

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1529

By: Leewright

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5  
6 AS INTRODUCED

7 An Act relating to the Oklahoma Municipal Power  
8 Authority Act; amending 11 O.S. 2021, Section 24-104,  
9 which relates to members; deleting certain time  
10 restraint; updating statutory language; amending 11  
11 O.S. 2021, Section 24-105, which relates to  
12 definitions; modifying definitions; amending 11 O.S.  
13 2021, Section 24-107, which relates to powers,  
14 rights, and privileges of authority; updating  
15 statutory language; deleting certain entities to  
16 which the Authority may not sell output; amending 11  
17 O.S. 2021, Section 24-114, which relates to  
18 acquisition and construction contracts; deleting  
19 requirement that the Authority be subject to the  
20 Competitive Bidding Act; amending 11 O.S. 2021, 24-  
21 116, which relates to meetings and records;  
22 correcting statutory reference; amending 11 O.S.  
23 2021, Section 24-117, which relates to construction;  
24 modifying certain construction; repealing 11 O.S.  
25 2021, Section 24-105.1, which relates to joint  
26 interest in electric generation project; repealing 11  
27 O.S. 2021, Section 24-120, which relates to personnel  
28 to be included in unclassified service; and providing  
29 an effective date.

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

32 SECTION 1. AMENDATORY 11 O.S. 2021, Section 24-104, is  
33 amended to read as follows:  
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1 Section 24-104. ~~(a)(i)~~ A. 1. Election Committee. The  
2 Authority shall be governed by a Board of Directors consisting of  
3 seven members or such greater number, but in no event more than  
4 eleven members, as provided in the bylaws of the Authority as in  
5 effect from time to time. Members of the Board of Directors of the  
6 Authority shall be eligible to succeed themselves and shall be  
7 elected by the election committee as hereinafter provided in this  
8 section. On or before the 90th day following the effective date of  
9 this act, each of those eligible public agencies which shall have,  
10 prior to such 90th day, by proper resolution of its governing body  
11 or its public trust, declared its intention to participate, or to  
12 have any public trust operating its electric system participate,  
13 with the Authority in the development of power supply resources,  
14 shall designate one person as its representative on the election  
15 committee. All such resolutions of declaration of intention to  
16 participate with the Authority shall be filed with the Secretary of  
17 State and shall be presented to the election committee at its first  
18 meeting which shall be held in the office of the Municipal Electric  
19 Systems of Oklahoma at 11:00 a.m. on the first Tuesday following  
20 such 90th day. At such meeting the election committee shall  
21 organize and elect a chairman and such other officers as may be  
22 desirable in the determination of the election committee. The  
23 election committee shall then determine the sufficiency of the  
24 resolutions presented to it.

1       ~~(ii)~~ 2. Election Committee Voting. For purposes of voting upon  
2 any matter which may properly come before the election committee,  
3 each representative shall have one vote unless otherwise provided in  
4 the bylaws of the Authority as in effect from time to time. The  
5 presence at any meeting of the election committee of representatives  
6 entitled to cast a majority of the total votes to which the election  
7 committee shall be entitled shall, unless otherwise provided in the  
8 bylaws of the Authority as in effect from time to time, constitute a  
9 quorum of the election committee.

10       ~~(iii)~~ 3. Bylaws of the Authority.

11       ~~(A)~~ a. The bylaws of the Authority shall be adopted by  
12 the election committee of the Authority by a majority  
13 vote of the election committee and may thereafter be  
14 amended at any time and from time to time in whole or  
15 in part by the election committee or by the Board of  
16 Directors by a majority of the total votes entitled to  
17 be cast at any properly called and constituted meeting  
18 thereof, provided, however, that any such amendment  
19 shall not violate the provisions of Section 19 hereof.

20       ~~(B)~~ b. The bylaws of the Authority shall provide the  
21 following:

22           (1) the time, place, manner of calling, notice,  
23 quorum and voting provisions, and other  
24

1 procedural rules for regular and special meetings  
2 of the election committee of the Authority~~†, L~~

3 (2) the time, place, manner of calling, notice,  
4 quorum and voting provisions, and other  
5 procedural rules for regular and special meetings  
6 of the Board of Directors of the Authority~~†, L~~

7 (3) provisions for the number, election, term of  
8 office and removal of members of the Board of  
9 Directors and for filling vacancies on the Board  
10 of Directors~~†, L~~

11 (4) the titles, duties and manner of election,  
12 removal and replacement of officers of the  
13 Authority~~†, L~~

14 (5) provisions governing when the Authority may  
15 dissolve and the disposition of property of the  
16 Authority and the procedures to be followed in  
17 the event of such a dissolution, provided,  
18 however, that any such dissolution shall not  
19 violate the provisions of Section ~~19 hereof; 24-~~  
20 119 of this title, and

21 (6) such other rules for regulating the affairs of  
22 the Authority as the election committee or the  
23 Board of Directors may deem necessary or  
24 advisable.

