

1 STATE OF OKLAHOMA

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

3 SENATE BILL 587

By: Brogdon

4
5
6 AS INTRODUCED

7 An Act relating to eminent domain; prohibiting and
8 limiting certain exercise of power of eminent domain;
9 amending 11 O.S. 2001, Sections 38-111 and 40-115,
10 which relate to the Oklahoma Municipal Code;
11 modifying procedure for acquisition of real property
12 by urban renewal authorities and redevelopment
13 trusts; amending 19 O.S. 2001, Section 875, which
14 relates to sewer improvement districts; adding
15 requirement in order to exercise the power of eminent
16 domain or condemnation; amending 19 O.S. 2001,
17 Section 901.7, which relates to fire protection
18 districts; adding requirement in order to exercise
19 the power of eminent domain or condemnation; amending
20 27 O.S. 2001, Section 5, which relates to use of
21 eminent domain by certain public bodies; removing
22 power from certain entity and adding requirement in
23 order to exercise the power of eminent domain;
24 amending 60 O.S. 2001, Section 176, as last amended
by Section 48, Chapter 5, O.S.L. 2004 (60 O.S. Supp.
2008, Section 176), which relates to public trusts;
adding requirement in order to exercise the power of
eminent domain; amending 63 O.S. 2001, Sections 1061
and 1078, which relate to housing authorities; adding
requirement in order to exercise the power of eminent
domain; amending 69 O.S. 2001, Section 3002, which
relates to toll expressways; removing power from
certain entity and adding requirement for certain
public trusts to exercise the power of eminent
domain; providing for codification; and declaring an
emergency.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 17 of Title 27, unless there is
4 created a duplication in numbering, reads as follows:

5 Notwithstanding any other provision of law, the power of eminent
6 domain shall not be exercised by any trust or authority that has one
7 or more municipalities, counties, or school districts as its
8 beneficiaries. Further, no municipality, county, or school district
9 that is granted the power of eminent domain by law shall exercise
10 such power without the specific approval by a three-fourths (3/4)
11 vote of the elected governing body.

12 SECTION 2. AMENDATORY 11 O.S. 2001, Section 38-111, is
13 amended to read as follows:

14 Section 38-111. A. After the adoption by the municipal
15 governing body of an urban renewal plan and a resolution declaring
16 that the acquisition of real property described in the plan is
17 necessary to the execution of the plan, the ~~Urban Renewal Authority~~
18 ~~designated as the agency to execute such plan~~ municipality, by the
19 specific approval by a three-fourths (3/4) vote of the municipal
20 governing body, shall have the right to acquire by condemnation or
21 otherwise, any interest or right or combination of rights in real
22 property, including a fee simple title thereto, necessary to the
23 execution of the approved plan. Condemnation for the urban renewal
24 of blighted areas is declared to be a public use, and property

1 already devoted to any other public use or acquired by the owner or
2 his predecessor in interest by eminent domain may be condemned for
3 the purpose of this article. The award of compensation for real
4 property taken for such a project shall not be increased by reason
5 of any increase in the value of the real property caused by the
6 assembling, clearance, reconstruction, or proposed assembly,
7 clearance or reconstruction in the project area. No increment of
8 value shall accrue to such property as the result of any illegal or
9 unlawful use thereof. No allowance shall be made for the
10 improvements begun on real property after notice to the owner of
11 such property or the institution of proceedings to condemn such
12 property. Evidence shall be admissible bearing upon the insanitary,
13 unsafe, or substandard condition of the premises, or the lawful use
14 thereof.

15 B. Except as otherwise provided by subsection C of this
16 section, the ~~Urban Renewal Authority~~ municipality, upon the specific
17 approval by a three-fourths (3/4) vote of the municipal governing
18 body, shall have the right to acquire by condemnation any interest
19 in real property, including a fee simple title thereto, which it may
20 deem necessary for or in connection with an urban renewal project
21 under this article.

