

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3314

By: Martin (Scott)

4  
5  
6 AS INTRODUCED

7 An Act relating to conservancy districts; amending 82  
8 O.S. 2001, Sections 564, 568, 569, as amended by  
9 Section 1, Chapter 93, O.S.L. 2008 and 630 (82 O.S.  
10 Supp. 2009, Section 569), which relate to the  
11 organization and funds of the conservancy districts;  
12 updating and clarifying statutory language; modifying  
13 description of types of employees of a conservancy  
14 district; deleting requirement for court to approve  
15 certain employee payments; updating statutory  
16 outline; authorizing the board of directors to  
17 implement certain projects and actions; modifying  
18 requirement for court to approve certain actions by  
19 the board of directors; providing criteria for the  
20 court to consider in rendering a decree; changing  
21 minimum bid amount for master conservancy district  
22 contracts; deleting requirement for certain hearing  
23 on contract before the court; deleting requirement  
24 for certain documents to be attached to a contract;  
allowing the waiver of advertising of contracts under  
certain conditions; deleting certain approval  
requirement to waive advertisement of a contract;  
deleting procedure for court review of a contract  
award; authorizing a board of directors to adopt  
certain competitive bidding rules; deleting  
requirement for court approval of certain fund  
transfers; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 82 O.S. 2001, Section 564, is  
2 amended to read as follows:

3 Section 564. The secretary shall be the custodian of the  
4 records of the district and of its corporate seal and shall assist  
5 the board in ~~such~~ particulars as it may direct in the performance of  
6 its duties. It shall be the duty of the secretary to attest, under  
7 the corporate seal of the district, all certified copies of the  
8 official records and files of the district that may be required of  
9 ~~him~~ the secretary by the provisions of this act, or by any person  
10 ordering the same and paying the reasonable cost of transcription  
11 and any portion of the record so certified and attested shall be  
12 prima facie evidence of the facts ~~therein~~ contained in the record.  
13 The secretary shall serve also as treasurer of the district, unless  
14 a treasurer is otherwise provided for by the board. The board may  
15 also employ and discharge a chief engineer who may be an individual,  
16 ~~co-partnership or corporation,~~ or a business entity. A member of  
17 the board of directors, who is a civil engineer may be designated as  
18 chief engineer of the district, ~~an~~. The board may also employ and  
19 discharge an attorney, and ~~such~~ any other engineers, attorneys and  
20 other agents and assistants as may be useful and necessary, ~~and~~.  
21 The board may provide for ~~their~~ compensation of employees of the  
22 board, which, with all other necessary expenditures, shall be taken  
23 as a part of the cost of the improvement. The employment of ~~the~~  
24 ~~secretary, treasurer, chief engineer and attorney for~~ persons or

1 entities by the district shall be evidenced by agreements in  
2 writing, which, ~~so far as possible,~~ shall specify the amounts or  
3 rates to be paid for their services ~~and be approved by the court,~~  
4 ~~having jurisdiction of the proceedings.~~ The chief engineer shall be  
5 superintendent of all the works and improvements, and shall make a  
6 full report to the board each year, or ~~oftener~~ more often if  
7 required by the board, and may make ~~such~~ suggestions and  
8 recommendations to the board as ~~he~~ the chief engineer may deem  
9 proper.

10 SECTION 2. AMENDATORY 82 O.S. 2001, Section 568, is  
11 amended to read as follows:

12 Section 568. A. In order to effect the protection, reclamation  
13 or irrigation of the land and other property in the district, the  
14 board of directors is authorized and empowered to clean:

15 1. Clean out, straighten, widen, alter, deepen or change the  
16 course or terminus of any ditch, drain, sewer, river, water course,  
17 pond, lake, creek or natural stream in or out of ~~said~~ the district;  
18 ~~to fill~~

19 2. Fill up any abandoned or altered ditch, drain, sewer, river,  
20 watercourse, pond, lake, creek or natural stream, ~~and to~~  
21 concentrate;

22 3. Concentrate, divert or divide the flow of water in or out of  
23 ~~said~~ the district; ~~to construct~~

24

1        4. Construct and maintain main and lateral ditches, sewers,  
2 canals, levees, dikes, dams, retardation dams, irrigation dams,  
3 sluices, revetments, reservoirs, holding basins, floodways, pumping  
4 stations and siphons and any other works and improvements deemed  
5 necessary to construct, preserve, operate or maintain the works in  
6 or out of ~~said~~ the district; ~~to construct~~

