

CS for SB 655

1 THE STATE SENATE  
2 Monday, February 23, 2009

3 Committee Substitute for  
4 Senate Bill No. 655

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 655 - By: Schulz of the  
6 Senate and Ortega of the House.

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

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

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

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

18 B. The board shall:

19 1. Elect a president or chairman and vice-president or vice-  
20 chairman from its members and elect or appoint a secretary-  
21 treasurer. The secretary-treasurer of the board shall be bonded;

22 2. Conduct its business in open meeting, pursuant to the  
23 Oklahoma Open Meeting Act;

1           3. Maintain its records pursuant to the Oklahoma Open Records  
2 Act, except those records which are considered private or  
3 confidential under applicable laws of the United States;

4           4. Have standing to appear before any court of this state.  
5 Such standing shall extend to all matters germane to the powers and  
6 duties of the district including but not limited to questions of the  
7 validity of the establishment and operation of the district,  
8 contracts and collection of delinquent assessments;

9           5. On a date specified by the board, each year, prepare a  
10 budget, estimating the amount of money required for the ensuing year  
11 to meet all obligations of the district and determine the  
12 assessments necessary to pay those obligations. Assessments may be  
13 modified or adopted by the Board when determined necessary;

14           6. Determine collection procedures for all assessments imposed  
15 by the district. Assessments may be set by the board for all  
16 expenses of the district including the establishment and maintenance  
17 of a reserve fund, provided, however, that any assessments for  
18 construction or improvements and the principal indebtedness and  
19 interest which may be incurred relating thereto shall be approved by  
20 vote of the electors. The amount approved by the electors for  
21 construction or improvements may include additional amounts  
22 necessary for the establishment of a reasonable reserve and the  
23 payment of costs of issuance and underwriters' discount. The

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

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

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

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

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

- 1           c.    condemn lands in accordance with the procedure  
2                   provided for condemnation of land by railroad  
3                   corporations.  The power of eminent domain shall not  
4                   be exercised to acquire water rights unless the land  
5                   is acquired in fee.  Oil, gas and minerals shall not  
6                   be subject to the power of eminent domain, except to  
7                   the extent necessary to prevent activities adversely  
8                   affecting the purposes of the district,  
9           d.    purchase and acquire leases of water rights,  
10          e.    make application for appropriations of water,  
11          f.    construct, use, maintain, repair and improve canals,  
12               wells, reservoirs and water supply and distribution  
13               facilities and appurtenances of all kinds, and  
14          g.    enter into contracts and obligations with this state  
15               and the United States under the provisions of the  
16               Federal Reclamation Act and all other state and  
17               federal acts for the acquisition of water supply and  
18               distribution facilities;

19          13.  Accept the appointment of the district as fiscal agent of  
20          the United States or this state, or accept authorization of the  
21          district by the United States or this state to make collection of  
22          money for and on behalf of the United States or this state in  
23          connection with any federal or state project, and assume the duties

1 and liabilities incident to such action, and do any and all things  
2 required by rules and regulations now or hereafter established by  
3 any agency or department of the federal or state government in  
4 regard thereto;

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

6 15. Sell and dispose of the property of the district if  
7 provision is made for the payment of indebtedness thereon and  
8 consent is obtained from all lienholders:

- 9 a. all property except easements shall be sold by sealed  
10 bid to the highest bidder but the board has the right  
11 to reject all such bids,
- 12 b. if real property has been acquired by the district  
13 through the exercise of the power of eminent domain or  
14 the imminent threat thereof and the district has  
15 determined that such property shall be sold, the  
16 immediate former owner, or his heirs at law or  
17 devisees, as the case may be, shall have the first  
18 option to repurchase the property at the price at  
19 which the property was purchased from the owner,
- 20 c. if any property acquired by the district through the  
21 exercise of the power of eminent domain or the  
22 imminent threat thereof is not needed for immediate  
23 use, the former owner, or his heirs at law or

1                    devisees, as the case may be, shall have first option  
2                    to lease the property until such time as the property  
3                    is actually needed for district purposes;

4        16. Make surveys;

5        17. Carry out research projects;

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

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

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

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

18       22. Appoint committees of electors to undertake studies and  
19 report to the board upon any issue germane to the operations and  
20 management of the district; and

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

1           D. The provisions of this section shall not be construed to  
2 affect or supercede any laws of this state relating to the authority  
3 or the jurisdiction of any agency of this state or political  
4 subdivision of this state to implement their respective duties  
5 pursuant to law, but shall be held and construed as auxiliary and  
6 supplementary thereto.

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

11 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated  
12 2-19-09 - DO PASS, As Amended and Coauthored.