

1 **SENATE FLOOR VERSION**

2 February 21, 2013

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 641

6 By: Schulz and Fields of the
7 Senate

8 and

9 Armes of the House

10 [Conservancy Act of Oklahoma - organization of
11 master conservancy districts -
12 emergency]

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

14 SECTION 1. AMENDATORY 82 O.S. 2011, Section 541, is
15 amended to read as follows:

16 Section 541. A. There is hereby authorized the formation of
17 conservancy districts within this state. Each such district shall
18 be designated as a "conservancy district" or "master conservancy
19 district". Such districts shall not be political corporations or
20 subdivisions of the state. All of the provisions of this chapter
21 shall apply to all such districts except insofar as special
22 provisions shall be made herein relating to master conservancy
23 districts only. All provisions of this chapter prescribing the
24 contents of pleadings or instruments and using the term "conservancy

1 district" may be modified to use the term "master conservancy
2 district", when the same shall be applicable. Provided that in the
3 event a master conservancy district is organized, the obligation
4 including the area of a conservancy district shall become the
5 obligation of the master conservancy district to the extent such
6 obligations relate to water resources development and control.

7 B. 1. The district court of any judicial district in this
8 state, or any judge thereof when said court is in vacation, is
9 vested with jurisdiction, power and authority, when the conditions
10 stated in Section 542 of this title are found to exist, to establish
11 conservancy districts, which may be entirely within, or partly
12 within and partly without, the judicial district in which said court
13 is located, for all or any of these purposes:

- 14 a. of preventing floods,
- 15 b. of regulating stream channels by changing, widening
16 and deepening same,
- 17 c. of reclaiming or of filling wet and overflowed land,
- 18 d. of providing for irrigation where it may be needed,
- 19 e. of regulating the flow of streams,
- 20 f. of diverting or in whole or in part eliminating
21 watercourses, or part of the flowage thereof, ~~or~~
- 22 g. of developing and providing water for domestic,
23 industrial and agricultural requirements, and to
24 persons within the territory of the district. This

1 also may include the construction, operation and
2 maintenance of storage, distribution, treatment,
3 supply and other works, installation, improvements and
4 facilities necessary or incidental thereto. Provided,
5 that no conservancy district shall construct, operate
6 or maintain distribution facilities within the limits
7 of any municipal corporation, or

8 h. of addressing significant drought conditions.

9 2. Incident to any purpose provided in this subsection, and to
10 further enable their accomplishment, a master conservancy district
11 may:

- 12 a. straighten, widen, deepen, divert or change the course
13 or terminus of any natural or artificial watercourse,
- 14 b. build or rebuild reservoirs, canals, levees, walls,
15 embankments, bridges, or dams,
- 16 c. maintain, operate and repair any of the construction
17 herein named, and
- 18 d. do all other things necessary for the fulfillment of
19 the purposes of this chapter.

20 C. Master conservancy districts may be created to include lands
21 constituting all or any part of the area of one or more conservancy
22 and/or irrigation districts and/or municipal corporations and/or
23 lands not included in any such area or areas. Provided, however,
24 that no conservancy district nor portion thereof shall be

1 incorporated into a master conservancy district without the consent
2 of at least fifty-one percent (51%) of the owners of land and by
3 owners of at least fifty-one percent (51%) of the land area embraced
4 in the conservancy district or that portion thereof to be
5 incorporated into a master conservancy district. In addition to any
6 or all of the purposes enumerated in subsection B of this section,
7 master conservancy districts may be created for any or all of the
8 following purposes:

9 1. To conduct preliminary surveys and to develop a plan for the
10 comprehensive control, regulation and/or use of water from any
11 designated stream, watercourse or watercourse system and/or its
12 basin;

13 2. To coordinate the operations, works and facilities of two or
14 more conservancy districts with each other and with improvements,
15 works, and facilities of the master conservancy district;

16 3. To enable the acquisition, construction and maintenance of
17 improvements and facilities for common benefit and/or use of
18 constituent areas;

19 4. To permit two or more municipal corporations and/or
20 conservancy districts to pool their resources to effect any or all
21 of the foregoing; and

22 5. To enter into contracts with municipal corporations, persons
23 and public agencies for the furnishing to them of water, subject,
24

1 however, to the proviso in subparagraph g of paragraph 1 of
2 subsection B of this section.

