

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1573

By: Martin (Scott)

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6 AS INTRODUCED

7 An Act relating to nuclear energy; creating the
8 Nuclear Energy Act of 2011; providing short title;
9 defining terms; authorizing electric utilities to
10 apply to the Corporation Commission for determination
11 of need to construct a nuclear power plant; stating
12 procedures for determining need; specifying content
13 of application; limiting application of certain rules
14 to nuclear power plants; providing for review of a
15 final order by the Oklahoma Supreme Court; providing
16 for the creation of a task force to study tax credits
17 for nuclear power plants; stating duties; providing
18 for membership; requiring certain qualifications;
19 providing for travel reimbursement and staffing;
20 requiring a report; amending 11 O.S. 2001, Section
21 24-105, which relates to the Oklahoma Municipal Power
22 Authority; updating statutory language; removing
23 prohibition from owning interest in nuclear power
24 plants; repealing 11 O.S. 2001, Sections 24-105.1 and
25 24-117, which relate to prohibiting public power
26 ownership of nuclear generation facilities; providing
27 for codification; providing for noncodification; and
28 providing an effective date.

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

32 SECTION 1. NEW LAW A new section of law to be codified
33 in the Oklahoma Statutes as Section 180.21 of Title 17, unless there
34 is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Nuclear Energy
2 Act of 2011".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 180.22 of Title 17, unless there
5 is created a duplication in numbering, reads as follows:

6 As used in the Nuclear Energy Act of 2011:

7 1. "Public utility" or "utility" means any corporation
8 organized or doing business in this state that now owns or hereafter
9 may own, operate, or manage any plant or equipment for the
10 manufacture, production, transmission, delivery, or furnishing of
11 electric current for light, heat, or power to the public;

12 2. "Nuclear power plant", "power plant" or "plant" means any
13 physical facility, plant, or equipment for the generation or
14 production of electricity or electric power using nuclear materials
15 as a source of fuel, power, or energy;

16 3. "Commission" shall mean the Corporation Commission of the
17 State of Oklahoma.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 180.23 of Title 17, unless there
20 is created a duplication in numbering, reads as follows:

21 A. An electric utility subject to rate regulation by the
22 Corporation Commission, or other lawfully organized electric service
23 provider, may elect to file an application seeking a determination
24 of need to construct a nuclear power plant. If the Commission

1 approves the application and enters an order determining a need for
2 construction of a nuclear power plant, the power plant will be
3 considered used and useful and its costs shall be subject to cost
4 recovery rules promulgated by the Commission. The Commission shall
5 enter an order on an application filed pursuant to this subsection
6 within one hundred eighty (180) days of the filing of the
7 application, following notice and hearing.

8 B. The Commission shall be the sole forum for the determination
9 of this matter and the issues addressed in the application, which
10 accordingly shall not be reviewed in any other forum, or in the
11 review of proceedings in the other forum.

12 C. In determining whether there is a need for the nuclear power
13 plant, the Commission shall consider, at a minimum, the cost of
14 power and energy from the nuclear power plant compared to
15 alternatives, the benefits of fuel diversity, and other operational
16 and cost considerations the Commission deems relevant and necessary.

17 D. The application shall include:

18 1. The reasons why the utility is proposing to build the
19 nuclear power plant, including the power needs of the utility and
20 the cost of nuclear power compared to alternatives;

21 2. A description of how the proposed nuclear power plant will
22 enhance the reliability of electric power production within the
23 state and improve the balance of power plant fuel diversity;

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1 3. A nonbinding estimate of the cost of the nuclear power
2 plant, including any costs associated with new, enlarged, or
3 relocated electrical transmission lines or facilities that are
4 necessary for the nuclear power plant to deliver power and energy;

5 4. The annualized base revenue requirement for the first twelve
6 (12) months of operation of the nuclear power plant; and

7 5. A report of any discussions with other electric utilities
8 regarding the potential of joint ownership of the nuclear power
9 plant.