22 C. If an Urban Renewal Authority ~~intends~~ identifies the need to
23 acquire ~~unimproved real property pursuant to~~ through the power of
24 condemnation ~~authorized by this article~~ or eminent domain any real

1 property, improved or unimproved, the Urban Renewal Authority shall
2 specifically identify the parcels or tracts of real property ~~which~~
3 ~~it intends to acquire through condemnation~~ to the governing body of
4 the municipality. The governing body of the municipality shall
5 consider the proposed acquisition of the ~~unimproved~~ real property
6 during an open meeting and shall be required to approve the proposed
7 acquisition by a ~~majority~~ three-fourths (3/4) vote of those persons
8 constituting the governing body of the municipality. No ~~Urban~~
9 ~~Renewal Authority shall acquire unimproved real property~~ shall be
10 acquired by condemnation unless the acquisition has been
11 specifically approved by the governing body of the municipality as
12 required by this subsection. An acquisition by ~~an Urban Renewal~~
13 ~~Authority of unimproved real property~~ condemnation made without the
14 specific approval by a three-fourths (3/4) vote of the municipal
15 governing body shall be void and notwithstanding the completion of
16 other proceedings an action may be maintained by a person with a
17 legal or equitable interest in the subject real property to recover
18 title to the real property or possession of the real property or
19 both title and possession of the real property.

20 D. The procedure prescribed for railroad companies in Sections
21 51 et seq., of Title 66 of the Oklahoma Statutes, shall be followed
22 in acquiring property by eminent domain. Property already devoted
23 to public use may be acquired in like manner; provided, that no real
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1 property belonging to the state or any political subdivision thereof
2 may be acquired without its consent.

3 E. In the event any Urban Renewal Authority or municipality in
4 exercising any of the powers conferred by this article makes
5 necessary the relocation, raising, rerouting or changing the grade
6 of or altering the construction of any railroad, common carrier or
7 public utility property or facility, all such relocation, raising,
8 rerouting, changing of grade or alteration of construction shall be
9 accomplished at the expense of the Urban Renewal Authority, provided
10 that the Urban Renewal Authority shall not disturb the possession or
11 operation of any railroad, common carrier, or public utility in or
12 to the appropriated property or facility until the relocated
13 property or facilities are available for use and until marketable
14 title thereto has been transferred to the railroad, common carrier
15 or public utility.

16 F. In any proceeding to fix or assess compensation for damages
17 for the taking (or damaging) of property, or any interest therein,
18 through the exercise of the power of eminent domain or condemnation,
19 evidence or testimony bearing upon the following matters shall be
20 admissible and shall be considered in fixing such compensation or
21 damages, in addition to evidence or testimony otherwise admissible:

22 1. Any use, condition, occupancy, or operation of such
23 property, which is unlawful or violative of, or subject to
24 elimination, abatement, prohibition, or correction under, any law or

1 any ordinance or regulatory measure of the state, county,
2 municipality, other political subdivision, or any agency thereof, in
3 which such property is located, as being unsafe, substandard,
4 insanitary or otherwise contrary to the public health, safety, or
5 welfare; and

6 2. The effect on the value of such property, or any such use,
7 condition, occupancy, or operation, or of the elimination,
8 abatement, prohibition, or correction of any such use, condition,
9 occupancy, or operation.

10 G. The foregoing testimony and evidence shall be admissible
11 notwithstanding that no action has been taken by any public body or
12 public officer toward the occupancy or operation. Testimony or
13 evidence that any public officer charged with the duty or authority
14 to do so has rendered, made or issued any judgment, decree,
15 determination or order for the abatement, prohibition, elimination
16 or correction of any such use, condition, occupancy, or operation
17 shall be admissible and shall be prima facie evidence of the
18 existence and character of such use, condition or operation.

19 H. In any condemnation proceedings in which a jury trial is
20 had, if the verdict of the jury exceeds the award of the court
21 appointed commissioners, the court may award a reasonable attorney
22 fee to the defendant or defendants, which shall be paid by the
23 condemner.

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1 SECTION 3. AMENDATORY 11 O.S. 2001, Section 40-115, is
2 amended to read as follows:

3 Section 40-115. A. ~~A~~ If a redevelopment trust shall have the
4 right identifies the need to acquire any property by the exercise of
5 the power of eminent domain ~~any real property in fee simple or other~~
6 ~~estate which is necessary to accomplish the purposes of this act,~~
7 ~~when so approved by~~ the power may be exercised by the municipality
8 upon the specific approval by a three-fourths (3/4) vote of the
9 municipal governing body.

10 ~~B. A redevelopment trust may exercise the power of eminent~~
11 ~~domain in the manner provided in Sections 9 through 14 of Title 27~~
12 ~~of the Oklahoma Statutes; or it may exercise the power of eminent~~
13 ~~domain in the manner provided by any other applicable statutory~~
14 ~~provision for the exercise of the power of eminent domain. Property~~
15 already devoted to a public use may be acquired in like manner,
16 provided that no real property belonging to any city, county, public
17 trust or the state or any political subdivision thereof may be
18 acquired without its consent.

