

1 STATE OF OKLAHOMA

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

3 SENATE BILL 442

By: Bingman

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5
6 AS INTRODUCED

7 An Act relating to public electric power; amending 11
8 O.S. 2001, Section 24-108, as amended by Section 2,
9 Chapter 123, O.S.L. 2006 (11 O.S. Supp. 2008, Section
10 24-108), which relates to the Oklahoma Municipal
11 Power Authority; authorizing Authority to enter
12 certain financial transactions; amending 82 O.S.
2001, Section 873, as amended by Section 2, Chapter
192, O.S.L. 2007 (82 O.S. Supp. 2008, Section 873),
which relates to the Grand River Dam Authority;
providing statutory reference; and declaring an
emergency.

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

16 SECTION 1. AMENDATORY 11 O.S. 2001, Section 24-108, as
17 amended by Section 2, Chapter 123, O.S.L. 2006 (11 O.S. Supp. 2008,
18 Section 24-108), is amended to read as follows:

19 Section 24-108. A. Purposes. The Authority may issue bonds in
20 such principal amounts as the Authority deems necessary to provide
21 sufficient funds to perform any of its corporate purposes and powers
22 including, without limitation, the acquisition, construction, or
23 termination of any project to be owned or leased, as lessor or
24 lessee, by the Authority or the acquisition of any interest therein

1 or any right to the products or services thereof, the funding or
2 refunding of the principal of, redemption premium, if any, and
3 interest on, any bonds issued by the Authority whether the bonds or
4 interest to be funded or refunded have or have not become due, the
5 payment of engineering, legal, and other expenses, together with
6 interest subsequent to the estimated date of completion of the
7 project for such period of time as the Board of Directors determines
8 appropriate, the establishment or increase of reserves to secure or
9 to pay the bonds or interest thereon, the providing of working
10 capital, and the payment of, and the establishment or increase of
11 reserves for, all other costs or expenses of the Authority incident
12 to, and necessary or convenient to perform, its corporate purposes
13 and powers.

14 B. Security for Bonds. Every issue of bonds of the Authority
15 shall be payable out of the revenues or funds of the Authority,
16 subject to any agreements with the holders of particular bonds
17 pledging any particular revenues or funds. The Authority may issue
18 such types of bonds as it may determine to be appropriate, including
19 bonds as to which the principal and interest are payable exclusively
20 from the revenues from one or more projects, or from an interest
21 therein or a right to the products and services thereof, or from one
22 or more revenue-producing contracts made by the Authority with any
23 person, or its revenues generally. Any such bonds may be
24 additionally secured by a pledge or assignment of any

1 revenue-producing contracts made by the Authority with any person or
2 of any grant, subsidy, or contribution from any person or a pledge
3 of any income or revenues, funds, or monies of the Authority from
4 any source.

5 C. Negotiability. All bonds of the Authority shall have all
6 the qualities of negotiable instruments pursuant to the laws of this
7 state.

8 D. Bond Provisions. Bonds of the Authority shall be authorized
9 by a resolution adopted by a majority of the members of the Board of
10 Directors then in office and may be issued pursuant to the bond
11 resolution or pursuant to a trust indenture or other security
12 agreement, in one or more series, and shall bear such date or dates,
13 mature at such time or times, bear interest at such rate or rates
14 which may be fixed or may change at such time or times and in
15 accordance with such formula or method of determination. The bonds
16 shall also be in such form, either coupon or registered, carry such
17 conversion, registration, and exchange privileges, have such rank or
18 priority, be executed in such manner, be payable in such medium of
19 payment at such place or places within or without this state, be
20 subject to such terms of redemption with or without premium, and
21 contain or be subject to such other terms as the bond resolution,
22 trust indenture, or other security agreement may provide. The bonds
23 shall not be restricted by the provisions of any other law limiting
24 the amounts, maturities, interest rates, or other terms of

1 obligations of eligible public agencies or private persons. The
2 bonds shall be sold, in such manner as the Board of Directors shall
3 determine, at public or private sale. The Board of Directors may
4 also authorize bonds to be issued and sold from time to time and may
5 delegate to such officer or agent of the Authority as the Board of
6 Directors selects the power to determine the time and manner of
7 sale, public or private, the maturities and rate or rates of
8 interest which may be fixed or may vary at such time or times and in
9 accordance with a specified formula or method of determination,
10 provided that the interest cost of the money received from the sale
11 of the bonds computed to maturity in accordance with standard bond
12 tables in general use by banks and insurance companies shall not
13 exceed the maximum rate of interest provided for in this section.
14 The bonds shall be subject to such other terms and conditions deemed
15 appropriate by the officer or agent; provided, however, that the
16 amounts and maturities of, and the interest rate or rates not
17 exceeding the maximum rate of interest provided for in this section
18 on, the bonds shall be within the limits prescribed by the Board of
19 Directors in its resolution delegating to the officer or agent the
20 power to authorize the sale and issuance of the bonds.

