may be, shall have first option  
20 to lease the property until such time as the property  
21 is actually needed for district purposes;

22 16. Make surveys;

23 17. Carry out research projects;

1        18. ~~Upon vote of the electors, construct~~ Construct dams and  
2 drainage systems;

3        19. ~~Upon vote of the electors, install~~ Install pumps and  
4 equipment to recharge underground basins and subbasins;

5        20. ~~Upon vote of the electors, purchase~~ Purchase real property;

6        21. Upon vote of the electors, borrow money and issue special  
7 assessment bonds or notes, in such principal amounts as do not  
8 exceed the maximum amount voted by the electors. All such bonds or  
9 notes may bear interest at such fixed or variable rate or rates, in  
10 any combination, as may be determined by the directors of the  
11 district. Provided, the average coupon rate thereon shall in no  
12 event exceed fourteen percent (14%) per annum;

13        22. Appoint committees of electors to undertake studies and  
14 report to the board upon any issue germane to the operations and  
15 management of the district; and

16        23. Generally perform all such acts as shall be necessary to  
17 conduct the affairs of the district.

18        D. The provisions of this section shall not be construed to  
19 affect or supercede any laws of this state relating to the authority  
20 or the jurisdiction of any agency of this state or political  
21 subdivision of this state to implement their respective duties  
22 pursuant to law, but shall be held and construed as auxiliary and  
23 supplementary thereto.

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1       SECTION 2. 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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