1        ~~(iv)~~ 4. Board of Directors. The initial members of the Board  
2 of Directors of the Authority shall be elected by the election  
3 committee of the Authority. Members of the Board of Directors of  
4 the Authority shall be residents of ~~the State of Oklahoma~~ this  
5 state. Members of the Board of Directors of the Authority may, but  
6 need not, be members of the election committee. Each member of the  
7 Board of Directors of the Authority shall hold office until the  
8 adjournment of the annual meeting of the Board of Directors held at,  
9 or nearest to, the expiration of ~~his~~ the Director's term of office  
10 as provided in the bylaws of the Authority and until ~~his~~ a successor  
11 is elected.

12        ~~(b)~~ B. Additional Members of Election Committee. Each eligible  
13 public agency declaring its intention, by proper resolution of its  
14 governing body, to participate, or to have any public trust  
15 operating its electric system participate, with the Authority in the  
16 development of power supply resources ~~after the 90th day following~~  
17 ~~the effective date of this act~~ shall promptly file such resolution  
18 with the Secretary of State and give written notice to the Authority  
19 of the adoption of such resolution and shall then designate one  
20 person as an additional member of the election committee whose term  
21 shall begin with the first meeting of the election committee which  
22 is held following the expiration of ten (10) days from the date of  
23 receipt of notice of the adoption of such resolution by the  
24 Authority. Members of the election committee shall serve at the

1 pleasure of the governing body of the eligible public agency by  
2 which they were appointed.

3 SECTION 2. AMENDATORY 11 O.S. 2021, Section 24-105, is  
4 amended to read as follows:

5 Section 24-105. Definitions. As used in ~~this act~~ Section 24-  
6 101 et seq. of this title the following words shall have the  
7 following meanings unless the context clearly indicates otherwise:

8 ~~(a)~~ A. "Authority" shall mean the Oklahoma Municipal Power  
9 Authority hereby created and any successor or successors thereto.  
10 Any change in name or composition of the Authority shall in no way  
11 affect the vested rights of any person under the provisions of this  
12 act or impair the obligations of any contracts existing under ~~this~~  
13 ~~act~~ Section 24-101 et seq. of this title.

14 ~~(b)~~ B. "Board of Directors" shall mean the Board of Directors  
15 elected by the election committee as set forth in Section ~~4~~ 24-101  
16 of this ~~act~~ title which shall exercise all the powers and manage and  
17 control all the affairs and property of the Authority unless  
18 otherwise specifically provided herein or in the bylaws of the  
19 Authority as in effect from time to time.

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

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

6       ~~(e)~~ E. "Person" shall mean (i) any natural person; (ii) any  
7 eligible public agency as defined herein; (iii) any public trust as  
8 defined herein; (iv) the United States, any state, any municipality,  
9 political subdivision, municipal corporation, unit of local  
10 government, governmental unit or public corporation created by or  
11 pursuant to the laws of the United States or any state, or any  
12 board, corporation or other entity or body declared by the laws of  
13 the United States or any state to be a department, agency or  
14 instrumentality thereof; (v) any corporation, not for profit  
15 corporation, firm, partnership, cooperative association, electric  
16 cooperative or business trust of any nature whatsoever organized and  
17 existing under the laws of the United States or any state; or (vi)  
18 any foreign country, any political subdivision or governmental unit  
19 of any foreign country or any corporation, not for profit  
20 corporation, firm, partnership, cooperative association, electric  
21 cooperative or business trust of any nature whatsoever organized and  
22 existing under the laws of any foreign country or of any political  
23 subdivision or governmental entity thereof.