10 E. In making its determination, the Commission shall take into
11 account any matters within its jurisdiction, which it deems
12 relevant, including whether the nuclear power plant will:

13 1. Provide needed capacity and energy;

14 2. Enhance the reliability of electric power production within
15 the state by improving the balance of fuel diversity for electric
16 generation facilities; and

17 3. Provide a cost-effective source of energy, taking into
18 account the need to reduce air emission compliance costs, and
19 enhance the long-term stability and reliability of the electric
20 grid.

21 F. No provision of the Commission rules regarding competitive
22 procurement shall be applicable to a nuclear power plant authorized
23 by this act. A utility shall not be required to secure competitive
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1 proposals for power supply prior to making application under this
2 act or receiving a determination of need from the Commission.

3 G. The final order of the Commission, including any order on
4 reconsideration, shall be reviewable on appeal to the Oklahoma
5 Supreme Court. Since delay in the determination of need will delay
6 siting of a nuclear power plant or diminish the opportunity for
7 savings to customers under the federal Energy Policy Act of 2005,
8 the Supreme Court shall proceed to hear and determine the action as
9 expeditiously as practicable and give the action precedence over
10 matters not accorded similar precedence by law.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 180.24 of Title 17, unless there
13 is created a duplication in numbering, reads as follows:

14 Within six (6) months following the effective date of this act,
15 the Corporation Commission shall promulgate rules providing for
16 alternative cost recovery mechanisms for the recovery of costs
17 incurred by a public utility in the siting, design, licensing, and
18 construction of a nuclear power plant.

19 SECTION 5. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

21 A. No later than thirty (30) days following the effective date
22 of this act, a task force shall be appointed to study and make
23 recommendations on an appropriate tax credit for entities investing
24 in a nuclear power plant located in this state. The task force

1 shall review the tax credit provided in Section 2357.32A of Title 68
2 of the Oklahoma Statutes for the production and sale of electricity
3 by zero-emission facilities located in this state and determine if
4 that tax credit or a similar tax credit at least equal to that tax
5 credit should be extended for the purchase of electricity generated
6 by a nuclear power plant located in this state.

7 B. Nine (9) members shall be appointed as follows:

8 1. The Secretary of Energy shall be the chair of the task
9 force;

10 2. Two members shall be appointed by the Governor;

11 3. Three members shall be appointed by the President Pro
12 Tempore of the Senate; and

13 4. Three members shall be appointed by the Speaker of the House
14 of Representatives.

15 C. Each appointing authority shall appoint members with
16 knowledge of the electric generation industry or financial expertise
17 relating to electric generation.

18 D. Members shall serve without compensation but shall be
19 eligible for travel reimbursement in accordance with the State
20 Travel Reimbursement Act to be paid by the appointing authority.

21 E. Staffing and administrative duties shall be provided as
22 directed by the Secretary of Energy.

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1 F. The task force shall report its recommendations to the
2 Governor, the President Pro Tempore of the Senate and the Speaker of
3 the House of Representatives no later than December 1, 2012.

4 SECTION 6. AMENDATORY 11 O.S. 2001, Section 24-105, is
5 amended to read as follows:

6 Section 24-105. Definitions. As used in ~~this act the following~~
7 ~~words shall have the following meanings unless the context clearly~~
8 ~~indicates otherwise~~ the Oklahoma Municipal Power Authority Act:

9 ~~(a) 1.~~ "Authority" ~~shall mean~~ means the Oklahoma Municipal
10 Power Authority hereby created and any successor or successors
11 thereto. Any change in name or composition of the Authority shall
12 in no way affect the vested rights of any person under the
13 provisions of this act or impair the obligations of any contracts
14 existing under this act-;

15 ~~(b) 2.~~ "Board of Directors" ~~shall mean~~ means the Board of
16 Directors elected by the election committee as set forth in Section
17 4 24-104 of this ~~act~~ title which shall exercise all the powers and
18 manage and control all the affairs and property of the Authority
19 unless otherwise specifically provided herein or in the bylaws of
20 the Authority as in effect from time to time-;