19 ~~C. B.~~ B. In the event of the sale or other disposition of real
20 property of any redevelopment trust by reason of the foreclosure of
21 any mortgage or other lien, through insolvency or bankruptcy
22 proceedings, by order of any court of competent jurisdiction, by
23 voluntary transfer or otherwise, the purchaser of such real property
24 of such redevelopment trust shall continue to use, operate and

1 maintain such real property in accordance with the provisions of any
2 project plan.

3 SECTION 4. AMENDATORY 19 O.S. 2001, Section 875, is
4 amended to read as follows:

5 Section 875. The board of directors shall hold their regular
6 meetings in their office on the first Tuesday of each month
7 beginning at 10:00 A.M., and in addition thereto, such special
8 meetings as may be required for the proper transaction of business,
9 provided all special meetings shall be ordered by the director of
10 the board and such order be entered of record. Such order must also
11 specify the business to be transacted at such meeting. Two members
12 shall constitute a quorum for the transaction of business, and upon
13 all questions requiring a vote there shall be a concurrence of at
14 least two members of such board. All records of said board must be
15 open to the inspection of any elector during business hours. The
16 board, its agents and employees, shall have the right to enter upon
17 any land within the district, to make surveys and locate any sewer
18 line and the necessary branches or extensions. The board shall also
19 have the right to acquire by purchase ~~or condemnation~~ all lands and
20 other property necessary for the construction, maintenance, repair
21 and improvement, of any sewer lines or branches thereof within such
22 district, and may acquire ~~either~~ by purchase ~~or condemnation~~ such
23 lands as may be necessary for a sewage treatment or plant site and
24 use in connection therewith and right of ways necessary therefor and

1 the necessary right of way to any site of sewage treatment plant
2 outside of such district. If the board of directors identifies the
3 need to acquire any property by the exercise of the power of eminent
4 domain, the power may be exercised by the board of county
5 commissioners upon specific approval by a three-fourths (3/4) vote
6 of the board of county commissioners. ~~Said~~ The board of directors
7 shall also have the right to enter into any obligation or contract
8 for the construction, operation and maintenance of the necessary
9 lines for the collection of sewage within said district, and for the
10 construction, operation and maintenance of a sewage disposal or
11 treatment plant and other contracts necessary or incident to
12 carrying out the purposes of this act.

13 SECTION 5. AMENDATORY 19 O.S. 2001, Section 901.7, is
14 amended to read as follows:

15 Section 901.7 A. The board of directors shall have the power
16 and duty to:

- 17 1. Manage and conduct the business affairs of such district;
- 18 2. Make and execute all necessary contracts;
- 19 3. Purchase or lease-purchase and maintain all necessary and
20 convenient engines, hoses, hose carts or other appliances and
21 supplies for the full equipment of a fire company or department;
- 22 4. Appoint fire company officers and employees, sufficient to
23 maintain and operate the equipment owned by such district;

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1 5. Take by grant, purchase, ~~condemnation~~, gift, devise or
2 lease, and to dispose of, real or personal property of every kind
3 necessary for the operation of the district. If the board of
4 directors identifies the need to acquire any property by the
5 exercise of the power of eminent domain, the power may be exercised
6 by the board of county commissioners upon specific approval by a
7 three-fourths (3/4) vote of the board of county commissioners;

8 6. Construct or otherwise acquire suitable firehouses and other
9 buildings or structures suitable for the housing of equipment and
10 supplies of the district, or for carrying on its own business and
11 affairs;

12 7. Employ such officers and employees as may be required, fix
13 their compensation and prescribe their duties;

14 8. Establish rules and regulations for the district and for the
15 prevention of fires and conflagrations within the district and for
16 the protection of property at and during any fire;

17 9. Prepare an annual budget and follow existing laws pertaining
18 to the budget process such as public notices, public hearings,
19 protest periods and filing requirements in the same manner as they
20 apply to other forms of government in Oklahoma;

21 10. Determine vacancies of the board of directors, fill
22 vacancies and conduct board elections in the event of a vacancy on
23 the board of directors;

1 11. Develop bylaws for the due and orderly administration of
2 the affairs of the board of directors and for its responsibilities
3 specified pursuant to this chapter, and may compel the attendance of
4 absent members in the manner and under penalties as the board may
5 prescribe; and

6 12. Do any and all other things necessary and proper in the
7 management and operation of the district for the purpose of
8 protecting property within its boundaries from fire.

