

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3898

By: Wallace

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5
6 AS INTRODUCED

7 An Act relating to waters and water rights; amending
8 82 O.S. 2011, Sections 866 and 870, as last amended
9 by Sections 8 and 11, Chapter 507, O.S.L. 2019 (82
10 O.S. Supp. 2019, Sections 866 and 870), which relate
11 to the Grand River Dam Authority; modifying domicile;
12 increasing revenue bond authorization limit; indexing
13 limit to certain Consumer Price Index; clarifying
14 jurisdiction; imposing an annual payment in lieu of
15 taxation; providing for calculation; requiring
16 monthly remittance; requiring remittance by certain
17 day of month; providing for codification; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 82 O.S. 2011, Section 866, as last
21 amended by Section 8, Chapter 507, O.S.L. 2019 (82 O.S. Supp. 2019,
22 Section 866), is amended to read as follows:

23 Section 866. The domicile of the district shall be in the ~~City~~
24 ~~of Vinita,~~ County of ~~Craig~~ Mayes, where the district shall maintain
its principal office in charge of its Chief Executive Officer, until
otherwise designated by the affirmative vote of four directors. The
district shall cause to be kept complete and accurate accounts
conforming to any generally accepted accounting principles. The

1 accounts and all contracts, documents and records of the district
2 shall be kept at the principal office. The accounts and contracts
3 shall be open to public inspection at all reasonable times. The
4 Board shall cause to be made and completed within ninety (90) days
5 after the end of each calendar year an audit of the books of account
6 and financial records of the district for such calendar year, such
7 audit to be made by an independent certified public accountant or
8 firm of certified public accountants. Electronic copies of the
9 audit report, certified to by the accountant or accountants, shall
10 be placed and kept on file with the Governor, the State Treasurer,
11 Oklahoma Department of Libraries and the State Auditor and Inspector
12 of the State of Oklahoma, and at the principal office, and shall be
13 open to public inspection at all reasonable times. The audit shall
14 also be filed with the Director of the Office of Management and
15 Enterprise Services, in accordance with the requirements set forth
16 for financial statement audits in Section 212A of Title 74 of the
17 Oklahoma Statutes.

18 SECTION 2. AMENDATORY 82 O.S. 2011, Section 870, as last
19 amended by Section 11, Chapter 507, O.S.L. 2019 (82 O.S. Supp. 2019,
20 Section 870), is amended to read as follows:

21 Section 870. The district shall have power and is hereby
22 authorized to issue from time to time, as the need therefor arises,
23 revenue bonds for its corporate purposes in such amount or amounts
24 not to exceed ~~One Billion Four Hundred Ten Million Dollars~~

1 ~~(\$1,410,000,000.00)~~ Two Billion Eight Hundred Twenty Million Dollars
2 (\$2,820,000,000.00), adjusted annually beginning on January 1, 2021,
3 in accordance with the Consumer Price Index as reported by the
4 United States Bureau of Labor Statistics, outstanding at any time as
5 are necessary, incidental or convenient to the exercise of the
6 powers, rights, privileges and functions conferred upon it by this
7 act, or any other act or law, and without limitations of the
8 generality of the powers, rights and privileges heretofore granted,
9 for acquiring a steam generating plant or plants and related
10 facilities, and to extend, improve and reconstruct the same; and for
11 constructing, installing and acquiring dams, reservoirs,
12 hydroelectric power plants, or any electrical generating plant or
13 plants or any other electrical power or generating facilities; or
14 any plant or plants for the production of steam for heating and
15 processing purposes; and all and any facilities of every kind
16 necessary, incidental or convenient for the production and
17 generation of electric power and energy; and for acquiring,
18 constructing and installing transmission lines, substations and all
19 facilities necessary, incidental or convenient to the sale, resale,
20 interchange and distribution of electric power and energy; and for
21 carrying on the business and functions of the district, as is now or
22 hereafter may be authorized by law; and for acquiring additions and
23 improvements to and extensions of facilities, at any time existing,
24 of the district; and for the acquisition of lands and rights-of-way

1 for such use as is now, or may be, authorized by law for the
2 construction, replacement and repair of any dams, plants or other
3 facilities of the district; and to enable it to finance, in
4 cooperation with any "public agency", as defined under the
5 Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74
6 of the Oklahoma Statutes, any other agency of government, rural
7 electric co-op corporation, or any private or public corporation,
8 the development and utilization of electrical energy or the water
9 resources and rights in waters vested in said district for such
10 purposes as are, or may be, authorized by the laws of Oklahoma, and
11 for financing and refinancing present outstanding obligations of the
12 district, including the payment of any claims, charges or interest
13 on bonds required to be paid. The bonds herein authorized may
14 either be (1) sold for cash, at public or private sale, at such
15 price or prices as the Board shall determine with the advice and
16 assistance of the State Bond Advisor, or (2) may be issued on such
17 terms as the Board shall determine in exchange for property of any
18 kind, real, personal or mixed, or any interest therein which the
19 Board shall deem necessary, incidental or convenient for any such
20 corporate purposes, or (3) may be issued in exchange for like
21 principal amounts of other obligations of the district, matured or
22 unmatured, or (4) may be issued in such principal amounts that when
23 the proceeds thereof are invested in legal and qualified
24 investments, the proceeds together with the resulting proceeds of