7        5. Construct or enlarge or cause to be constructed or enlarged  
8 any and all bridges that may be needed in or out of ~~said~~ the  
9 district; ~~to construct~~

10       6. Construct or elevate roadways and streets; ~~to construct~~

11       7. Construct any and all ~~of said~~ works and improvements across,  
12 through or over any public highway, canal, railroad right-of-way,  
13 track, grade, fill or cut, in or out of ~~said~~ the district; ~~to remove~~

14       8. Remove or change the location of any fence, building,  
15 railroad, canal or other improvements in or out of ~~said~~ the  
16 district; and ~~shall have the right to hold~~

17       9. Hold, encumber, control, ~~to~~ acquire by donation, purchase or  
18 condemnation, ~~to~~ construct, own, lease, use and sell real and  
19 personal property, and ~~to~~ acquire, construct, own, lease, use or  
20 sell any easement, riparian right, railroad right-of-way, canal,  
21 cemetery, sluice, reservoir, holding basin, mill dam, water power,  
22 wharf, holding basin or franchise in or out of ~~said~~ the district for  
23 right-of-way, or for any necessary purpose, or ~~to~~ acquire, own,  
24 lease, use and sell any real estate for material to be used in

1 constructing and maintaining said works and improvement, ~~to~~ replat  
2 or subdivide land, open new roads, streets and alleys, or change the  
3 course of any existing one; ~~provided, however, that said.~~

4 B. All engineering, planning, design and execution, the  
5 operations of the district, and the construction, operation, and  
6 maintenance of infrastructure to serve the purpose for which the  
7 district was established, or to serve any purposes as may have been  
8 amended from time to time as provided for in this act, shall be  
9 implemented at the discretion of the board of directors under the  
10 administration of the chief engineer. Except for engineering,  
11 operations, and the construction, operation and maintenance of  
12 infrastructure to implement its approved purposes, the board of  
13 directors shall not exercise any of said the powers specified herein  
14 in this section without first having filing in the court having  
15 jurisdiction a full and complete petition stating in detail the acts  
16 intended to be done, and upon. Upon the filing of ~~said the~~  
17 petition, a notice shall be published in the county or counties in  
18 ~~said the~~ district, as hereinbefore provided, setting forth the  
19 nature of the relief prayed for, which notice shall be published for  
20 not less than thirty (30) days, and shall specify a date on which  
21 ~~said the~~ petition will be heard by ~~said the~~ court, ~~and in.~~ In the  
22 event a protest is filed, ~~said the~~ court shall hear all parties  
23 interested and make its decree ~~thereon and said.~~ The court shall  
24 base its decision on the petition, granting the relief sought in

1 whole or in part, or denying the relief prayed for, upon whether the  
2 proposed action of the district lies within the scope of its  
3 authority pursuant to this act and the agreements and decrees  
4 establishing the district and governing its operation. The decree  
5 may be appealed to the Supreme Court of the State of Oklahoma, as is  
6 provided in ~~our~~ the statutes relating to civil procedure. ~~The~~  
7 ~~decree of said Court on said hearing shall, either grant in whole or~~  
8 ~~in part, or deny the relief prayed for.~~

9 SECTION 3. AMENDATORY 82 O.S. 2001, Section 569, as  
10 amended by Section 1, Chapter 93, O.S.L. 2008 (82 O.S. Supp. 2009,  
11 Section 569), is amended to read as follows:

12 Section 569. A. When it is determined to let the work of a  
13 master conservancy district by contract, contracts in amounts to  
14 exceed ~~Twenty five Thousand Dollars (\$25,000.00)~~ Fifty Thousand  
15 Dollars (\$50,000.00) shall be advertised after notices calling for  
16 bids have been published once a week, for three (3) consecutive  
17 weeks completed on date of last publication, which shall not be less  
18 than fourteen (14) days from the first publication, in at least one  
19 newspaper in each county, where any part of the work under terms of  
20 the contract is to be performed, ~~and the~~ the board may let the  
21 contract to the lowest and best bidder, who shall give a good and  
22 approved bond, with ample security, equal in amount to the total of  
23 the bid, conditioned on the carrying out of the contract, to  
24 completion, and shall file the bond and contract with the secretary