9 B. A fire protection district, created pursuant to this
10 chapter, shall be deemed a political subdivision of this state. The
11 board may submit an application to include the fire fighters of the
12 district in the Oklahoma Firefighters Pension and Retirement System.
13 The application for affiliation shall be submitted in accordance
14 with subsection A of Section 49-105.2 of Title 11 of the Oklahoma
15 Statutes.

16 SECTION 6. AMENDATORY 27 O.S. 2001, Section 5, is
17 amended to read as follows:

18 Section 5. Any county, city, town, township, school district,
19 or board of education, ~~or any board or official having charge of~~
20 ~~cemeteries created and existing under the laws of this state, upon~~
21 the specific approval by three-fourths (3/4) vote of the elected
22 governing body, shall have power to condemn lands in like manner as
23 railroad companies, for highways, rights-of-way, building sites,
24 cemeteries, public parks and other public purposes.

1 SECTION 7. AMENDATORY 60 O.S. 2001, Section 176, as last
2 amended by Section 48, Chapter 5, O.S.L. 2004 (60 O.S. Supp. 2008,
3 Section 176), is amended to read as follows:

4 Section 176. A. Express trusts may be created to issue
5 obligations, enter into financing arrangements including, but not
6 limited to, lease-leaseback, sale-leaseback, interest rate swaps and
7 other similar transactions and to provide funds for the furtherance
8 and accomplishment of any authorized and proper public function or
9 purpose of the state or of any county or municipality or any and all
10 combinations thereof, in real or personal property, or either or
11 both, or in any estate or interest in either or both, with the
12 state, or any county or municipality or any and all combinations
13 thereof, as the beneficiary thereof by:

14 1. The express approval of the Legislature and the Governor if
15 the State of Oklahoma is the beneficiary;

16 2. The express approval of two-thirds (2/3) of the membership
17 of the governing body of the beneficiary if a county is a
18 beneficiary;

19 3. The express approval of two-thirds (2/3) of the membership
20 of the governing body of the beneficiary if a municipality is a
21 beneficiary; or

22 4. The express approval of two-thirds (2/3) of the membership
23 of the governing body of each beneficiary in the event a trust has
24 more than one beneficiary; provided, that no funds of a beneficiary

1 derived from sources other than the trust property, or the operation
2 thereof, shall be charged with or expended for the execution of the
3 trust, except by express action of the legislative authority of the
4 beneficiary prior to the charging or expending of the funds. The
5 officers or any other governmental agencies or authorities having
6 the custody, management, or control of any property, real or
7 personal or mixed, of the beneficiary of the trust, or of a proposed
8 trust, which property shall be needful for the execution of the
9 trust purposes, are authorized and empowered to lease the property
10 for those purposes, after the acceptance of the beneficial interest
11 therein by the beneficiary as hereinafter provided.

12 B. A municipality may convey title to real property which is
13 used for an airport to the trustees of an industrial development
14 authority trust whose beneficiary is the municipality. The
15 industrial development authority trust must already have the
16 custody, management, or control of the real property. The
17 conveyance must be approved by a majority of the governing body of
18 the municipality. A conveyance pursuant to this section may be made
19 only for the sole purpose of allowing the authority to sell the
20 property for fair market value when the property is to be used for
21 industrial development purposes. Conveyances made pursuant to this
22 subsection shall be made subject to any existing reversionary
23 interest or other restrictions burdening the property and subject to

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1 any reversionary interest or other restriction considered prudent by
2 the municipality.

3 C. The trustees of a public trust having the State of Oklahoma
4 as beneficiary shall make and adopt bylaws for the due and orderly
5 administration and regulation of the affairs of the public trust.
6 All bylaws of a public trust having the State of Oklahoma as
7 beneficiary shall be submitted in writing to the Governor of the
8 State of Oklahoma. The Governor must approve the proposed bylaws
9 before they take effect.

10 D. No public trust in which the State of Oklahoma is the
11 beneficiary may be amended without a two-thirds (2/3) vote of
12 approval of the trustees of the trust; provided, that any amendment
13 is subject to the approval of the Governor of the State of Oklahoma.
14 Any amendments shall be sent to the Governor within fifteen (15)
15 days of their adoption.

16 E. No trust in which a county or municipality is the
17 beneficiary shall hereafter create an indebtedness or obligation
18 until the indebtedness or obligation has been approved by a two-
19 thirds (2/3) vote of the governing body of the beneficiary. In the
20 event a trust has more than one beneficiary, as authorized by this
21 section, the trust shall not incur an indebtedness or obligation
22 until the indebtedness or obligation has been approved by a two-
23 thirds (2/3) vote of the governing body of two-thirds (2/3) of the
24 beneficiaries of the trust.

