

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1648

By: Roussetot and Blackwell

4
5
6 AS INTRODUCED

7 An Act relating to waters and water rights; amending
8 82 O.S. 2001, Section 862, as last amended by Section
9 1, Chapter 301, O.S.L. 2008 (82 O.S. Supp. 2008,
10 Section 862), which relates to the power and duties
11 of the Grand River Dam Authority; updating statutory
12 outline; updating statutory language; deleting
13 certain powers; amending 82 O.S. 2001, Section 868,
14 which relates to the authorization for the Grand
15 River Dam Authority Board to fix and collect certain
16 rates and charges; deleting authority to establish
17 and collect certain rates; and declaring an
18 emergency.

19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

1 the boundaries of the district, ~~provided, however, that any.~~ Any
2 municipal corporation within the area included within the
3 jurisdiction of the ~~said~~ Grand River Dam Authority shall be entitled
4 to take water from the Grand River and any of its tributaries in any
5 quantities that may be needed by ~~such~~ the municipal corporation;

6 ~~(b)~~ 2. To develop and generate water power, electric power and
7 electric energy, from whatever source, within the boundaries of the
8 district; to acquire coal or other minerals to be used for the
9 purposes of providing energy sources for electrical generating
10 plants; to acquire or lease any and all railroad connections,
11 equipment, rolling stock, trackage and otherwise, necessary to the
12 transporting of coal and other minerals to generating plant sites
13 within the district; and to buy, sell, resell, interchange and
14 distribute electric power and energy in order to carry forward the
15 business and functions of the district now or hereafter authorized
16 by law and may enter into contracts for such purposes, such
17 contracts to run for a period of not to exceed fifty (50) years
18 except those contracts provided for in paragraphs ~~(f)~~ 6 and ~~(g)~~ 7 of
19 this ~~section~~ subsection. All contracts may contain such reasonable
20 provisions, limitations, qualifications, protective clauses and
21 rights and obligations of purchase and sale, and such provisions for
22 the dedication of the use of facilities and the construction of
23 additional facilities to serve the load requirements of all the
24 parties as may be deemed advisable by the district to safeguard the

1 business and properties of all the parties to such contracts, all
2 within the limits of sound business judgment and practice, good
3 conscience, and not contrary to the public policy of the state;

4 ~~(e)~~ 3. To prevent or aid in the prevention of damage to person
5 or property from the waters of the Grand River and its tributaries;

6 ~~(d)~~ 4. To forest and reforest and to aid in the foresting and
7 reforesting of the watershed area of the Grand River and its
8 tributaries and to prevent and to aid in the prevention of soil
9 erosion and floods within said watershed area;

10 ~~(e)~~ 5. To acquire by purchase, lease, gift, or in any other
11 manner, and to maintain, use and operate or to contract for the
12 maintenance, use and operation of any and all property of any kind,
13 real, personal, or mixed, or any interest therein, including trucks
14 of any size or weight and passenger vehicles and to own, construct,
15 operate and maintain any project or works in conjunction or jointly
16 with, as tenants in common, any public or private corporation duly
17 authorized and qualified to do business within this state including,
18 but not limited to, rural electric cooperatives of the State of
19 Oklahoma or the United States of America, or any department,
20 subdivision or agency of the State of Oklahoma or the United States
21 of America, or with any "public agency" as defined under the
22 Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74
23 of the Oklahoma Statutes, within or without the boundaries of the
24 district, necessary, incidental or convenient to the exercise of the

1 powers, rights, privileges and functions conferred upon it by this
2 act;

