

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 154

By: David

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5  
6 AS INTRODUCED

7 An Act relating to public trusts; amending 60 O.S.  
8 2011, Section 176, which relates to public contracts;  
9 requiring certain public trusts to comply with the  
10 Public Competitive Bidding Act of 1974; stating  
11 exception for certain public trusts; and declaring an  
12 emergency.

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

14 SECTION 1. AMENDATORY 60 O.S. 2011, Section 176, is  
15 amended to read as follows:

16 Section 176. A. Express trusts may be created to issue  
17 obligations, enter into financing arrangements including, but not  
18 limited to, lease-leaseback, sale-leaseback, interest rate swaps and  
19 other similar transactions and to provide funds for the furtherance  
20 and accomplishment of any authorized and proper public function or  
21 purpose of the state or of any county or municipality or any and all  
22 combinations thereof, in real or personal property, or either or  
23 both, or in any estate or interest in either or both, with the  
24 state, or any county or municipality or any and all combinations  
thereof, as the beneficiary thereof by:

1           1. The express approval of the Legislature and the Governor if  
2 the State of Oklahoma is the beneficiary;

3           2. The express approval of two-thirds (2/3) of the membership  
4 of the governing body of the beneficiary if a county is a  
5 beneficiary;

6           3. The express approval of two-thirds (2/3) of the membership  
7 of the governing body of the beneficiary if a municipality is a  
8 beneficiary; or

9           4. The express approval of two-thirds (2/3) of the membership  
10 of the governing body of each beneficiary in the event a trust has  
11 more than one beneficiary; provided, that no funds of a beneficiary  
12 derived from sources other than the trust property, or the operation  
13 thereof, shall be charged with or expended for the execution of the  
14 trust, except by express action of the legislative authority of the  
15 beneficiary prior to the charging or expending of the funds. The  
16 officers or any other governmental agencies or authorities having  
17 the custody, management, or control of any property, real or  
18 personal or mixed, of the beneficiary of the trust, or of a proposed  
19 trust, which property shall be needful for the execution of the  
20 trust purposes, are authorized and empowered to lease the property  
21 for those purposes, after the acceptance of the beneficial interest  
22 therein by the beneficiary as hereinafter provided.

23           B. A municipality may convey title to real property which is  
24 used for an airport to the trustees of an industrial development

1 authority trust whose beneficiary is the municipality. The  
2 industrial development authority trust must already have the  
3 custody, management, or control of the real property. The  
4 conveyance must be approved by a majority of the governing body of  
5 the municipality. A conveyance pursuant to this section may be made  
6 only for the sole purpose of allowing the authority to sell the  
7 property for fair market value when the property is to be used for  
8 industrial development purposes. Conveyances made pursuant to this  
9 subsection shall be made subject to any existing reversionary  
10 interest or other restrictions burdening the property and subject to  
11 any reversionary interest or other restriction considered prudent by  
12 the municipality.

13 C. The trustees of a public trust having the State of Oklahoma  
14 as beneficiary shall make and adopt bylaws for the due and orderly  
15 administration and regulation of the affairs of the public trust.  
16 All bylaws of a public trust having the State of Oklahoma as  
17 beneficiary shall be submitted in writing to the Governor of the  
18 State of Oklahoma. The Governor must approve the proposed bylaws  
19 before they take effect.

20 D. No public trust in which the State of Oklahoma is the  
21 beneficiary may be amended without a two-thirds (2/3) vote of  
22 approval of the trustees of the trust; provided, that any amendment  
23 is subject to the approval of the Governor of the State of Oklahoma.  
24

1 Any amendments shall be sent to the Governor within fifteen (15)  
2 days of their adoption.

3 E. No trust in which a county or municipality is the  
4 beneficiary shall hereafter create an indebtedness or obligation  
5 until the indebtedness or obligation has been approved by a two-  
6 thirds (2/3) vote of the governing body of the beneficiary. In the  
7 event a trust has more than one beneficiary, as authorized by this  
8 section, the trust shall not incur an indebtedness or obligation  
9 until the indebtedness or obligation has been approved by a two-  
10 thirds (2/3) vote of the governing body of two-thirds (2/3) of the  
11 beneficiaries of the trust.

12 F. All bonds described in subsection E of this section, after  
13 December 1, 1976, except bonds sold to the federal government or any  
14 agency thereof or to any agency of the State of Oklahoma, shall be  
15 awarded to the lowest and best bidder based upon open competitive  
16 public offering, advertised at least once a week for two (2)  
17 successive weeks in a newspaper of general circulation in the county  
18 where the principal office of the trust is located prior to the date  
19 on which bids are received and opened; provided, competitive bidding  
20 may be waived on bond issues with the approval of three-fourths  
21 (3/4) of the trustees, and a three-fourths (3/4) vote of the  
22 governing body of the beneficiary, unless the beneficiary is a  
23 county in which case a two-thirds (2/3) vote of the members of the  
24 governing body shall be required, or three-fourths (3/4) vote of the