1 F. All bonds described in subsection E of this section, after
2 December 1, 1976, except bonds sold to the federal government or any
3 agency thereof or to any agency of the State of Oklahoma, shall be
4 awarded to the lowest and best bidder based upon open competitive
5 public offering, advertised at least once a week for two (2)
6 successive weeks in a newspaper of general circulation in the county
7 where the principal office of the trust is located prior to the date
8 on which bids are received and opened; provided, competitive bidding
9 may be waived on bond issues with the approval of three-fourths
10 (3/4) of the trustees, and a three-fourths (3/4) vote of the
11 governing body of the beneficiary, unless the beneficiary is a
12 county in which case a two-thirds (2/3) vote of the members of the
13 governing body shall be required, or three-fourths (3/4) vote of the
14 governing bodies of each of the beneficiaries of the trust, unless
15 one of the beneficiaries is a county in which case a two-thirds
16 (2/3) vote of the members of the governing body of such county shall
17 be required. No bonds shall be sold for less than par value, except
18 upon approval of three-fourths (3/4) of the trustees, unless the
19 beneficiary is a county in which case a two-thirds (2/3) vote of the
20 members of the governing body shall be required. In no event shall
21 bonds be sold for less than sixty-five percent (65%) of par value;
22 provided, however, in no event shall the original purchaser from the
23 issuer of any bonds issued by any public trust for any purpose
24 receive directly or indirectly any fees, compensation, or other

1 remuneration in excess of four percent (4%) of the price paid for
2 the bonds by the purchaser of the bonds from the original purchaser;
3 and further provided, that the average coupon rate thereon shall in
4 no event exceed fourteen percent (14%) per annum. No public trust
5 shall sell bonds for less than ninety-six percent (96%) of par value
6 until the public trust has received from the underwriter or
7 financial advisor or, in the absence of an underwriter or financial
8 advisor, the initial purchaser of the bonds, an estimated
9 alternative financing structure or structures showing the estimated
10 total interest and principal cost of each alternative. At least one
11 alternative financing structure shall include bonds sold to the
12 public at par. Any estimates shall be considered a public record of
13 the public trust. Bonds, notes or other evidences of indebtedness
14 issued by any public trust shall be eligible for purchase by any
15 state banking association or corporation subject to such limitations
16 as to investment quality as may be imposed by regulations, rules or
17 rulings of the State Banking Commissioner.

18 G. Public trusts created pursuant to this section shall file
19 annually, with their respective beneficiaries, copies of financial
20 documents and reports sufficient to demonstrate the fiscal activity
21 of such trust, including, but not limited to, budgets, financial
22 reports, bond indentures, and audits. Amendments to the adopted
23 budget shall be approved by the trustees of the public trust and
24 recorded as such in the official minutes of such trust.

1 H. Contracts for construction, labor, equipment, material or
2 repairs in excess of Twenty-five Thousand Dollars (\$25,000.00) shall
3 be awarded by public trusts to the lowest and best competitive
4 bidder, pursuant to public invitation to bid, which shall be
5 published in the manner provided in the preceding section hereof;
6 the advertisements shall appear in the county where the work, or the
7 major part of it, is to be done, or the equipment or materials are
8 to be delivered, or the services are to be rendered; provided,
9 however, should the trustee or the trustees find that an immediate
10 emergency exists, which findings shall be entered in the journal of
11 the trust proceedings, by reason of which an immediate outlay of
12 trust funds in an amount exceeding Twenty-five Thousand Dollars
13 (\$25,000.00) is necessary in order to avoid loss of life,
14 substantial damage to property, or damage to the public peace or
15 safety, then the contracts may be made and entered into without
16 public notice or competitive bids; provided that the provisions of
17 this subsection shall not apply to contracts of industrial and
18 cultural trusts. Notwithstanding the provisions of this subsection,
19 equipment or materials may be purchased by a public trust directly
20 from any contract duly awarded by this state or any state agency
21 under the Oklahoma Central Purchasing Act, or from any contract duly
22 awarded by a governmental entity which is the beneficiary of the
23 public trust.