1 such investments will be sufficient to retire the outstanding
2 indebtedness or any portion thereof at maturity or at prior
3 redemption or upon purchase or tender for purchase. The proceeds of
4 sale of such bonds shall be deposited in such bank or banks or trust
5 company or trust companies, and shall be paid out pursuant to such
6 terms and conditions as may be agreed upon between the district and
7 the purchasers of such bonds. All such bonds shall be authorized by
8 resolutions of the Board concurred in by at least four of the
9 members thereof, and shall bear such date or dates, mature at such
10 time or times, bear interest at such rate or rates, at such time or
11 times, be in such denominations, be in such form, either coupon or
12 registered, carry such registration privileges as to principal only
13 or as to both principal and interest, and as to exchange of coupon
14 bonds for registered bonds or vice versa, and exchange of bonds of
15 one denomination for bonds of other denominations, be executed in
16 such manner and be payable at such place or places within or without
17 the State of Oklahoma as such resolution or resolutions may provide.
18 Any resolution or resolutions, including any related trust indenture
19 or indentures, authorizing any bonds may contain provisions which
20 shall be part of the contract between the district and the holders
21 thereof from time to time (a) reserving the right to redeem such
22 bonds at such time or times, in such amounts and at such prices as
23 may be provided, (b) providing for the setting aside of sinking
24 funds or reserve funds and the regulation and disposition thereof,

1 (c) pledging to secure the payment of the principal of and interest
2 on such bonds and of the sinking fund or reserve fund payments
3 agreed to be made in respect of such bonds all or any part of the
4 gross or net revenues thereafter received by the district in respect
5 of the property, real, personal or mixed, to be acquired or
6 constructed with such bonds or the proceeds thereof, or all or any
7 part of the gross or net revenues thereafter received by the
8 district from whatever source derived and monies and securities held
9 under such resolutions or indentures or contract rights with respect
10 to any of the foregoing, (d) prescribing the purposes to which such
11 bonds or any bonds thereafter to be issued, or the proceeds thereof,
12 may be applied, (e) agreeing to fix and collect rates and charges
13 sufficient to produce revenues adequate to pay the items specified
14 in subparagraphs (a), (b), (c), (d) and (e) of Section 868 of this
15 title and prescribing the use and disposition of all revenues, and
16 the investment of such revenues and other monies pending their
17 expenditures in investments authorized or permitted by law, (f)
18 prescribing limitations upon the issuance of additional bonds and
19 upon the agreements which may be made with the purchasers and
20 successive holders thereof, (g) with regard to the construction,
21 extension, improvement, reconstruction, operation, maintenance and
22 repair of the properties of the district, carrying of insurance upon
23 all or any part of said properties covering loss or damage or loss
24 of use and occupancy resulting from specified risk, (h) fixing the

1 procedure, if any, by which, if the district shall so desire, the
2 terms of any contract with the holders of such bonds may be amended
3 or abrogated, the amount of bonds the holders of which must consent
4 thereto, and the manner in which such consent may be given, (i) for
5 the execution and delivery by the district to a bank or trust
6 company authorized by law to accept trusts, or to the United States
7 of America or any office or agency thereof, of indentures and
8 agreements for the benefit of the holders of such bonds setting
9 forth any or all of the agreements herein authorized to be made with
10 or from the benefit of the holders of such bonds and such other
11 provisions as may be customary in such indentures or agreements, and
12 (j) such other provisions, not inconsistent with the provisions of
13 the act, as the Board may approve.

14 Any such resolution and any indenture or agreement entered into
15 pursuant thereto may provide that in the event that (a) default
16 shall be made in the payment of the interest on any or all bonds
17 when and as the same shall become due and payable, or (b) default
18 shall be made in the payment of the principal of any or all bonds
19 when and as the same shall become due and payable, whether at the
20 maturity thereof, by call for redemption or otherwise, or (c)
21 default shall be made in the performance for any agreement made with
22 the purchasers or successive holders of any bonds, and such default
23 shall have continued such period, if any, as may be prescribed by
24 said resolution in respect thereof, the trustee under the indenture

1 or indentures entered into in respect of the bonds authorized
2 thereby, or if there shall be no such indenture, a trustee appointed
3 in the manner provided in such resolution or resolutions by the
4 holders of twenty-five percent (25%) in aggregate principal amount
5 of the bonds authorized thereby and at the time outstanding may,
6 and, upon the written request of the holders of twenty-five percent
7 (25%) in aggregate principal amount of the bonds authorized by such
8 resolution or resolutions at the time outstanding, shall, in his or
9 its own name, but for the equal and proportionate benefit of the
10 holders of all of such bonds, and with or without possession
11 thereof,