3 D. 1. Immediately following organization of a master
4 conservancy district, the first board of directors shall be
5 appointed by the district judge and shall consist of such number of
6 persons as the district judge shall designate to provide equitable
7 representation for the component areas and/or for users contracting
8 for a substantial service from the district, and said directors
9 shall serve until their successors have been selected and qualified.
10 At the first meeting the directors shall elect a president, vice-
11 president, secretary and treasurer from their number, and shall
12 adopt bylaws for the governing of the business of the district,
13 subject to approval by the district judge, and attend to such other
14 business as may come before said board. The president shall be the
15 chief executive officer of the district, shall preside at the
16 meetings of the board and shall perform all other functions which
17 are necessary and proper for carrying out the provisions of this
18 act, subject to approval of the board. The vice-president shall act
19 as president whenever the president is absent, or otherwise
20 incapacitated, or fails to act. The secretary shall be custodian of
21 the district seal, attest to the signature of the president when law
22 requires that it be attested to and shall be charged with the duty
23 of keeping accurate and detailed minutes of meetings of the board.
24 The treasurer shall be custodian of all monies, funds and credits of

1 the district and shall keep the books and records of the district in
2 proper form.

3 2. All officers and employees handling funds of a master
4 conservancy district shall be bonded in a penal sum of not less than
5 Twenty-five Thousand Dollars (\$25,000.00), such bond to be a
6 corporate surety bond approved by the judge of the district court
7 establishing the district, for the faithful performance of their
8 duties. The bond premiums shall be paid by the district and
9 benefits accrue to said district.

10 3. All officers and employees shall execute the customary oath
11 of office, which shall be filed with the secretary of the district.

12 4. Within two (2) years after the first board of directors has
13 been appointed by the district judge, the district judge shall
14 appoint members to the board as hereinafter provided and fix the
15 total number of such directors for equitable representation.
16 Provided, however, each component area, including municipal
17 corporations, cities, towns, irrigation districts, and users
18 contracting for a substantial service from the district may elect
19 their respective representation to the board of directors.

20 5. Each component area, including municipal corporations,
21 cities, towns, irrigation districts, and users contracting for a
22 substantial service from the district shall be entitled to
23 representation on the board of directors, in accordance with the
24 ratio which their individual, actual and contingent water storage

1 for which it has contractual obligations to the master conservancy
2 district bears to the total water storage for which there are
3 contractual obligations with said district. In fixing the number of
4 directors to represent a master conservancy district, each component
5 area or user contracting for a substantial service from the district
6 shall be entitled to at least one director, but no such area or user
7 shall be entitled to more than three directors. The total number of
8 directors and the representation of each such area or user may be
9 changed by the district judge whenever a reallocation is considered
10 by said judge to be necessary for providing proper representation.
11 Provided, however, that if a master conservancy district has been
12 organized on or before January 5, 1957, under the provisions of this
13 title, which has as a part of its purpose the inclusion of a
14 proposed irrigation district or districts, each such proposed
15 district shall be entitled to one representative on the board of
16 directors of the master conservancy district for a period of five
17 (5) years from the effective date of this act; provided, however,
18 that if the proposed irrigation district or districts, as
19 hereinabove described, are not legally organized and have not
20 executed a contract for the repayment of the irrigation costs with
21 the master conservancy district within the aforementioned five-year
22 period, then said offices of directors representing the irrigation
23 interests shall be discontinued and shall have no further
24 representation on said board of directors; provided, further, that

1 if the proposed irrigation districts are organized and have
2 contracted with a master conservancy district under the laws of this
3 state, then said directors shall be elected or selected as provided
4 in this section pertaining to the second board of directors.

5 The governing body of each such area or user such as a municipal
6 corporation, city, town, irrigation district, conservation district,
7 and/or other user may select or cause to be elected the person or
8 persons to represent them on the board of directors of the master
9 conservancy district and shall submit the name or names of those
10 selected to the district judge who shall appoint said person or
11 persons to membership on the board of directors; provided, however,
12 that only a freeholder who is a qualified elector of this state as
13 provided by law and residing within any county in which the district
14 or any part thereof is located shall be eligible.

15 6. Vacancies occurring of unexpired terms of office on the
16 board of directors shall be filled through appointment by the
17 district judge upon the recommendations of the component area or
18 user authorized to make the original selection. The district judge
19 shall determine whether persons who have been recommended for
20 appointment hereunder are qualified as provided herein.