3 ~~(f)~~ 6. In addition to any other powers conferred, the district
4 shall have power and authority to participate and enter into
5 agreements with any public or private corporation duly authorized
6 and qualified to do business within the State of Oklahoma including,
7 but not limited to, rural electric cooperatives, the state or the
8 United States of America or any department, subdivision or agency of
9 the state or the United States of America, or with any "public
10 agency" as defined under the Interlocal Cooperation Act, Sections
11 1001 through 1008 of Title 74 of the Oklahoma Statutes, for the
12 purpose of planning, acquiring, financing, owning, operating and
13 maintaining an undivided ownership of any steam, oil, gas, coal-
14 fired, thermal, geothermal, solar, waste or refuse reclamation
15 powered electric generating plant or plants or any facilities of
16 every kind necessary, incidental or convenient for the production,
17 generation and transmission of electric power and energy including,
18 but not limited to, any and all related transmission facilities,
19 which shall be used as common facilities. The agreements shall
20 provide that the district and any participants therein shall have
21 the incidents of tenant in common to any plant or facility. It
22 shall also be provided in the agreements that the district and any
23 participant in the project shall own a percentage of any common
24 facility equal to the percentage of the money furnished or the value

1 of property supplied by it for the acquisition and construction
2 thereof and shall own and control a like percentage of the
3 electrical output thereof.

4 Each participant shall defray its own interest payments and
5 other payments required to be made or deposited in connection with
6 any financing undertaken by it to pay its percentage of the money
7 furnished or value of property supplied by it for the planning,
8 acquisition and construction of any common facility, or any
9 additions or betterments thereto. The agreement shall further
10 provide a uniform method of determining and allocating operation and
11 maintenance expenses of the common facility.

12 In carrying out the powers granted in this section, the district
13 and each participant shall be severally liable only for its own acts
14 and not jointly or severally liable for the acts, omissions or
15 obligations of others. No money or property supplied by the
16 district or any participant for the planning, financing, acquiring,
17 constructing, operating or maintaining of any common plant or
18 facility shall be credited or otherwise applied to the account of
19 any other participant therein, nor shall the undivided share of the
20 district or any participant therein be charged, directly or
21 indirectly, with any debt or obligation of any other participant or
22 be subject to any lien as a result thereof. No action in connection
23 with a common facility shall be binding upon the district except as

24

1 expressly authorized and provided for in the participation
2 agreement;

3 ~~(g)~~ 7. In addition to the powers conferred in paragraph ~~(f)~~ 6
4 of this ~~section~~ subsection, the district shall have power and
5 authority to participate and enter into agreements with any public
6 or private corporation duly authorized and qualified to do business
7 within this state including, but not limited to, rural electric
8 cooperatives, the State of Oklahoma or the United States of America
9 or any department, subdivision or agency of the State of Oklahoma or
10 the United States of America, or with any "public agency" as defined
11 under the Interlocal Cooperation Act, Sections 1001 through 1008 of
12 Title 74 of the Oklahoma Statutes, for the purpose of planning,
13 acquiring, financing, owning, operating and maintaining undivided
14 ownership interests in any steam, oil, gas, coal-fired, thermal,
15 geothermal, solar, waste or refuse reclamation powered electric
16 generating plant or plants or any other facilities of every kind
17 necessary, incidental or convenient for the production, generation
18 and transmission of electric power and energy including, but not
19 limited to, any and all related transmission or other facilities
20 which are to be used as common facilities and to cooperate with
21 other state agencies and public trusts to promote economic
22 development in the state and to assist in attracting industry to the
23 state. Such undivided ownership interests may be created by an
24 agreement entered into with respect to property to be acquired by

1 the district. Any such agreement may be a sale agreement, with the
2 purchase price payable at one time or in installments at such time
3 and over such period as shall be agreed to by the parties thereto, a
4 lease agreement, with a nominal purchase option, or any other type
5 of agreement. In addition to the purchase price, the district shall
6 be fully indemnified as to operation, maintenance, administrative
7 and other expenses incurred with respect to such undivided interest.
8 Any payment received in respect to any such agreement shall be
9 deemed revenues of the Authority. The district is hereby authorized
10 to enter into any such agreement in order to sell, lease or
11 otherwise convey undivided ownership interests in any such property.
12 Any such agreement shall specify the undivided interest to be owned
13 or acquired by each of the participants, provide for a waiver of
14 partition, prescribe the time of vesting of such interest and the
15 amount of electrical output to be owned and controlled by any
16 participant.

