

1 ENGROSSED SENATE  
2 BILL NO. 1309

By: Anderson of the Senate

3 and

4 Enns of the House

5  
6 [ public finance - bond oversight - Oklahoma

7 Development Finance Authority -

8 emergency ]

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10  
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 62 O.S. 2001, Section 695.7, as  
13 last amended by Section 1, Chapter 166, O.S.L. 2005 (62 O.S. Supp.  
14 2009, Section 695.7), is amended to read as follows:

15 Section 695.7 A. 1. The Council of Bond Oversight shall  
16 engage the services of a person knowledgeable in the current state  
17 of the art of national and international standards for the issuance  
18 of obligations by governmental entities and experienced in the  
19 negotiation of fees for various goods and services requisite to or  
20 deemed desirable in the issuance of such obligations as well as the  
21 negotiation of other matters essential to provide the best current  
22 price and terms of the issuance of such obligations for the benefit  
23 of Oklahoma firms, farms, individuals and local communities, who  
24 shall have the title "Oklahoma State Bond Advisor".

1           2. When appointing a person to the position of Oklahoma State  
2 Bond Advisor, the Council shall conduct a national search in seeking  
3 requests for proposals for the position. The person selected as the  
4 Oklahoma State Bond Advisor shall be approved by an affirmative vote  
5 of three of the members of the Council and appointed to the  
6 position, subject to the advice and consent of the Senate.

7           3. The Oklahoma State Bond Advisor may be removed for cause by  
8 an affirmative vote of three of the members of the Council, after a  
9 public hearing.

10          B. The Oklahoma State Bond Advisor may employ the necessary  
11 staff to carry out the duties of the Bond Advisor and the duties of  
12 the Council, with approval of the Council. Effective July 1, 2003,  
13 the Office of the State Bond Advisor shall be a separate state  
14 agency as set forth in Section 695.7a of this title.

15          C. 1. Except as provided in Section 695.8 of this title, prior  
16 to engaging the services of underwriters, bond or other legal  
17 counsel, financial advisors, consultants, a financial institution to  
18 serve as trustee, paying agent or in any fiduciary capacity in  
19 connection with any program, indenture or general resolution of the  
20 State Governmental Entity, or any other experts, ~~except as provided~~  
21 ~~in Section 5062.8 of Title 74 of the Oklahoma Statutes,~~ the State  
22 Governmental Entity shall request proposals for such services from a  
23 plurality of persons engaged in the particular activity for such  
24 services and the selection of such persons shall be made on the

1 basis of the response to the request which is the most economical  
2 and will provide competent service which furthers the best interest  
3 of the State Governmental Entity and the state. In negotiating  
4 requests for proposals to engage such services, the State  
5 Governmental Entity shall seek the advice and assistance of the  
6 Oklahoma State Bond Advisor. Under no circumstances shall  
7 proprietary inducements be granted. The Oklahoma State Bond Advisor  
8 shall provide assistance and advice to State Governmental Entities  
9 with respect to the issuance of obligations by said State  
10 Governmental Entities, review, negotiate, and approve or disapprove  
11 the fees and expenses for goods and services requisite to or deemed  
12 desirable in the issuance of State Governmental Entity obligations  
13 and represent the interests of the state before rating agencies and  
14 credit enhancement providers.

15 2. The provisions of this subsection shall apply to any Local  
16 Governmental Entity that proposes to issue obligations to fund  
17 capital additions or expenditures which obligations are to be  
18 retired by rental payments from the state, user fees from the state  
19 or any other such payment made by any officer, department, board,  
20 commission, institution or agency of the state. No Local  
21 Governmental Entity may utilize a lease, contract, or other  
22 agreement with a State Governmental Entity as collateral or security  
23 for a proposed Local Governmental Entity obligation unless such  
24 obligation has satisfied all of the provisions of this section. No

1 proceeds of any contract between a State Governmental Entity and a  
2 Local Governmental Entity shall be used to retire any obligations  
3 issued after the effective date of this act to fund capital  
4 additions or expenditures by the Local Governmental Entity unless  
5 such obligation has satisfied all of the provisions of this section.

6 D. The Oklahoma State Bond Advisor shall serve as an advisor to  
7 the Governor and to the Legislature with respect to issuance of  
8 indebtedness reviewed by the Council and shall prepare an annual  
9 report to be submitted to the Governor, the President Pro Tempore of  
10 the Senate and the Speaker of the House of Representatives as of  
11 January 15 each year. The report shall contain a summary of the  
12 issuance of indebtedness by State Governmental Entities and Local  
13 Governmental Entities during the preceding year and such other  
14 information as the State Bond Advisor may be required to submit or  
15 as may be relevant.

16 E. The Oklahoma State Bond Advisor or any member of the  
17 immediate family of the Oklahoma State Bond Advisor shall not have  
18 any direct or indirect financial or contractual relationship with  
19 any firm or corporation or any officer, partner or principal  
20 stockholder of any firm or corporation directly involved in public  
21 finance.