21 7. The board of directors first appointed, and those
22 subsequently appointed, or elected, are hereby authorized and
23 empowered to appoint a manager and such additional personnel as may
24 be necessary and proper for conducting the business of said

1 district; provided, however, that no employee of the district may be
2 a member of the board.

3 8. Upon expiration of the two-year term of office of directors
4 first appointed by the district judge, the next succeeding board of
5 directors shall be elected or appointed so that as nearly as
6 possible one-half (1/2) of their number shall serve a term of two
7 (2) years and the remainder for a term of four (4) years. The board
8 of directors shall meet and determine their respective term of
9 office by lot. Thereafter, at the expiration of their respective
10 term of office, directors shall be elected or appointed for a term
11 of four (4) years.

12 9. On the first Wednesday following each biennial election or
13 appointment of the members of the board of directors by the district
14 judge, as the case may be, they shall meet and organize as a board
15 and elect officers for service as provided above for the first
16 board.

17 10. The board of directors shall perform official actions by
18 resolution and a majority of their number shall constitute a quorum
19 for the transaction of any and all business of the district. All
20 official actions including final passage and enactment of all
21 resolutions must be approved by a majority of the board of directors
22 present, a quorum being present, at a regular or special meeting.

23 11. The board of directors shall hold regular meetings once a
24 month, the date thereof to be established in the district's bylaws

1 or by resolution. The president or any three members may call such
2 special meetings as may be necessary in the administration of the
3 district's business, provided that at least five (5) days prior to
4 the meeting date the secretary shall have mailed notice thereof to
5 the address which each member shall file with the secretary.
6 Notices of special meetings may be waived in writing by any
7 director.

8 12. Each director shall be reimbursed for all necessary and
9 reasonable expenses incurred in the performance of his duties
10 pursuant to law, as provided for in the State Travel Reimbursement
11 Act. In addition to any reimbursement for necessary and reasonable
12 expenses received by the director pursuant to this paragraph, each
13 director shall be entitled to receive a per diem of Fifty Dollars
14 (\$50.00) per meeting for not more than two meetings a month.

15 SECTION 2. AMENDATORY 82 O.S. 2011, Section 612, is
16 amended to read as follows:

17 Section 612. The board of directors may at any time, when
18 necessary to fulfill the objects for which the district was created
19 or to address significant drought conditions alter or add to the
20 official plan, and when such alterations or additions are formally
21 approved by the board and by the court, and are filed with the
22 secretary, they shall become a part of the official plan, but they
23 shall neither materially modify the general character of the work,
24 nor materially increase resulting damages for which the board is not

1 able to make amicable settlement, nor increase the cost more than
2 ten per cent (10%), no action other than a resolution of the Board
3 of directors shall be necessary for the approval of such alterations
4 or additions. In case the proposed alterations or additions
5 materially modify the resulting damages or materially reduce the
6 benefits, for which the board is not able to make amicable
7 settlement, or materially increase the benefits in such a manner as
8 to require a new appraisal, or increase the cost more than ten per
9 cent (10%), the court shall direct the board of appraisers (which
10 may be the original board, or a new board appointed by the court on
11 petition of the board of directors or otherwise) to appraise the
12 property to be taken, benefited or damaged, by the proposed
13 alterations or additions. Upon the completion of the report of the
14 Board of appraisers, notice shall be given in the same manner as in
15 the case of the original report of the board of appraisers, and the
16 same right of appeal shall exist. Provided, that where few land
17 owners are affected, if found to be more economical and convenient,
18 personal notice of the pendency of the report of said appraisers
19 shall be given instead of notice by publication; and provided, that
20 if the only question at issue is additional damages or reduction of
21 benefits to property, due to modifications or additions to the
22 plans, the board of directors, may, if they find it practicable,
23 make settlements with the owners of the property damaged instead of
24 having appraisals made by the board of appraisers. In case such

1 settlements are made, notice and hearing need not be had. After
2 bonds have been sold, in order that their security may not be
3 impaired, no reduction shall be made in the amount of benefits
4 appraised against property in the district, but in lieu of such
5 reduction in benefits, if any are made, the amount shall be paid to
6 the party in cash. This provision shall apply to all changes in
7 appraisals under this act.

8 SECTION 3. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
13 February 21, 2013 - DO PASS AS AMENDED
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