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1 I. ~~Any~~ If a public trust created pursuant to the provisions of
2 ~~this section shall have the power~~ with one or more municipalities,
3 counties, or school districts as beneficiaries identifies the need
4 to acquire lands ~~any property by use~~ the exercise of the power of
5 eminent domain in the same manner and according to the procedures
6 ~~provided for in Sections 51 through 65 of Title 66 of the Oklahoma~~
7 ~~Statutes.~~ , the power may be exercised only upon the specific
8 approval of the governing body of the beneficiary by three-fourths
9 (3/4) vote. Any exercise of the power of eminent domain ~~by a public~~
10 ~~trust~~ pursuant to the provisions of this section shall be limited to
11 the furtherance of public purpose projects involving revenue-
12 producing utility projects of which the public trust retains
13 ownership; provided, for public trusts in which the State of
14 Oklahoma is the beneficiary the exercise of the power of eminent
15 domain may also be used for public purpose projects involving air
16 transportation. Revenue-producing utility projects shall be limited
17 to projects for the transportation, delivery, treatment, or
18 furnishing of water for domestic purposes or for power, including,
19 but not limited to the construction of lakes, pipelines, and water
20 treatment plants or for projects for rail transportation. ~~Any~~
21 ~~public trust formed pursuant to this section which has a county as~~
22 ~~its beneficiary shall have the power to acquire, by use of eminent~~
23 ~~domain, any lands located either inside the county, or contiguous to~~
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1 ~~the county pursuant to the limitations imposed pursuant to this~~
2 ~~section.~~

3 J. Provisions of this section shall not apply to entities
4 created under Sections 1324.1 through 1324.26 of Title 82 of the
5 Oklahoma Statutes.

6 K. Any trust created under this act, in whole or in part, to
7 operate, administer or oversee any county jail facility shall
8 consist of not less than five members and include a county
9 commissioner and the county sheriff, or their designee, and one
10 member appointed by each of the county commissioners. The appointed
11 members shall not be elected officials.

12 SECTION 8. AMENDATORY 63 O.S. 2001, Section 1061, is
13 amended to read as follows:

14 Section 1061. Every authority shall have all powers necessary
15 or convenient to carry out and effectuate the purposes and
16 provisions of this act, including the following powers in addition
17 to others herein specifically granted:

18 (a) To sue and to be sued; to have a seal and to alter the same
19 at pleasure; to have perpetual succession; to make and execute
20 contracts and other instruments necessary or convenient to the
21 exercise of the powers of the authority; and to make and from time
22 to time amend and repeal bylaws, rules and regulations.

23 (b) Within its area of operation: to prepare, carry out and
24 operate projects and to provide for the acquisition, construction,

1 reconstruction, improvement, extension, alteration or repair of any
2 project or any part thereof. Provided, however, that a public
3 hearing to consider a proposed project requiring construction,
4 purchasing, leasing or renting of more than twenty new housing units
5 shall be held together by the authority and governing body, and any
6 such project must be found to be in the public interest by a
7 majority of the members constituting said authority and a majority
8 of the members constituting said governing body as a condition
9 precedent to the implementation of any such project. Notice of the
10 public hearing required by this provision shall be given by
11 publication in a newspaper of general circulation within the
12 jurisdiction of the authority at least ten (10) days and not more
13 than thirty (30) days prior to said hearing; provided that an
14 additional public hearing shall be held by the authority before the
15 same shall select any location for any contiguous or noncontiguous
16 area of land on which the authority proposes to construct more than
17 twenty additional new housing units, and such hearing shall have as
18 its subject the location of the proposed additional units. Notice
19 of the public hearing required by this provision shall be given in a
20 newspaper of general circulation within the jurisdiction of the
21 authority at least ten (10) days and not more than thirty (30) days
22 prior to said hearing and three members of the Commission must
23 concur in the selection of any such location, except that the

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1 aforesaid proviso concerning an additional public hearing shall not
2 apply to a location in an approved urban renewal project area.

3 (c) To undertake and carry out studies and analyses of housing
4 needs within its area of operation and ways of meeting such needs,
5 including data with respect to population and family groups and the
6 distribution thereof according to income groups, the amount and
7 quality of available housing and its distribution according to
8 rental and sale prices, employment, wages and other factors
9 affecting the local housing needs and the meeting thereof, and to
10 make the results of such studies and analyses available to the
11 public and the building, housing and supply industries; and to
12 engage in research and disseminate information on housing and slum
13 clearance.