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

20        ~~(g)~~ G. "Public trust" shall mean any public trust created and  
21 existing under the provisions of the Trusts for Furtherance of  
22 Public Functions ~~Law~~, as provided by Sections 176 et seq. of Title  
23 60 of the Oklahoma Statutes, and the Oklahoma Trust Act, as provided  
24 by Sections 175 et seq. of Title 60 of the Oklahoma Statutes, which

1 has as its beneficiary a municipality and which owns, maintains or  
2 operates an electrical energy generation, transmission or  
3 distribution system serving the residents and consumers of such  
4 municipality ~~and existing on the date on which this act becomes law~~  
5 ~~or created hereafter with an eligible public agency as the~~  
6 beneficiary.

7 SECTION 3. AMENDATORY 11 O.S. 2021, Section 24-107, is  
8 amended to read as follows:

9 Section 24-107. ~~(a)~~ A. The Authority shall have and is hereby  
10 authorized to exercise all powers, rights and privileges enumerated  
11 in this section. Such powers, rights and privileges shall be  
12 exercised by its Board of Directors unless otherwise specifically  
13 provided herein or by the bylaws of the Authority as in effect from  
14 time to time.

15 ~~(b)~~ B. The Authority may plan, finance, acquire, construct,  
16 reconstruct, own, lease, operate, maintain, repair, improve, extend  
17 or otherwise participate, individually or jointly with other  
18 persons, in one or more projects, proposed, existing or under  
19 construction, and may act as agent, or designate one or more  
20 persons, whether or not participating in a project, to act as its  
21 agent, in connection with the planning, financing, acquisition,  
22 construction, reconstruction, ownership, lease, operation,  
23 maintenance, repair, extension or improvement of the project.

1       ~~(c)~~ C. The Authority may investigate the desirability of and  
2 necessity for additional sources and supplies of electrical energy  
3 and fuel and other supplies of any kind for such purpose, and make  
4 studies, surveys and estimates as may be necessary to determine the  
5 feasibility and cost thereof.

6       ~~(d)~~ D. The Authority may cooperate with other persons in the  
7 development of sources and supplies of electrical energy and fuel  
8 and other supplies of any kind for such purposes, and give  
9 assistance with personnel and equipment in any project.

10       ~~(e)~~ E. The Authority may apply to any person for consents,  
11 authorizations or approvals required for any project within its  
12 powers and take all actions necessary to comply with the conditions  
13 thereof.

14       ~~(f)~~ F. The Authority may perform any act authorized by this act  
15 through, or by means of, its officers, agents or employees or by  
16 contract with any person, including, without limitation, the  
17 employment of engineers, architects, attorneys, appraisers,  
18 financial advisors and such other consultants and employees as may  
19 be required in the judgment of the Board of Directors, and fix and  
20 pay their compensation from funds available to the Authority  
21 therefor.

22       ~~(g)~~ G. The Authority may acquire, hold, use and dispose of  
23 income, revenues, funds and money.  
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1       ~~(h)~~ H. The Authority may, individually or jointly with other  
2 persons, acquire, own, hire, use, operate and dispose of personal  
3 property and any interest therein.

4       ~~(i)~~ I. The Authority may, individually or jointly with other  
5 persons, acquire, own, use, lease as lessor or lessee, operate and  
6 dispose of real property and interests in real property, including  
7 projects existing, proposed or under construction, and make  
8 improvements thereon.

9       ~~(j)~~ J. The Authority may grant the use by franchise, lease or  
10 otherwise and make charges for the use of any property or facility  
11 owned or controlled by it.

12       ~~(k)~~ K. The Authority may borrow money and issue negotiable  
13 bonds, secured or unsecured, in accordance with this act, and may  
14 enter into interest rate swaps and other derivative products, and  
15 other financial instruments intended to hedge interest rate risk or  
16 manage interest rate costs, including any option to enter into or  
17 terminate any of them, that the Authority deems to be necessary or  
18 desirable in connection with any bonds issued prior to, at the same  
19 time as, or after entering into such arrangement, and containing  
20 such terms and provisions, and may be with such parties, as  
21 determined by the Authority. Provided, any action taken by the  
22 Authority pursuant to this subsection must first be approved by the  
23 Office of the ~~State Bond Advisor~~ Deputy Treasurer for Debt

1 Management and the Council of Bond Oversight pursuant to the  
2 provisions of the Oklahoma Bond Oversight and Reform Act.

3 ~~(l)~~ L. The Authority may invest money of the Authority not  
4 required for immediate use, including proceeds from the sale of any  
5 bonds.