17 Each participant shall defray its own interest and other
18 payments required to be made or deposited in connection with any
19 financing undertaken by it to pay its percentage of the money
20 furnished or value of property supplied by it for the planning,
21 acquisition and construction of any common facility, or any
22 additions or betterments thereto. The agreement shall provide a
23 uniform method of determining and allocating operation and
24 maintenance expenses of the common facility.

1 In carrying out the powers granted in this section, the district
2 and each participant shall be severally liable only for its own acts
3 and not jointly or severally liable for the acts, omissions or
4 obligations of others. No money or property supplied by the
5 district or any participant for the planning, financing, acquiring,
6 constructing, operating or maintaining of any common plant or
7 facility shall be credited or otherwise applied to the account of
8 any other participant therein, nor shall the undivided share of the
9 district or any participant therein be charged, directly or
10 indirectly, with any debt or obligation of any other participant or
11 be subject to any lien as a result thereof. No action in connection
12 with a common facility shall be binding upon the district except as
13 expressly authorized and provided for in the participation
14 agreement;

15 ~~(h)~~ 8. To acquire by condemnation any and all property of any
16 kind, real, personal, or mixed, or any interest therein, within or
17 without the boundaries of the district, necessary, incidental or
18 convenient to the exercise of the powers, rights, privileges and
19 functions conferred upon it by this act, in the manner provided by
20 general law with respect to condemnation; provided that nothing in
21 this act shall ever be construed to authorize the district to
22 acquire by condemnation any privately, municipally or publicly owned
23 electric public utility system or any part thereof outside of the
24 high-water mark of a reservoir area or outside a properly located

1 damsite, except the districts may require the relocation of
2 transmission lines and substations so owned where such relocation is
3 necessary for the construction and maintenance of dams, reservoirs,
4 levees, spillways and floodways, and in such event just compensation
5 shall be paid. Provided that the Grand River Dam Authority shall
6 have the right to cross transmission lines of other electric utility
7 companies under proper engineering standards of construction as
8 approved by the Corporation Commission;

9 ~~(i)~~ 9. Subject to the provisions of this act, from time to time
10 sell, which shall include, but not be limited to, an installment
11 sale agreement, lease with nominal purchase options, or otherwise
12 dispose of any property of any kind, real, personal or mixed, or any
13 interest therein, which shall not be necessary to the carrying on of
14 the business of the district;

15 ~~(j)~~ 10. To overflow and inundate any public lands and public
16 property and to require the relocation of roads and highways in the
17 manner and to the extent necessary to carry out the purposes of this
18 act; provided, that said district shall be liable in damages to the
19 State of Oklahoma or any subdivision thereof for any injury
20 occasioned or expense incurred by reason thereof;

21 ~~(k)~~ 11. To construct, extend, improve, maintain and
22 reconstruct, to cause to be constructed, extended, improved,
23 maintained and reconstructed, and to use and operate any and all
24

1 facilities of any kind necessary, incidental or convenient to the
2 exercise of such powers, rights, privileges and functions;

3 ~~(l)~~ 12. To sue and be sued in its corporate name in contracts,
4 reverse condemnation, tort, equity, mandamus and similar actions and
5 in its own name plead and be impleaded, provided, however, that any
6 and all actions of law or in an equity against the district shall be
7 brought in the county in which the principal office of the district
8 shall be located or in the county where the cause of action arose;

9 ~~(m)~~ 13. To adopt, use and alter a corporate seal;

10 ~~(n)~~ 14. To make bylaws for the management and regulation of its
11 affairs;