14 (d) To utilize, contract with, act through, assist and cooperate
15 or deal with any person, agency, institution or organization, public
16 or private, for the provision of services, privileges, works or
17 facilities for or in connection with its projects; and,
18 notwithstanding anything to the contrary contained in this act or in
19 any other provision of law, to agree to any conditions attached to
20 federal financial assistance relating to the determination of
21 prevailing salaries or wages or payment of not less than prevailing
22 salaries or wages or compliance with labor standards, in the
23 development or administration of projects, and to include in any
24 contract awarded or entered into in connection with a project

1 stipulations requiring that the contractor and all subcontractors
2 comply with requirements as to minimum salaries or wages and maximum
3 hours of labor, and comply with any conditions attached to the
4 financial aid of the project. Construction, restitution,
5 improvement, extension, alteration or major repair of any project or
6 any part thereof shall be open to competitive bidding: provided,
7 however, nothing in this section shall prevent a local housing
8 authority from requesting proposals from property owners and/or
9 developers to provide certain kinds of housing to the housing
10 authority either presently existing or to be developed; provided,
11 that the local authority establish safeguards relating to laws and
12 regulations of the United States wherein the same has entered into
13 contracts with the authority to provide financial assistance in
14 acquiring the same; provided, further, that no authority shall
15 discriminate in its seeking, or in the award, of any contract for
16 services, acquisition of real or personal property, construction of
17 buildings, dwelling units, streets, utilities, site grading,
18 landscaping and repairs to any of its holdings or upon property that
19 the authority plans to acquire, to include renovations, solely based
20 on the race, sex, color, religious beliefs or national origin of a
21 person or firm; except an Indian authority may give preference in
22 its awarding of a contract in all forms so long as the services to
23 be performed, or the construction of buildings, dwellings, site
24 improvements, repairs or renovation is to be performed or carried

1 out on a federally recognized tribal reservation or former
2 reservations and only then upon land held in trust by, or owned by,
3 the respective Indian tribe; and provided, further, that all
4 previously listed restrictions and regulations concerning public
5 hearings and locations of said projects are complied with in their
6 entirety.

7 (e) To lease, rent, sell or lease with option to purchase any
8 dwelling, accommodations, lands, buildings, structures or facilities
9 embraced in any project and, subject to the limitations contained in
10 this act with respect to the rental of or charges for dwellings in
11 housing projects, to establish and revise the rents or charges
12 therefor; to own, hold and improve real or personal property; to
13 purchase, lease, obtain options upon, acquire by gift, grant,
14 bequest, devise or otherwise any real or personal property or any
15 interest therein; ~~to acquire by the exercise of the power of eminent~~
16 ~~domain any real property or interest therein;~~ to sell, lease,
17 exchange, transfer, assign, pledge or dispose of any real or
18 personal property or any interest therein, provided, however, that
19 before any such personal property shall be sold it shall be
20 advertised for sale in a newspaper of general circulation within the
21 jurisdiction of the authority, and such advertisement shall state
22 the time and place where written bids shall be received, or public
23 auction shall be held, that such property shall be sold to the
24 highest bidder, and that the authority may, within its discretion,

1 reject all bids and readvertise such property for sale in the event
2 any property, real or personal, acquired by the authority, ~~by~~
3 ~~eminent domain or otherwise,~~ is later found to be in excess of its
4 needs, or unsuitable or unuseable for any reason, such property
5 shall, before being sold, leased, exchanged, transferred, assigned,
6 pledged or disposed of in any other manner, be first offered to
7 those persons, individuals, groups, organizations, corporations,
8 municipalities or their successors from whom it was first procured
9 by the authority, at the same price as paid by the authority at the
10 time of acquiring same, and except that lands acquired by the
11 authority may be sold to other governmental agencies for public
12 purposes, as long as such parcel of land does not exceed one percent
13 (1%) of the total land held by the authority and the sale is made
14 within ninety (90) days of the effective date of this act; to make
15 loans for the provisions of housing for occupancy by persons of low
16 income; to insure or provide for the insurance of any real or
17 personal property or operations of the authority against any risks
18 or hazards; to procure or agree to the procurement of government
19 insurance or guarantees of the payment of any bonds or parts thereof
20 issued by the authority, including the power to pay premiums on any
21 such insurance; provided, however, that notwithstanding any
22 provisions in this law, the authority may develop programs for the
23 sale of individual homes and/or two-family units to low income
24 families or to families who have at one time qualified as low income

1 families under this act, under terms which the housing authority may
2 establish under conditions acceptable to bondholders, other lenders
3 and the federal government.

4 (f) To invest any funds held in reserves or sinking funds or any
5 funds not required for immediate disbursement in property or
6 securities in which public funds in the custody of a county
7 treasurer or the Treasurer of the State of Oklahoma may be legally
8 invested; to redeem its bonds at the redemption price established
9 therein or to purchase its bonds at less than such redemption price,
10 all bonds so redeemed or purchased to be cancelled.

