ENGROSSED HOUSE
BILL NO. 1251 By: Rousselot and Faught of the House

and

David of the Senate

An Act relating to waters and water rights; amending 82 O.S. 2001, Section 862, as last amended by Section 1, Chapter 301, O.S.L. 2008 (82 O.S. Supp. 2010, Section 862), which relates to the power and duties of the Grand River Dam Authority; limiting the power and right of the district to sell water; updating statutory language; and declaring an emergency.

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

SECTION 1. AMENDATORY 82 O.S. 2001, Section 862, as last amended by Section 1, Chapter 301, O.S.L. 2008 (82 O.S. Supp. 2010, Section 862), is amended to read as follows:

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

~~(a)~~ 1. To control, store and preserve, within the boundaries of the district, the waters of Grand River and its tributaries, for any useful purpose, and to use, distribute and, except as otherwise provided for in this paragraph, sell the same within the boundaries of the district~~; provided, however, that any~~. The district shall not have the power and right to sell water from that portion of the

Grand River and its tributaries downstream from the southern edge of the Markham Ferry Dam on Lake Hudson. Any municipal corporation within the area included within the jurisdiction of the ~~said~~ Grand River Dam Authority shall be entitled to take water from the Grand River and any of its tributaries in any quantities that may be needed by ~~such~~ the municipal corporation;

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

parties as may be deemed advisable by the district to safeguard the business and properties of all the parties to such contracts, all within the limits of sound business judgment and practice, good conscience, and not contrary to the public policy of the state;

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

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

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

district, necessary, incidental or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this act;

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

facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

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

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

expressly authorized and provided for in the participation agreement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the quality of life for each city or community located within the boundaries of the district.

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

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 7th day of March, 2011.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2011.

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Presiding Officer of the Senate