12 ~~(o)~~ 15. To appoint officers, agents and employees, to prescribe
13 their duties and to fix their compensation; and enter into contracts
14 with labor unions, provided, that contracts with labor unions shall
15 not abrogate the rights of the district to cooperate and carry out
16 Veterans on the Job Training;

17 ~~(p)~~ 16. To make contracts and to execute instruments necessary,
18 incidental or convenient to the exercise of the powers, rights,
19 privileges and functions conferred upon it by this act;

20 ~~(q)~~ 17. To borrow money for its corporate purposes and, without
21 limitation of the generality of the foregoing, to borrow money and
22 accept grants from the United States of America, or from any
23 corporation or agency created or designated by the United States of
24 America, and, in connection with any such loan or grant, to enter

1 into such agreements as the United States of America or such
2 corporation or agency may require; and to make and issue its
3 negotiable bonds for money borrowed, in the manner provided in this
4 act. Nothing in this act shall authorize the issuance of any bonds,
5 notes or other evidences of indebtedness of the district, except as
6 specifically provided in this act;

7 ~~(*)~~ 18. To prescribe and enforce rules for the use for
8 recreational and commercial purposes of the lakes created by the
9 district by impounding the waters of said lakes, and the shorelands
10 of the district bordering thereon, including the use of firearms,
11 the inspection of all boats of every character proposing to operate
12 or operating on said lakes, the issuance of permits for the
13 operation of boats, surfboards, aquaplanes, sea-skis or similar
14 devices on said lakes for hire; the charging and collection of fees
15 for the inspection or operation of such boats, surfboards,
16 aquaplanes, sea-skis or other similar devices on said lakes for
17 hire; preventing the launching or operation of any commercial or
18 for-hire boat, surfboard, aquaplane, sea-ski or similar device for
19 hire, on the waters of said lakes, without a certificate of
20 inspection and a permit for such use; prescribing the type, style,
21 location and equipment of all wharves, docks and anchorages along
22 the shores and upon the water of said lakes; the issuance of permits
23 for wharfage, dock or anchorage privileges and charging fees for
24 such commercial or private permits; and the establishment and

1 maintenance of public wharves, docks or anchorages and the charging
2 and collection of fees for the use thereof by the public; to appoint
3 or employ such persons as the district may deem proper and suitable
4 for the purpose of enforcing such rules and regulations as may be
5 issued hereunder, or as may be issued pursuant to the provisions of
6 Sections 4200 et seq. of Title 63 of the Oklahoma Statutes, and for
7 the enforcing of the provisions of this act, and all violations of
8 criminal laws occurring within the boundaries of the counties where
9 real property owned or leased by the Grand River Dam Authority is
10 located, which employees shall have the power of peace officers
11 during the performance of those duties, except in the serving or
12 execution of civil process;

13 ~~(s)~~ 19. To do any and all other acts or things necessary,
14 incidental or convenient to the exercise of the powers, rights,
15 privileges or functions conferred upon it by this act or any other
16 act or law. Provided said district shall be liable for damage
17 caused by said district, its agents, servants and employees in
18 creating, constructing, maintaining or operating said district to
19 any corporation, partnership, person or individual whose property,
20 either real or personal, within or without said district, has been
21 damaged and said damages may be determined by appropriate action as
22 provided by law. Nothing in this act shall be construed as
23 rendering the district liable for damage where it is not liable on
24 general principles of law or statute or Constitutional provision.