11 (g) Within its area of operation: to determine where slum areas
12 exist or where there is unsafe, unsanitary or overcrowded housing;
13 to make studies and recommendations relating to the problem of
14 clearing, replanning and reconstruction of slum areas and the
15 problem of eliminating unsafe, unsanitary or overcrowded housing and
16 providing dwelling accommodations for persons of low income; and to
17 cooperate with the state or any state public body in action taken in
18 connection with such problems. Provided, however, the authority
19 shall not have the power to relocate any persons to other areas
20 until housing has been provided for such persons under this act.

21 (h) Acting through one or more commissioners or other persons
22 designated by the authority: to conduct examinations and
23 investigations and to hear testimony and take proof under oath at
24 public hearings on any matter material for its information; to

1 administer oaths, issue subpoenas requiring the attendance of
2 witnesses or the production of books and papers and to issue
3 commissions for the examination of witnesses who are outside of the
4 state or unable to attend before the authority, or excused from
5 attendance; to make available to appropriate agencies, including
6 those charged with the duty of abating or requiring the correction
7 of nuisances or like conditions or of demolishing unsafe or
8 unsanitary structures within its area of operation, its findings and
9 recommendations with regard to any building or property where
10 conditions exist which are dangerous to the public health, morals,
11 safety or welfare.

12 (i) To exercise all or any part or combination of powers herein
13 granted.

14 The powers of an authority shall not include: (1) the power to
15 appropriate funds of a city or county; (2) the power to levy taxes
16 and assessments; (3) the power to zone or rezone; ~~or~~ (4) the power
17 to make exceptions to zoning ordinances or building regulations of a
18 city or county; or (5) the power of eminent domain.

19 No provision by law with respect to the acquisition, operation
20 or disposition of property by other public bodies shall be
21 applicable to an authority unless the Legislature shall specifically
22 so state.

23 SECTION 9. AMENDATORY 63 O.S. 2001, Section 1078, is
24 amended to read as follows:

1 Section 1078. ~~An authority~~ Upon the specific approval by a
2 three-fourths (3/4) vote, the governing board of the municipality or
3 county shall have the right to acquire by the exercise of the power
4 of eminent domain any real property or interest therein which ~~it~~ an
5 authority may deem necessary for its purposes under this act after
6 the adoption by ~~it~~ the authority of a resolution declaring that the
7 acquisition of the real property described therein is necessary for
8 such purposes. ~~An authority may exercise the power of eminent~~
9 ~~domain in the same manner and by like proceedings as provided for~~
10 ~~railroad corporations under the laws of this state.~~

11 Property already devoted to a public use may be acquired in like
12 manner, provided that no real property belonging to any city,
13 county, or any other political subdivision of the state may be
14 acquired without its consent.

15 In the event ~~any housing authority in exercising~~ that the
16 exercise of any of the powers conferred by this act makes necessary
17 the relocation, raising, rerouting or changing the grade of or
18 altering the construction of any railroad, common carrier, public
19 utility property or facility, all such relocation, raising,
20 rerouting, changing of grade or alteration of construction shall be
21 accomplished at the expense of the housing authority, provided that
22 the housing authority shall not disturb the possession or operation
23 of any railroad, common carrier, or public utility in or to the
24 appropriated property or facility until the relocated property or

1 facilities are available for use and until marketable title thereto
2 has been transferred to the railroad, common carrier or public
3 utility.

4 SECTION 10. AMENDATORY 69 O.S. 2001, Section 3002, is
5 amended to read as follows:

6 Section 3002. ~~A~~ If a public trust created under the terms of
7 ~~this act shall have the power to condemn property in like manner as~~
8 ~~railroad companies for purposes consistent with the intent of this~~
9 ~~act~~ identifies the need to acquire any property by the exercise of
10 the power of eminent domain, the power may be exercised by the
11 governing boards of the beneficiary cities, counties, or towns upon
12 the specific approval by a three-fourths (3/4) vote of their
13 governing bodies. Provided that before any action for condemnation
14 shall be instituted ~~by such public trust~~, there shall have been a
15 contract entered into for the construction of the toll expressway
16 and a performance bond shall have been posted with the trustees in
17 an amount equal to the estimated cost of labor and materials, and
18 the trustees shall investigate and be assured on reasonable evidence
19 that the contractor or such other party who is to participate in all
20 or a portion of the cost of acquiring rights-of-way is financially
21 able and has committed in writing to the payment for a portion or
22 all of the estimated cost of acquisition of necessary rights-of-way.

23 SECTION 11. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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