

1 STATE OF OKLAHOMA

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

3 SENATE BILL 248

By: David

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5  
6 AS INTRODUCED

7 An Act relating to the Grand River Dam Authority;  
8 amending 82 O.S. 2001, Section 862, as last amended  
9 by Section 1, Chapter 301, O.S.L. 2008 (82 O.S. Supp.  
10 2010, Section 862), which relates to powers, rights  
11 and privileges of the district; authorizing certain  
12 rural water districts to take water from certain  
13 sources with no fee; updating language; and providing  
14 an effective date.

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

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

19 Section 862. The ~~district~~ Grand River Dam Authority herein  
20 referred to as the "district" shall have and is hereby authorized to  
21 exercise the following powers, rights and privileges:

22 ~~(a)~~ 1. To control, store and preserve, within the boundaries of  
23 the district, the waters of Grand River and its tributaries, for any  
24 useful purpose, and to use, distribute and sell the same within the  
boundaries of the district; provided, however, that any municipal  
corporation or Rural Water District organized under the provisions

1 of Section 1324.1 et seq. of this title within the area included  
2 within the jurisdiction of the ~~said~~ Grand River Dam Authority shall  
3 be entitled to take water from the Grand River and any of its  
4 tributaries in any quantities that may be needed by such municipal  
5 corporation or rural water district without payment of any fee or  
6 charge for such water;

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

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

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

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

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

1 district, necessary, incidental or convenient to the exercise of the  
2 powers, rights, privileges and functions conferred upon it by ~~this~~  
3 ~~act~~ Section 861 et seq. of this title;

4 ~~(f)~~ 6. In addition to any other powers conferred, the district  
5 shall have power and authority to participate and enter into  
6 agreements with any public or private corporation duly authorized  
7 and qualified to do business within the State of Oklahoma including,  
8 but not limited to, rural electric cooperatives, the state or the  
9 United States of America or any department, subdivision or agency of  
10 the state or the United States of America, or with any "public  
11 agency" as defined under the Interlocal Cooperation Act, Sections  
12 1001 through 1008 of Title 74 of the Oklahoma Statutes, for the  
13 purpose of planning, acquiring, financing, owning, operating and  
14 maintaining an undivided ownership of any steam, oil, gas,  
15 coal-fired, thermal, geothermal, solar, waste or refuse reclamation  
16 powered electric generating plant or plants or any facilities of  
17 every kind necessary, incidental or convenient for the production,  
18 generation and transmission of electric power and energy including,  
19 but not limited to, any and all related transmission facilities,  
20 which shall be used as common facilities. The agreements shall  
21 provide that the district and any participants therein shall have  
22 the incidents of tenant in common to any plant or facility. It  
23 shall also be provided in the agreements that the district and any  
24 participant in the project shall own a percentage of any common

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

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

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

1 expressly authorized and provided for in the participation  
2 agreement;

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

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

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

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

15 ~~(h)~~ 8. To acquire by condemnation any and all property of any  
16 kind, real, personal, or mixed, or any interest therein, within or  
17 without the boundaries of the district, necessary, incidental or  
18 convenient to the exercise of the powers, rights, privileges and  
19 functions conferred upon it by ~~this act~~ Section 861 et seq. of this  
20 title, in the manner provided by general law with respect to  
21 condemnation; provided that nothing in ~~this act~~ Section 861 et seq.  
22 of this title shall ever be construed to authorize the district to  
23 acquire by condemnation any privately, municipally or publicly owned  
24 electric public utility system or any part thereof outside of the

1 high-water mark of a reservoir area or outside a properly located  
2 damsite, except the districts may require the relocation of  
3 transmission lines and substations so owned where such relocation is  
4 necessary for the construction and maintenance of dams, reservoirs,  
5 levees, spillways and floodways, and in such event just compensation  
6 shall be paid. Provided that the Grand River Dam Authority shall  
7 have the right to cross transmission lines of other electric utility  
8 companies under proper engineering standards of construction as  
9 approved by the Corporation Commission;

10 ~~(i)~~ 9. Subject to the provisions of ~~this act~~ Section 861 et  
11 seq. of this title, from time to time sell, which shall include, but  
12 not be limited to, an installment sale agreement, lease with nominal  
13 purchase options, or otherwise dispose of any property of any kind,  
14 real, personal or mixed, or any interest therein, which shall not be  
15 necessary to the carrying on of the business of the district;

16 ~~(j)~~ 10. To overflow and inundate any public lands and public  
17 property and to require the relocation of roads and highways in the  
18 manner and to the extent necessary to carry out the purposes of ~~this~~  
19 ~~act~~ Section 861 et seq. of this title; provided, that ~~said~~ the  
20 district shall be liable in damages to the State of Oklahoma or any  
21 subdivision thereof for any injury occasioned or expense incurred by  
22 reason thereof;

23 ~~(k)~~ 11. To construct, extend, improve, maintain and  
24 reconstruct, to cause to be constructed, extended, improved,

1 maintained and reconstructed, and to use and operate any and all  
2 facilities of any kind necessary, incidental or convenient to the  
3 exercise of such powers, rights, privileges and functions;