21 E. Execution of Bonds. Bonds of the Authority may be issued
22 and delivered notwithstanding the fact that one or more of the
23 officers executing them shall have ceased to hold office at the time
24 the bonds are actually delivered.

1 F. Temporary Bonds. Pending preparation of definitive bonds,
2 the Authority may issue temporary bonds which shall be exchanged for
3 the definitive bonds.

4 G. Consents. Bonds of the Authority may be issued pursuant to
5 the provisions of the Oklahoma Municipal Power Authority Act without
6 obtaining the consent of any department, division, commission,
7 board, bureau, or agency of this state and without any other
8 proceeding, condition, or occurrence except as specifically required
9 by the provisions of the Oklahoma Municipal Power Authority Act.

10 H. Official Statement, Prospectus or Offering Document; Filing.
11 At least five (5) business days prior to the delivery of and payment
12 for any bonds, there shall be filed with the Secretary of State a
13 preliminary copy of the official statement, prospectus, or other
14 offering document pertaining to the issuance. Prior to the
15 expiration of fifteen (15) business days following the bond delivery
16 and payment, there shall be filed with the Secretary of State and
17 the Oklahoma Securities Commission a copy, in final form, of the
18 official statement, prospectus, or other offering document. If no
19 official statement, prospectus, or other offering document is used
20 in connection with the sale of the bonds, in lieu thereof there
21 shall be filed a copy of the draft and final proceedings of the
22 Authority authorizing the sale and issuance of the bonds.

23 I. Resolution Constitutes a Contract. The bond resolution,
24 trust indenture, or other security agreement pursuant to which any

1 bonds are issued shall constitute a contract with the holders of the
2 bonds and may contain provisions including but not limited to:

3 1. The terms and provisions of the bonds;

4 2. The pledge and grant of a security interest in any personal
5 property and in all or any part of the revenue from any project or
6 any revenue-producing contract made by the Authority with any person
7 to secure the payment of bonds, subject to any agreements with the
8 holders of bonds which might then exist;

9 3. The custody, collection, securing, investment, and payment
10 of any revenues, assets, money, funds, or property with respect to
11 which the Authority may have any rights or interest;

12 4. The rates or charges for electrical energy or other services
13 rendered by the Authority, the amount to be raised by the rates or
14 charges, and the use and disposition of any or all revenue;

15 5. The creation of reserves or sinking funds and the regulation
16 and disposition thereof;

17 6. The purposes to which the proceeds from the sale of any
18 bonds then or thereafter to be issued may be applied, and the pledge
19 or revenues to secure the payment of the bonds;

20 7. The limitations on the issuance of any additional bonds, the
21 terms upon which additional bonds may be issued and secured, and the
22 refunding of outstanding bonds;

23 8. The rank or priority of any bonds with respect to any lien
24 or security;

1 9. The creation of special funds or monies to be held in trust
2 or otherwise for operational expenses, payment, or redemption of
3 bonds, reserves, or other purposes, and the use and disposition of
4 monies held in the funds;

5 10. The procedure by which the terms of any contract with or
6 for the benefit of the holders of bonds may be amended or revised,
7 the amount of bonds the holders of which must consent thereto, and
8 the manner in which consent may be given;

9 11. The definition of the acts or omissions to act which shall
10 constitute a default in the duties of the Authority to holders of
11 its bonds, and the rights and remedies of the holders in the event
12 of default, including, if the Authority so determines, the right to
13 accelerate the due date of the bonds or the right to appoint a
14 receiver or receivers of the property or revenues subject to the
15 lien of the bond resolution, trust indenture, or other security
16 agreement;

17 12. Any additional agreements with or for the benefit of the
18 holders of bonds or any covenants or restrictions necessary or
19 desirable to safeguard the interest of the holders;

20 13. The custody of its properties or investments, the
21 safekeeping thereof, the insurance to be carried thereon, and the
22 use and disposition of insurance proceeds;

23 14. The vesting in a trustee or trustees, within or without
24 this state, of such properties, rights, powers, and duties in trust

1 as the Authority may determine, or the limiting or abrogating of the
2 rights of the holders of any bonds to appoint a trustee, or the
3 limiting of the rights, powers, and duties of the trustee; or

4 15. The appointment of and the establishment of the duties and
5 obligations of, any paying agent or other fiduciary within or
6 without this state.

7 J. Any pledge of revenues, securities, contract rights, or
8 other personal property made by the Authority pursuant to the
9 provisions of the Oklahoma Municipal Power Authority Act shall be
10 valid and binding from the date the pledge is made. The revenues,
11 securities, contract rights, or other personal property so pledged
12 and then held or thereafter received by the Authority or any
13 fiduciary shall immediately be subject to the lien of the pledge
14 without any physical delivery thereof or further act, and the lien
15 of the pledge shall be valid and binding against all parties having
16 claims of any kind in tort, contract, or otherwise against the
17 Authority without regard to whether the parties have notice of the
18 lien. The bond resolution, trust indenture, security agreement, or
19 other instrument by which a pledge is created need not be filed or
20 recorded in any manner.