1 Provided, however, that in the course of exercising its powers
2 as herein enumerated, the said district shall at all times consider
3 the rights and needs of the people living within and upon the land
4 lying within the watershed of the rivers or streams developed by the
5 district; ~~provided, however, that nothing herein shall prevent the~~
6 ~~district from selling for irrigation purposes within the boundaries~~
7 ~~of the district any water impounded by it under authority of law,~~
8 ~~provided that nothing herein contained.~~ Nothing in this section
9 shall authorize the state to engage in agriculture except for
10 educational and scientific purposes and for the support of its
11 penal, charitable, and educational institutions; and

12 ~~(t)~~ 20. To support and assist the efforts of state, regional
13 and local development organizations, political subdivisions,
14 industrial committees, chambers of commerce, tourism organizations,
15 agricultural organizations, environmental organizations and other
16 similar public and private agencies to obtain new and foster
17 expansion of existing service, industrial and manufacturing
18 facilities, businesses and enterprises to enhance the quality of
19 life for the citizens of the district and the state. Provided,
20 support and assistance shall be limited to an amount not to exceed a
21 total of Twenty-five Thousand Dollars (\$25,000.00) per year for one
22 or more projects or efforts that are for the benefit of or impact
23 the quality of life for each city or community located within the
24 boundaries of the district.

1 ~~(u)~~ B. Notwithstanding any other provision of law, the General
2 Manager, department heads and other essential employees of the
3 district, as designated by the General Manager, may be permitted to
4 use a district owned vehicle to provide transportation between the
5 employee's residence and the assigned place of employment and
6 between the residence and any location other than the assigned place
7 of employment to which the employee travels in the performance of
8 the employee's official duty.

9 SECTION 2. AMENDATORY 82 O.S. 2001, Section 868, is
10 amended to read as follows:

11 Section 868. A. The Board shall establish and collect rates
12 and other charges for the sale or use of ~~water, water connections,~~
13 power, electric energy or other services sold, furnished, or
14 supplied by the district which fees and charges shall be reasonable
15 and nondiscriminatory and sufficient to produce revenue adequate to:

16 ~~(a) To pay 1.~~ Pay all expenses necessary to the operation and
17 maintenance of the properties and facilities of the district;

18 ~~(b) To pay 2.~~ Pay the interest on and principal of all bonds
19 issued under this act when and as the same shall become due and
20 payable;

21 ~~(c) To pay 3.~~ Pay all sinking fund and/or reserve fund payments
22 agreed to be made in respect of any such bonds, and payable out of
23 such revenues, when and as the same shall become due and payable;
24 and

1 ~~(d) To fulfill~~ 4. Fulfill the terms of any agreements made with
2 the holders of such bonds and/or with any person in their behalf.
3 Out of the revenues which may be received in excess of those
4 required for the purposes specified in ~~subparagraphs (a)~~ paragraphs
5 1, ~~(b) 2, (c) 3~~ and ~~(d) above~~ 4 of this subsection, the Board shall
6 establish a reasonable depreciation and emergency fund, and retire
7 (by purchase and cancellation or redemption) bonds issued under this
8 act, or apply the same to any corporate purpose. It is the
9 intention of this act that the rates and charges of the district
10 shall not be in excess of what may be necessary to fulfill the
11 obligations imposed upon it by this act.

12 B. Nothing herein in this section shall be construed as
13 depriving the State of Oklahoma of its power to regulate and control
14 fees ~~and/or~~ and charges to be collected for the use of water, water
15 connections, power, electric energy, or other services₇; provided,
16 that the State of Oklahoma does hereby pledge to and agree with the
17 purchasers and successive holders of the bonds issued hereunder that
18 the state will not limit or alter the power hereby vested in the
19 district to establish and collect such fees and charges as will
20 produce revenues sufficient to pay the items specified in
21 ~~subparagraphs (a)~~ paragraphs 1, ~~(b) 2, (c) 3,~~ and ~~(d) 4~~ of
22 subsection A of this Section 8 section, or in any way to impair the
23 rights or remedies of the holders of the bonds, or of any person in
24 their behalf, until the bonds, together with the interest thereon,

1 with interest on unpaid installments of interest and all costs and
2 expenses in connection with any action or proceedings by or on
3 behalf of the bondholders and all other obligations of the district
4 in connection with such bonds are fully met and discharged.

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

9

10 52-1-6496 KB 01/09/09

11

12

13

14

15

16

17

18

19

20

21

22

23

24