6 ~~(m)~~ M. The Authority may exercise the power of eminent domain  
7 in accordance with the provisions of Section 24-110 of this title.

8 ~~(n)~~ N. The Authority may determine the location and character  
9 of, and all other matters in connection with, any and all projects  
10 it is authorized to acquire, hold, establish, effectuate, operate or  
11 control.

12 ~~(o)~~ O. The Authority may contract with any person for the  
13 planning, development, construction, operation, sale or lease as  
14 lessor or lessee of any project or for any interest therein, on such  
15 terms and for such period of time as its Board of Directors shall  
16 determine.

17 ~~(p)~~ P. The Authority may contract with any eligible public  
18 agency, any public trust, or any other person for the sale of power  
19 and energy, transmission services, power supply development services  
20 or other services within or without ~~the State of Oklahoma~~ this state  
21 on such terms and conditions as the Board of Directors shall  
22 approve. Any such contract may be for the sale of output and  
23 services of a particular project or may be for output and services  
24 generally without regard to a specific project and may be for the

1 supply of a specific quantity of output or a percentage of the  
2 output of a specific project or other specific facility or may be  
3 based on the requirements of the purchaser or may be on such other  
4 terms and conditions as the Board of Directors deems appropriate.

5 ~~(g)~~ Q. The Authority may enter into any contract or agreement  
6 necessary, appropriate or incidental to the effectuation of its  
7 lawful purposes and the exercise of the powers granted by this act,  
8 including, without limitation, contracts or agreements for the  
9 purchase, sale, exchange, interchange, wheeling, pooling,  
10 transmission or storage of electric power and energy, and fuel and  
11 other supplies of any kind for any such purposes, within and without  
12 ~~the State of Oklahoma~~ this state, in such amounts as it shall  
13 determine to be necessary and appropriate to make the most effective  
14 use of its powers and to meet its responsibilities, on such terms  
15 and for such period of time as the Board of Directors determines,  
16 and derivative or other instruments intended to hedge fuel cost risk  
17 associated with any projects or power purchases or supply  
18 arrangements of the Authority, or to hedge fixed or variable  
19 interest rate exposure associated with permitted investments,  
20 including any option to enter into or terminate any of them, that  
21 the Authority deems to be necessary or desirable, and containing  
22 such terms and provisions, and may be with such parties, as  
23 determined by the Authority.

1        ~~(r)~~ R. In any case in which the Authority participates in a  
2 project as a joint owner with one or more persons, the Authority may  
3 enter into an agreement or agreements with respect to such project  
4 with the other person or persons participating therein, and any such  
5 agreement may contain such terms, conditions and provisions  
6 consistent with the provisions of the act as the parties thereto  
7 shall deem to be in their best interest. Any such agreement may  
8 include, but need not be limited to, provisions defining what  
9 constitutes a default thereunder and providing for the rights and  
10 remedies of the parties thereto upon the occurrence of such a  
11 default deemed appropriate by the Board of Directors including, to  
12 the extent deemed appropriate, the acquisition by nondefaulting  
13 parties of all or any part of the defaulting party's interest;  
14 provisions setting forth such restraints on alienation of the  
15 interests of the parties in the project as the Board of Directors  
16 deems appropriate; provisions for the construction, operation and  
17 maintenance of such electric generation or transmission facility by  
18 any one or more of the parties to such agreement which party or  
19 parties shall be designated in or pursuant to such agreement as  
20 agent or parties thereto or by such other means as may be determined  
21 by the parties thereto; and provisions for a method or methods of  
22 determining and allocating, among or between the parties, costs of  
23 construction, operation, maintenance, renewals, replacements,  
24 improvements and disposals with respect to such project. In

1 exercising its power to participate in a project as a joint owner  
2 with one or more persons, the Authority may not loan its credit to  
3 any person which is a joint owner of such project; provided,  
4 however, the appropriate allocations of the costs of construction,  
5 operation, maintenance, renewals, replacements, improvements and  
6 disposals with respect to such project between the Authority and  
7 such persons shall not be a loan of credit by the Authority to such  
8 persons. In carrying out its functions and activities as such agent  
9 with respect to construction, operation and maintenance of a  
10 project, such agent shall be governed by the laws and regulations  
11 applicable to such agent as a separate legal entity and not by any  
12 laws or regulations which may be applicable to any of the other  
13 participating parties. Notwithstanding anything contained in any  
14 other law to the contrary, pursuant to the terms of any such  
15 agreement, the Authority may delegate its powers and duties with  
16 respect to the construction, operation and maintenance of such  
17 project to the person acting as agent; and all actions taken by such  
18 agent in accordance with the provisions of such agreement may be  
19 made binding upon the Authority without further action or approval  
20 by the Authority.