21 K. Neither the officials, directors, members of the Authority,
22 or any person executing bonds shall be liable personally on the
23 bonds or be subject to any personal liability or accountability by
24 reason of the issuance thereof. The Authority shall have power to

1 indemnify and to purchase and maintain insurance on behalf of any
2 director, officer, employee, or agent of the Authority, in
3 connection with any threatened, pending, or completed action, suit,
4 or proceeding.

5 L. The Authority shall have power to purchase bonds out of any
6 funds available therefor, and to hold, pledge, cancel, or retire the
7 bonds and coupons prior to maturity, subject to and in accordance
8 with any agreements with the holders.

9 M. The principal of, premium, if any, and interest upon any
10 bonds issued by the Authority shall be payable solely from the
11 revenues or funds pledged or available for their payment as
12 authorized by the provisions of the Oklahoma Municipal Power
13 Authority Act. Each bond shall contain a statement that it
14 constitutes an obligation of the Authority, that the principal
15 thereof, premium, if any, and interest thereon are payable solely
16 from revenues or funds of the Authority and that neither the State
17 of Oklahoma or any political subdivision thereof, or any eligible
18 public agency or public trust which has contracted with the
19 Authority, is obligated to pay the principal of, premium, if any, or
20 interest on the bonds and that neither the faith and credit or the
21 taxing power of the State of Oklahoma or any such political
22 subdivision thereof or of any such eligible public agency or public
23 trust is pledged to the payment of the principal of, premium, if
24 any, or the interest on the bonds.

1 N. The Authority is further authorized to enter into interest
2 rate swaps and other derivative products, and other financial
3 instruments intended to hedge interest rate risk or manage interest
4 rate costs, including any option to enter into or terminate any of
5 them, that the Authority deems to be necessary or desirable in
6 connection with any bonds issued prior to, at the same time as, or
7 after entering into such arrangement, and containing such terms and
8 provisions, and may be with such parties, as determined by the
9 Authority. Provided, any action taken by the Authority pursuant to
10 this subsection must first be approved by the Office of the State
11 Bond Advisor and the Council of Bond Oversight pursuant to the
12 provisions of the Oklahoma Bond Oversight and Reform Act, Section
13 695.1 et seq. of Title 62 of the Oklahoma Statutes.

14 SECTION 2. AMENDATORY 82 O.S. 2001, Section 873, as
15 amended by Section 2, Chapter 192, O.S.L. 2007 (82 O.S. Supp. 2008,
16 Section 873), is amended to read as follows:

17 Section 873. A. The Grand River Dam Authority is hereby
18 authorized to fund and refund any and all lawful obligations and any
19 and all revenue bonds issued, or contracted to be sold, by it by the
20 issuance of new revenue bonds, or from the proceeds of sale of new
21 revenue bonds, or by the exchange of new revenue bonds and to
22 renegotiate any agreement of indenture whereunder said obligations
23 or revenue bonds authorized to be funded and refunded hereby may be
24 outstanding, or contracted, but any new revenue bonds issued,

1 exchanged or sold to fund or refund said outstanding obligations and
2 revenue bonds and all agreements and indentures providing for the
3 payment and securing thereof shall conform to the provisions of the
4 Grand River Dam Authority Act, as amended; provided, that no
5 outstanding obligations or revenue bonds shall be funded or refunded
6 or exchanged on the basis of a price in excess of principal, accrued
7 interest, redemption premium, or charges in excess of those provided
8 by said obligations or revenue bonds or the indenture or agreement
9 whereunder issued or incurred, plus the necessary and reasonable
10 costs of funding, refunding or exchange thereof; provided, further
11 that said Authority shall have the power to purchase any revenue
12 bonds issued, or contracted to be issued, by it at a price not
13 exceeding the redemption price applicable at the time of purchase
14 thereof, or, if no redemption price is fixed, then at principal plus
15 accrued interest, from any funds available and provided for the
16 payment of said revenue bonds and when purchased said bonds shall be
17 canceled.

18 B. The Authority is further authorized to enter into interest
19 rate swaps and other derivative products, and other financial
20 instruments intended to hedge interest rate risk or manage interest
21 rate costs, including any option to enter into or terminate any of
22 them, that the Authority deems to be necessary or desirable in
23 connection with any bonds issued prior to, at the same time as, or
24 after entering into such arrangement, and containing such terms and

1 provisions, and may be with such parties, as determined by the
2 Authority. Provided, any action taken by the Authority pursuant to
3 this subsection must first be approved by the Office of the State
4 Bond Advisor and the Council of Bond Oversight pursuant to the
5 provisions of the Oklahoma Bond Oversight and Reform Act, Section
6 695.1 et seq. of Title 62 of the Oklahoma Statutes.

7 SECTION 3. 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.

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