12 (1) By mandamus or other suit, action or proceeding at law or
13 in equity, enforce all rights of the holders of such bonds,

14 (2) Bring suit upon such bonds and/or the appurtenant coupons,

15 (3) By action or suit in equity, require the district to
16 account as if it were the trustee of an express trust for the
17 bondholders,

18 (4) By action or suit in equity, enjoin any acts or things
19 which may be unlawful or in violation of the rights of the holders
20 of such bonds, and/or

21 (5) After such notice to the district as such resolution may
22 provide, declare the principal of all of such bonds due and payable,
23 and if all defaults shall have been made good, then with the written
24 consent of the holder or holders of twenty-five percent (25%) in

1 aggregate principal amount of such bonds at the time outstanding
2 annul such declaration and its consequence; provided, however, that
3 the holders of more than a majority in principal amount of the bonds
4 authorized thereby and at the time outstanding by instrument or
5 instruments in writing delivered to such trustee have the right to
6 direct and control any and all action taken or to be taken by such
7 trustee under this paragraph. Any such resolution, indenture or
8 agreement may provide that in any such suit, action or proceeding,
9 any such trustee, whether or not all of such bonds shall have been
10 declared due and payable, and with or without possession of any
11 thereof, shall be entitled as of right to the appointment of a
12 receiver who may enter and take possession of all or any part of the
13 properties of the district and operate and maintain the same, and
14 fix, collect and receive rates and charges sufficient to provide
15 revenues adequate to pay the items set forth in subparagraphs (a),
16 (b), (c), (d) and (e) of Section 868 of this title and the costs and
17 disbursements of such suit, action or proceeding, and to apply such
18 revenues in conformity with the provisions of Section 861 et seq. of
19 this title and the resolution or resolutions authorizing such bonds.
20 In any suit, action or proceeding by any such trustee, the
21 reasonable fees, counsel fees and expense of such trustee and of the
22 receiver or receivers, if any, shall constitute taxable
23 disbursements and all costs and disbursements, and all costs and
24 disbursements allowed by the court shall be a first charge upon any

1 revenues pledged to secure the payment of such bonds. Subject to
2 the provisions of the Constitution of the State of Oklahoma, the
3 courts of the County of ~~Craig~~ Mayes, or other county wherein the
4 domicile may be situated, shall have jurisdiction of any such suit,
5 action or proceeding by any such trustee on behalf of the
6 bondholders and of all property involved therein. In addition to
7 the powers hereinabove specifically provided for, each such trustee
8 shall have and possess all powers necessary or appropriate for the
9 exercise of any thereof, or incident to the general representation
10 of the bondholders in the enforcement of their right.

11 Before any bonds shall be sold by the district, a certified copy
12 of the proceedings for the issuance thereof, including the form of
13 such bonds, together with any other information which the Attorney
14 General of the State of Oklahoma may require, shall be submitted to
15 the Attorney General and if he shall find that such bonds have been
16 issued in accordance with law he shall approve such bonds and
17 execute a certificate to that effect which shall be filed in the
18 Office of the State Auditor and Inspector of the State of Oklahoma
19 and be recorded in a record kept for that purpose. No bonds shall
20 be issued until the same shall have been registered by the State
21 Auditor and Inspector, who shall so register the same if the
22 Attorney General shall have filed with the State Auditor and
23 Inspector his certificate approving the bonds and the proceedings
24 for the issuance thereof as hereinabove provided. All bonds

1 approved by the Attorney General as aforesaid, and registered by the
2 State Auditor and Inspector as aforesaid, and issued in accordance
3 with the proceedings so approved shall be valid and binding
4 obligations of the district and shall be incontestable for any cause
5 from and after the time of such registration.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 865.1 of Title 82, unless there
8 is created a duplication in numbering, reads as follows:

9 A. There is hereby imposed on the district an annual payment in
10 lieu of taxation which shall be equal to ten percent (10%) of the
11 district's operating revenues, based upon the previous year's
12 audited financial statements.

13 B. The payment hereby levied shall be payable monthly in equal
14 installments of one-twelfth (1/12) of the total annual amount
15 computed pursuant to this section. The payment shall be made not
16 later than the fifteenth day of each month to the State Treasurer
17 who shall apportion the payment to the General Revenue Fund of the
18 State Treasury.

19 C. The payment shall, when paid as herein provided, be in full
20 and in lieu of any and all other payments imposed by the state,
21 counties, cities, towns, townships, school districts, and other
22 municipalities or political subdivisions of the state on the
23 district, with the exception for payment for services rendered by
24 such entities.

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SECTION 4. This act shall become effective January 1, 2021.

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