1 of the district in amount and conditions as provided by law,  
2 conditioned on the carrying out of the contract. ~~This contract~~  
3 ~~shall not be let to another than the lowest bidder until a hearing~~  
4 ~~before the court occurred with notice to all parties interested, as~~  
5 ~~ordered by the court and an order obtained from the court. Such The~~  
6 contract shall be in writing, and shall be accompanied by or shall  
7 refer to plans and specifications for the work done, prepared by the  
8 chief engineer. The contract shall be approved by the board of  
9 directors and signed by the president of the board and by the  
10 contractor, and shall be executed in duplicate. Provided, that in  
11 In the case of sudden emergency when it is necessary in order to  
12 protect the district or when the board determines that the contract  
13 must be implemented by a sole source or in any situation in which  
14 the Public Competitive Bidding Act would allow a state agency to do  
15 so, the advertising of contracts may be waived ~~upon the unanimous~~  
16 ~~consent of the board of directors, with the approval of the court or~~  
17 ~~the judge in vacation; and provided, further, that the action of the~~  
18 ~~board of directors in awarding a contract shall, upon application of~~  
19 ~~any interested taxpayer, be reviewed by the district court at a time~~  
20 ~~and place specified by the judge of the court and the order of the~~  
21 ~~district court may be appealed from, by either the board of~~  
22 ~~directors or any interested taxpayer, to the Supreme Court of the~~  
23 ~~State of Oklahoma in the same manner as other appeals under civil~~  
24 procedure.

1        B. The board of directors of any master conservancy district  
2 may adopt rules establishing a district competitive bidding process  
3 not in conflict with the provisions of this section.

4        SECTION 4.        AMENDATORY        82 O.S. 2001, Section 630, is  
5 amended to read as follows:

6        Section 630. ~~(a)~~ A. The monies of every conservancy district  
7 organized ~~hereunder~~ pursuant to this act shall be administered  
8 through the following funds:

9        ~~(1) Preliminary~~ 1. A preliminary fund, by which is meant the  
10 funds borrowed in accordance with Section 632 of this title, which  
11 shall be used for the payment of expenses incurred for the purposes  
12 for which ~~such~~ the funds may be borrowed. ~~(2) Improvement;~~

13        2. An improvement fund, by which is meant the proceeds of  
14 levies made against the special assessments of benefits equalized  
15 and confirmed under the provisions of this act which have not been  
16 pledged for the retirement of bonds, notes, warrants or agreements  
17 or the payment of interest thereon and the proceeds of all bonds,  
18 notes or warrants issued, which shall be used for defraying  
19 expenditures incurred in the execution of the official plan and the  
20 relocation of utilities, acquisition or construction of properties,  
21 works, and improvements of the district including the cost of  
22 preparing the official plan and the appraisal, except as paid out of  
23 the preliminary funds, the entire cost of construction and  
24 superintendence, with all charges incidental thereto, and the cost

1 of administration during the period of construction and may also be  
2 used for defraying preliminary expenses in accordance with Section  
3 632 of this ~~act~~ title; ~~(3) — Bond~~

4 3. A bond fund, by which is meant the proceeds of levies made  
5 against the special assessment of benefits equalized and confirmed  
6 under the provisions of this act which has been anticipated in the  
7 issuance of bonds, notes or warrants together with all other  
8 receipts pledged for the retirement of bonds, notes or warrants or  
9 the payment of interest thereon, which shall be used only for such  
10 purposes; ~~(4) — Maintenance and~~

11 4. A maintenance fund, which is a special assessment to be  
12 levied annually for the purpose of upkeep, administration and  
13 current expenses as hereinafter provided.

14 ~~(b)~~ B. Any surplus monies in any fund of a conservancy district  
15 may be transferred to any other fund by the board ~~with the approval~~  
16 ~~of the court,~~ but no transfer shall be made from the bond fund  
17 prior to the final maturity of the bonds, notes or warrants payable  
18 therefrom, and no transfer shall thereafter be made which would  
19 reduce the balance in ~~such~~ the fund below the amount required for  
20 the payment of all obligations outstanding against ~~such~~ the fund.

21 ~~(c)~~ C. No vouchers shall be drawn against the maintenance fund  
22 of a conservancy district until assessments have been levied as  
23 provided by this act, ~~no~~ No bonds shall be issued against the bond  
24 fund until an assessment-levying resolution shall have been properly

1 passed by the board of directors and duly entered upon its records,  
2 and not until the property owners shall have been given an  
3 opportunity for a period of not less than thirty (30) days to pay  
4 the assessments so levied against their respective properties.

5 SECTION 5. 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.

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