21 ~~(c) 3.~~ "Bonds" ~~shall mean~~ means any revenue bonds, notes or
22 other evidences of obligations of the Authority issued by the
23 Authority under the provisions of this act, including, without
24 limitation, bond anticipation notes and refunding bonds-;

1 ~~(d)~~ 4. "Eligible public agency" ~~shall mean~~ means any
2 municipality, authority or other public body which owns, maintains
3 or operates an electrical energy generation, transmission or
4 distribution system within the State of Oklahoma on the date on
5 which this act becomes law~~;~~;

6 ~~(e)~~ 5. "Person" ~~shall mean (i)~~ means:

7 a. any natural person~~;~~ ~~(ii)~~ ,

8 b. any eligible public agency as defined herein~~;~~ ~~(iii)~~ ,

9 c. any public trust as defined herein~~;~~ ~~(iv)~~ ,

10 d. the United States, any state, any municipality,
11 political subdivision, municipal corporation, unit of
12 local government, governmental unit or public
13 corporation created by or pursuant to the laws of the
14 United States or any state, or any board, corporation
15 or other entity or body declared by the laws of the
16 United States or any state to be a department, agency
17 or instrumentality thereof~~;~~ ~~(v)~~ ,

18 e. any corporation, not for profit corporation, firm,
19 partnership, cooperative association, electric
20 cooperative or business trust of any nature whatsoever
21 organized and existing under the laws of the United
22 States or any state~~;~~ , or ~~(vi)~~

23 f. any foreign country, any political subdivision or
24 governmental unit of any foreign country or any

1 corporation, not for profit corporation, firm,
2 partnership, cooperative association, electric
3 cooperative or business trust of any nature whatsoever
4 organized and existing under the laws of any foreign
5 country or of any political subdivision or
6 governmental entity thereof.;

7 ~~(f)~~ 6. "Project" ~~shall mean~~ means any plant, works, system,
8 facilities and real and personal property of any nature whatsoever,
9 together with all parts thereof and appurtenances thereto, located
10 within or without the State of Oklahoma, used or useful in the
11 generation, production, transmission, purchase, sale, exchange or
12 interchange of electrical energy and in the acquisition, extraction,
13 processing, transportation or storage ~~of~~ of fuel of any kind for any
14 such purposes or any interest in, or right to the use, services,
15 output or capacity, of any such plant, works, system or facilities;
16 ~~provided, however, a project shall not include (i) any interest in~~
17 ~~any plant for the generation of electrical energy which is to be~~
18 ~~owned jointly with any investor owned utility if such plant is not~~
19 ~~existing on May 10, 1981, or (ii) any interest in any nuclear~~
20 ~~powered generating plant. For purposes of this definition, a plant~~
21 ~~shall be considered to be existing if construction shall have been~~
22 ~~commenced at the plant site, if orders have been placed for major~~
23 ~~components of equipment or if the plant is to consist of an~~

1 ~~additional unit at the site of an already existing unit which will~~
2 ~~use in common any of the existing facilities at such site.; and~~

3 ~~(g) 7.~~ "Public trust" ~~shall mean~~ means any public trust created
4 and existing under the provisions of the Trusts for Furtherance of
5 Public Functions Law, as provided by ~~Sections~~ Section 176 et seq. of
6 Title 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as
7 provided by ~~Sections 175~~ Section 175.1 et seq. of Title 60 of the
8 Oklahoma Statutes, which has as its beneficiary a municipality and
9 which owns, maintains or operates an electrical energy generation,
10 transmission or distribution system serving the residents and
11 consumers of such municipality and existing on the date on which
12 this act becomes law or created hereafter with an eligible public
13 agency as the beneficiary.

14 SECTION 7. REPEALER 11 O.S. 2001, Sections 24-105.1 and
15 24-117, are hereby repealed.

16 SECTION 8. This act shall become effective November 1, 2011.

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