4 ~~(l)~~ 12. To sue and be sued in its corporate name in contracts,  
5 reverse condemnation, tort, equity, mandamus and similar actions and  
6 in its own name plead and be impleaded~~7;~~ provided, however, that any  
7 and all actions of law or in an equity against the district shall be  
8 brought in the county in which the principal office of the district  
9 shall be located or in the county where the cause of action arose;

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

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

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

18 ~~(p)~~ 16. To make contracts and to execute instruments necessary,  
19 incidental or convenient to the exercise of the powers, rights,  
20 privileges and functions conferred upon it by ~~this act~~ Section 861  
21 et seq. of this act;

22 ~~(q)~~ 17. To borrow money for its corporate purposes and, without  
23 limitation of the generality of the foregoing, to borrow money and  
24 accept grants from the United States of America, or from any

1 corporation or agency created or designated by the United States of  
2 America, and, in connection with any such loan or grant, to enter  
3 into such agreements as the United States of America or such  
4 corporation or agency may require; and to make and issue its  
5 negotiable bonds for money borrowed, in the manner provided in ~~this~~  
6 ~~act~~ Section 861 et seq. of this title. Nothing in ~~this act~~ Section  
7 861 et seq. of this title shall authorize the issuance of any bonds,  
8 notes or other evidences of indebtedness of the district, except as  
9 specifically provided in ~~this act~~ Section 861 et seq. of this title;

10 ~~(r)~~ 18. To prescribe and enforce rules for the use for  
11 recreational and commercial purposes of the lakes created by the  
12 district by impounding the waters of ~~said~~ the lakes, and the  
13 shorelands of the district bordering thereon, including the use of  
14 firearms, the inspection of all boats of every character proposing  
15 to operate or operating on ~~said~~ the lakes, the issuance of permits  
16 for the operation of boats, surfboards, aquaplanes, sea-skis or  
17 similar devices on ~~said~~ the lakes for hire; the charging and  
18 collection of fees for the inspection or operation of such boats,  
19 surfboards, aquaplanes, sea-skis or other similar devices on ~~said~~  
20 the lakes for hire; preventing the launching or operation of any  
21 commercial or for-hire boat, surfboard, aquaplane, sea-ski or  
22 similar device for hire, on the waters of ~~said~~ the lakes, without a  
23 certificate of inspection and a permit for such use; prescribing the  
24 type, style, location and equipment of all wharves, docks and

1 anchorages along the shores and upon the water of ~~said~~ the lakes;  
2 the issuance of permits for wharfage, dock or anchorage privileges  
3 and charging fees for such commercial or private permits; and the  
4 establishment and maintenance of public wharves, docks or anchorages  
5 and the charging and collection of fees for the use thereof by the  
6 public; to appoint or employ such persons as the district may deem  
7 proper and suitable for the purpose of enforcing such rules and  
8 regulations as may be issued hereunder, or as may be issued pursuant  
9 to the provisions of Sections 4200 et seq. of Title 63 of the  
10 Oklahoma Statutes, and for the enforcing of the provisions of ~~this~~  
11 ~~act~~ Section 861 et seq. of this title, and all violations of  
12 criminal laws occurring within the boundaries of the counties where  
13 real property owned or leased by the Grand River Dam Authority is  
14 located, which employees shall have the power of peace officers  
15 during the performance of those duties, except in the serving or  
16 execution of civil process;

17 ~~(s)~~ 19. To do any and all other acts or things necessary,  
18 incidental or convenient to the exercise of the powers, rights,  
19 privileges or functions conferred upon it by ~~this act~~ Section 861 et  
20 seq. of this title or any other act or law. Provided ~~said~~ the  
21 district shall be liable for damage caused by ~~said~~ the district, its  
22 agents, servants and employees in creating, constructing,  
23 maintaining or operating ~~said~~ the district to any corporation,  
24 partnership, person or individual whose property, either real or

1 personal, within or without ~~said~~ the district, has been damaged and  
2 ~~said~~ the damages may be determined by appropriate action as provided  
3 by law. Nothing in ~~this act~~ Section 861 et seq. of this title shall  
4 be construed as rendering the district liable for damage where it is  
5 not liable on general principles of law or statute or Constitutional  
6 provision.

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

18        ~~(t)~~ 20. To support and assist the efforts of state, regional  
19 and local development organizations, political subdivisions,  
20 industrial committees, chambers of commerce, tourism organizations,  
21 agricultural organizations, environmental organizations and other  
22 similar public and private agencies to obtain new and foster  
23 expansion of existing service, industrial and manufacturing  
24 facilities, businesses and enterprises to enhance the quality of

1 life for the citizens of the district and the state. Provided,  
2 support and assistance shall be limited to an amount not to exceed a  
3 total of Twenty-five Thousand Dollars (\$25,000.00) per year for one  
4 or more projects or efforts that are for the benefit of or impact  
5 the quality of life for each city or community located within the  
6 boundaries of the district-; and

7 ~~(u)~~ 21. Notwithstanding any other provision of law, the General  
8 Manager, department heads and other essential employees of the  
9 district, as designated by the General Manager, may be permitted to  
10 use a district-owned vehicle to provide transportation between the  
11 employee's residence and the assigned place of employment and  
12 between the residence and any location other than the assigned place  
13 of employment to which the employee travels in the performance of  
14 the employee's official duty.

15 SECTION 2. This act shall become effective November 1, 2011.

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