22 SECTION 2. AMENDATORY 74 O.S. 2001, Section 5062.8, is  
23 amended to read as follows:

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1 Section 5062.8 The Oklahoma Development Finance Authority is  
2 hereby granted, has and may exercise all powers necessary or  
3 appropriate to carry out and effectuate its corporate purposes,  
4 including without limiting the generality thereof, the following:

5 1. To adopt, amend, and repeal rules and regulations, policies,  
6 and procedures for the regulation of its affairs and the conduct of  
7 its business;

8 2. To sue and be sued in its own name;

9 3. To have an official seal and power to alter that seal at  
10 will;

11 4. To maintain an office at such place or places within this  
12 state as it may designate;

13 5. To adopt, amend and repeal bylaws and rules and regulations,  
14 not inconsistent with ~~Section 5062.1 et seq. of this title~~ the  
15 Oklahoma Development Finance Authority Act, to carry into effect the  
16 powers and purposes of the Authority and the conduct of its  
17 business;

18 6. To make and execute contracts with any individual,  
19 corporation, whether profit or nonprofit, association or any other  
20 entity and all other instruments necessary or convenient for the  
21 performance of its duties and the exercise of its powers and  
22 functions under ~~Section 5062.1 et seq. of this title~~ the Oklahoma  
23 Development Finance Authority Act;

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1           7. To employ underwriters, bond or other legal counsel,  
2 financial advisors, consultants, a financial institution to serve as  
3 trustee, paying agent or in any fiduciary capacity in connection  
4 with any program, indenture or general resolution of the Authority,  
5 or any other experts and to determine their qualifications, duties  
6 and compensation subject to the provisions of ~~this act~~ the Oklahoma  
7 Development Finance Authority Act for advice and oversight of the  
8 State Bond Advisor; provided, however, after ~~the effective date of~~  
9 ~~this act~~ July 1, 1987, the Authority shall not employ or contract  
10 with any person, partnership, corporation, trust or other entity for  
11 underwriting services for issuance of bonded indebtedness if that  
12 entity has served as financial advisor to the Authority concerning  
13 the consideration of that issuance;

14           When engaging the services of underwriters, bond or other legal  
15 counsel, financial advisors, consultants, a financial institution to  
16 serve as trustee, paying agent or in any fiduciary capacity in  
17 connection with any program, indenture or general resolution of the  
18 Authority, or any other experts, the board shall be governed by the  
19 provisions of subsection C of Section 695.7 of Title 62 of the  
20 Oklahoma Statutes ~~except when engaging such services in connection~~  
21 ~~with a program whose purpose is to provide financing for a single,~~  
22 ~~private entity which has previously selected providers of any such~~  
23 ~~services prior to making application to the Authority, provided:~~

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1 a. ~~such financing for the program shall not be backed by~~  
2 ~~the Credit Enhancement Reserve Fund, and~~

3 b. ~~fees proposed for such services for the program shall~~  
4 ~~fall within a range of fees as determined every six~~  
5 ~~(6) months by the State Bond Advisor, based on~~  
6 ~~industry studies and on fees for such services which~~  
7 ~~have been negotiated and approved by the State Bond~~  
8 ~~Advisor;~~

9 8. To procure insurance against any loss in connection with its  
10 property and other assets in such amounts and from such insurers as  
11 it deems desirable;

12 9. To borrow money and to issue bonds, whether or not the  
13 interest thereon is to be includable in the gross income of the  
14 recipients thereof for federal income tax purposes, including,  
15 without limitation, to provide on a pooled or consolidated basis  
16 financing for the purposes and projects herein provided and to  
17 provide for the security and sources of payments therefor;

18 10. To receive and accept aid or contributions from any source  
19 of money, property, labor, or other things of value to be held, used  
20 and applied to carry out the purposes of ~~this act~~ the Oklahoma  
21 Development Finance Authority Act subject to the conditions upon  
22 which the grants and contributions are made, including, but not  
23 limited to, gifts or grants from any department, agency or  
24 instrumentality of the United States or of the state for any purpose

1 consistent with ~~Section 5062.1 et seq. of this title~~ the Oklahoma  
2 Development Finance Authority Act;

3 11. To obtain from any department or agency of the United  
4 States of America or nongovernmental insurer any insurance or  
5 guaranty, to the extent now or hereafter available, as to, or of, or  
6 for, the payment or repayment of, interest or principal, or both, or  
7 any part thereof, on any bonds issued by the Authority, or on any  
8 municipal securities of political subdivisions purchased or held by  
9 the Authority, pursuant to ~~this act~~ the Oklahoma Development Finance  
10 Authority Act; and, notwithstanding any other provisions of ~~this act~~  
11 the Oklahoma Development Finance Authority Act, to enter into any  
12 agreement or contract whatsoever with respect to any such insurance  
13 or guaranty, except to the extent that the same would in any way  
14 impair or interfere with the ability of the Authority to perform and  
15 fulfill the terms of any agreement made with the owners of the bonds  
16 of the Authority;

