

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2887

By: Moore

4
5 AS INTRODUCED

6 An Act relating to electric utilities; amending 82
7 O.S. 2001, Section 862, as last amended by Section 1,
8 Chapter 301, O.S.L. 2008 (82 O.S. Supp. 2009, Section
9 862), which relates to the powers, rights and
10 privileges of the Grand River Dam Authority; changing
11 amount that may be paid to certain entities for
12 support and assistance; directing the district to
13 make in lieu of payments for certain electric
14 generation facilities; providing for determination of
15 the in lieu of payment; providing for proportional
16 payment if taxable and exempt value is allocated;
17 requiring payment to be made to certain school
18 districts; and providing an effective date.

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

20 SECTION 1. AMENDATORY 82 O.S. 2001, Section 862, as last
21 amended by Section 1, Chapter 301, O.S.L. 2008 (82 O.S. Supp. 2009,
22 Section 862), is amended to read as follows:

23 Section 862. The district shall have and is hereby authorized
24 to exercise the following powers, rights and privileges:

25 ~~(a)~~ 1. To control, store and preserve, within the boundaries of
26 the district, the waters of Grand River and its tributaries, for any
27 useful purpose, and to use, distribute and sell the same within the
28 boundaries of the district; provided, however, that any municipal

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

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

1 within the limits of sound business judgment and practice, good
2 conscience, and not contrary to the public policy of the state;

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

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

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

24

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,
14 coal-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, the district shall have power and authority to
5 participate and enter into agreements with any public or private
6 corporation duly authorized and qualified to do business within this
7 state including, but not limited to, rural electric cooperatives,
8 the State of Oklahoma or the United States of America or any
9 department, subdivision or agency of the State of Oklahoma or the
10 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 shall authorize the state to
9 engage in agriculture except for educational and scientific purposes
10 and for the support of its penal, charitable, and educational
11 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 Except for support and assistance provided to a school district
21 through an in lieu of payment as provided for in this paragraph, the
22 support and assistance shall be limited to an amount not to exceed a
23 total of ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Two Hundred Fifty
24 Thousand Dollars (\$250,000.00) per year for one or more projects or

1 efforts that are for the benefit of or impact the quality of life
2 for each city or community located within the boundaries of the
3 district. To provide support and assistance to common schools and
4 technology center schools, the district shall annually make in lieu
5 of payments for all electric generation facilities located outside
6 the district boundaries as set forth in Section 861 of this title
7 which the district holds title to or title to which is held by a
8 partnership, corporation, limited liability company, trust, or any
9 other lawfully recognized entity and the district is a partner,
10 shareholder, member, or other equity interest owner. The in lieu of
11 payment shall be equal to the amount of ad valorem taxes upon the
12 real and personal property constituting and comprising the electric
13 generation facility described in this paragraph based on the fair
14 cash value of the asset for each assessment year using the
15 applicable assessment ratio in effect for such assessment year and
16 the applicable millage rate, including sinking fund millage rates,
17 applicable to the taxable value of the facility or Two Hundred Fifty
18 Thousand Dollars (\$250,000.00), which ever amount is greater. If
19 title to the generation facility is held in any manner that results
20 in an allocation of both taxable value and exempt value during the
21 same assessment year, the district shall make the in lieu of payment
22 based upon the portion of the fair cash value of the facility which
23 is held by the district. Payments shall be made to common school
24 districts and technology center school districts which have the

1 described generation facility located within the boundaries of the
2 school district.

3 ~~(u)~~ 21. Notwithstanding any other provision of law, the General
4 Manager, department heads and other essential employees of the
5 district, as designated by the General Manager, may be permitted to
6 use a district owned vehicle to provide transportation between the
7 employee's residence and the assigned place of employment and
8 between the residence and any location other than the assigned place
9 of employment to which the employee travels in the performance of
10 the employee's official duty.

11 SECTION 2. This act shall become effective November 1, 2010.

12

13 52-2-9325 KB 01/12/10

14

15

16

17

18

19

20

21

22

23

24