21 ~~(s)~~ S. The Authority may procure insurance against any losses  
22 in connection with its property, operations or assets in such  
23 amounts and from such insurers as it deems desirable, or may self-  
24 insure against such losses.

1       ~~(t)~~ T. The Authority may contract for and accept any gifts,  
2 grants or loans of funds or property or financial or other aid in  
3 any form from any person, and may comply, subject to the provisions  
4 of this act, with the terms and conditions thereof.

5       ~~(u)~~ U. The Authority may adopt a corporate seal and may sue or  
6 be sued.

7       ~~(v)~~ V. The Authority may exercise all other powers not  
8 inconsistent with the Constitution of ~~the State of Oklahoma~~ this  
9 state or the United States Constitution, which powers may be  
10 reasonably necessary or appropriate for or incidental to effectuate  
11 its authorized purposes or to the exercise of any of the powers  
12 enumerated in this act.

13       ~~(w)~~ W. Notwithstanding any other provision herein seemingly to  
14 the contrary, the Authority may not sell ~~output (i)~~ at retail to the  
15 ultimate consumers thereof, ~~(ii) to any municipality which does not~~  
16 ~~qualify as an eligible public agency under the definition set forth~~  
17 ~~in subsection (d) of Section 24-105 of this title, or (iii) to any~~  
18 ~~trust created and existing under the provisions of the Local~~  
19 ~~Industrial Development Act, as provided by Sections 651 et seq. of~~  
20 ~~Title 62 of the Oklahoma Statutes, or the Trusts for Furtherance of~~  
21 ~~Public Functions Law, as provided by Sections 176 et seq. of Title~~  
22 ~~60 of the Oklahoma Statutes, which does not qualify as a public~~  
23 ~~trust under the definition set forth in subsection (g) of Section~~  
24 ~~24-105 of this title.~~

1 SECTION 4. AMENDATORY 11 O.S. 2021, Section 24-114, is  
2 amended to read as follows:

3 Section 24-114. The Authority shall be ~~subject to the~~  
4 ~~provisions of the Public Competitive Bidding Act, as provided by~~  
5 ~~Sections 101 et seq. of~~ exempt from Title 61 of the Oklahoma  
6 Statutes, ~~provided, however, where the Authority is purchasing an~~  
7 ~~undivided interest in a project that is being constructed or~~  
8 ~~operated by another person, the initial purchase of such interest by~~  
9 ~~the Authority and any contracts entered into by such person while~~  
10 ~~acting as agent for the Authority in connection with such project~~  
11 ~~shall not be subject to the provisions of such act.~~

12 SECTION 5. AMENDATORY 11 O.S. 2021, Section 24-116, is  
13 amended to read as follows:

14 Section 24-116. Meetings and Records. All meetings of the  
15 Authority shall be subject to the provisions of the Oklahoma Open  
16 Meeting Act, as provided by Sections 301 et seq. of Title 25 of the  
17 Oklahoma Statutes. All records of the Authority shall be subject to  
18 the provisions of ~~Section 24 of~~ the Oklahoma Open Records Act, as  
19 provided by Sections 24A.1, et seq. of Title 51 of the Oklahoma  
20 Statutes.

21 SECTION 6. AMENDATORY 11 O.S. 2021, Section 24-117, is  
22 amended to read as follows:

23 Section 24-117. Construction. This act and all the terms and  
24 provisions hereof shall be liberally construed to effectuate the

1 purposes set forth herein; provided however, nothing in this act  
2 shall be construed to authorize the Authority to loan its credit to  
3 any investor-owned utility ~~nor to acquire or subsidize any nuclear~~  
4 ~~powered generating plant.~~

5 SECTION 7. REPEALER 11 O.S. 2021, Section 24-105.1, is  
6 hereby repealed.

7 SECTION 8. REPEALER 11 O.S. 2021, Section 24-120, is  
8 hereby repealed.

9 SECTION 9. This act shall become effective November 1, 2022.

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