17 12. To sell, convey, lease, exchange, transfer or otherwise  
18 dispose of, all or any of its property or any interest therein,  
19 wherever situated;

20 13. To provide financing assistance for the purposes and  
21 projects herein provided;

22 14. To acquire, purchase, hold, store, advertise, market, sell,  
23 trade, barter, exchange, distribute, transport, process, utilize and  
24 contract in all manner with respect thereto and for commodities,

1 products and services, and real or personal property or any interest  
2 therein and to contract for, issue and utilize letters of credit and  
3 other credit facilities and incur indebtedness and to arrange, form,  
4 make, guarantee, issue, remit, receive, receipt, process and collect  
5 payments and equivalents, howsoever nominated, in connection with or  
6 for purposes of any of the foregoing and for the purpose of  
7 executing and fulfilling the purposes of the Authority;

8 15. To acquire, reacquire, construct, reconstruct, extend,  
9 rent, lease, purchase, use, loan, borrow, install, equip, maintain,  
10 operate, renovate, refurbish, enlarge, remodel, convey, sell, at  
11 public or private sale, encumber, alleviate, transfer, exchange,  
12 dispose of and/or resell, any property, real, personal or mixed,  
13 improvements, buildings, equipment, chattels, furnishings, fixtures,  
14 trade fixtures, and any and all other facilities and/or property of  
15 whatever nature, including any and all rights to or therein for use  
16 by corporations, individuals, cooperatives, partnerships,  
17 associations or proprietary companies for any of or for the purpose  
18 of executing and/or fulfilling the purposes of the Authority, and to  
19 plan, establish, develop, construct, enlarge, improve, extend,  
20 maintain, equip, operate, lease, furnish, provide, supply, regulate,  
21 hold, store and administer property, buildings, improvements, and  
22 facilities of every nature, which may be useful in pursuing,  
23 promoting, executing and/or fulfilling the aforementioned purposes;

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1 16. To the extent permitted under its contract with the owners  
2 of bonds, to consent to any modification with respect to rate of  
3 interest, time, and payment of any installment of principal or  
4 interest security or any other term of any contract, mortgage,  
5 contract or agreement of any kind to which the Authority is a party;

6 17. to purchase its own bonds at such price or prices as the  
7 Authority shall determine, subject to any agreement with the owners  
8 of bonds;

9 18. To enter into financial documents with others for the  
10 purpose of receiving revenues to pay the bonds authorized by ~~this~~  
11 ~~act~~ the Oklahoma Development Finance Authority Act; to lease, sell,  
12 or otherwise dispose of any or all of its projects to others for  
13 such revenues and upon such terms and conditions as the Authority  
14 may deem advisable, and to grant options to renew any financing  
15 agreement with respect to project and to grant options to buy any  
16 project at such price or prices as the Authority deems desirable;

17 19. To lend money to the state or political subdivisions  
18 through the purchase by the Authority of obligations of the state or  
19 political subdivisions;

20 20. To collect fees and charges in connection with its loans,  
21 commitments and servicing, including, but not limited to,  
22 reimbursement of costs of financing as the Authority shall determine  
23 to be reasonable and as shall be approved by the Authority;

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1        21. To provide services, technical assistance and advice to  
2 this state and political subdivisions and to enter into contracts  
3 with this state and political subdivisions to provide such services.

4 The State of Oklahoma and its political subdivisions are hereby  
5 authorized to enter into contracts with the Authority for such  
6 services and to pay for such services as may be provided them;

7        22. To contract, cooperate, or join with any one or more other  
8 governments or public agencies, or with the state, any political  
9 subdivisions of this state, or the United States, to perform any  
10 administrative service, activity, or undertaking which any such  
11 contracting party is authorized by law to perform, including the  
12 issuance of bonds;

13        23. To lend money or otherwise extend credit to any person and  
14 exercise all powers of a lender or creditor;

15        24. To invest any funds available to the Authority, whether or  
16 not from the proceeds of bonds, in such securities or pursuant to  
17 such agreements or other arrangements as the Authority shall  
18 determine, subject to any agreements with bond owners or other  
19 creditors of the Authority;

20        25. To purchase, trade or sell foreign or domestic currencies  
21 or the right to acquire such currency in the future; and

22        26. To exercise all other powers and functions necessary or  
23 appropriate to carry out the duties and purposes set forth in  
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1 ~~Section 5062.1 et seq. of this title~~ the Oklahoma Development  
2 Finance Authority Act.

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

7 Passed the Senate the 3rd day of March, 2010.

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9 \_\_\_\_\_  
10 Presiding Officer of the Senate

11 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
12 2010.

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14 \_\_\_\_\_  
15 Presiding Officer of the House  
16 of Representatives