1 governing bodies of each of the beneficiaries of the trust, unless  
2 one of the beneficiaries is a county in which case a two-thirds  
3 (2/3) vote of the members of the governing body of such county shall  
4 be required. No bonds shall be sold for less than par value, except  
5 upon approval of three-fourths (3/4) of the trustees, unless the  
6 beneficiary is a county in which case a two-thirds (2/3) vote of the  
7 members of the governing body shall be required. In no event shall  
8 bonds be sold for less than sixty-five percent (65%) of par value;  
9 provided, however, in no event shall the original purchaser from the  
10 issuer of any bonds issued by any public trust for any purpose  
11 receive directly or indirectly any fees, compensation, or other  
12 remuneration in excess of four percent (4%) of the price paid for  
13 the bonds by the purchaser of the bonds from the original purchaser;  
14 and further provided, that the average coupon rate thereon shall in  
15 no event exceed fourteen percent (14%) per annum. No public trust  
16 shall sell bonds for less than ninety-six percent (96%) of par value  
17 until the public trust has received from the underwriter or  
18 financial advisor or, in the absence of an underwriter or financial  
19 advisor, the initial purchaser of the bonds, an estimated  
20 alternative financing structure or structures showing the estimated  
21 total interest and principal cost of each alternative. At least one  
22 alternative financing structure shall include bonds sold to the  
23 public at par. Any estimates shall be considered a public record of  
24 the public trust. Bonds, notes or other evidences of indebtedness

1 issued by any public trust shall be eligible for purchase by any  
2 state banking association or corporation subject to such limitations  
3 as to investment quality as may be imposed by regulations, rules or  
4 rulings of the State Banking Commissioner.

5 G. Public trusts created pursuant to this section shall file  
6 annually, with their respective beneficiaries, copies of financial  
7 documents and reports sufficient to demonstrate the fiscal activity  
8 of such trust, including, but not limited to, budgets, financial  
9 reports, bond indentures, and audits. Amendments to the adopted  
10 budget shall be approved by the trustees of the public trust and  
11 recorded as such in the official minutes of such trust.

12 ~~H. Contracts for construction, labor, equipment, material or~~  
13 ~~repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be~~  
14 ~~awarded by public trusts to the lowest and best competitive bidder,~~  
15 ~~pursuant to public invitation to bid, which shall be published in~~  
16 ~~the manner provided in the preceding section hereof; the~~  
17 ~~advertisements shall appear in the county where the work, or the~~  
18 ~~major part of it, is to be done, or the equipment or materials are~~  
19 ~~to be delivered, or the services are to be rendered; provided,~~  
20 ~~however, should the trustee or the trustees find that an immediate~~  
21 ~~emergency exists, which findings shall be entered in the journal of~~  
22 ~~the trust proceedings, by reason of which an immediate outlay of~~  
23 ~~trust funds in an amount exceeding Fifty Thousand Dollars~~  
24 ~~(\$50,000.00) is necessary in order to avoid loss of life,~~

1 ~~substantial damage to property, or damage to the public peace or~~  
2 ~~safety, then the contracts may be made and entered into without~~  
3 ~~public notice or competitive bids; provided that the provisions of~~  
4 ~~this subsection shall not apply to contracts of industrial and~~  
5 ~~cultural trusts. Notwithstanding the provisions of this subsection,~~  
6 ~~equipment or materials may be purchased by a public trust directly~~  
7 ~~from any contract duly awarded by this state or any state agency~~  
8 ~~under the Oklahoma Central Purchasing Act, or from any contract duly~~  
9 ~~awarded by a governmental entity which is the beneficiary of the~~  
10 ~~public trust~~ Public trusts shall comply with the provisions of the  
11 Public Competitive Bidding Act of 1974; provided that the provisions  
12 of this subsection shall not apply to contracts of industrial and  
13 cultural trusts.

14 I. Any public trust created pursuant to the provisions of this  
15 section shall have the power to acquire lands by use of eminent  
16 domain in the same manner and according to the procedures provided  
17 for in Sections 51 through 65 of Title 66 of the Oklahoma Statutes.  
18 Any exercise of the power of eminent domain by a public trust  
19 pursuant to the provisions of this section shall be limited to the  
20 furtherance of public purpose projects involving revenue-producing  
21 utility projects of which the public trust retains ownership;  
22 provided, for public trusts in which the State of Oklahoma is the  
23 beneficiary the exercise of the power of eminent domain may also be  
24 used for public purpose projects involving air transportation.

1 Revenue-producing utility projects shall be limited to projects for  
2 the transportation, delivery, treatment, or furnishing of water for  
3 domestic purposes or for power, including, but not limited to, the  
4 construction of lakes, pipelines, and water treatment plants or for  
5 projects for rail transportation. Any public trust formed pursuant  
6 to this section which has a county as its beneficiary shall have the  
7 power to acquire, by use of eminent domain, any lands located either  
8 inside the county, or contiguous to the county pursuant to the  
9 limitations imposed pursuant to this section.

10 J. Provisions of this section shall not apply to entities  
11 created under Sections 1324.1 through 1324.26 of Title 82 of the  
12 Oklahoma Statutes.

13 K. Any trust created under this act, in whole or in part, to  
14 operate, administer or oversee any county jail facility shall  
15 consist of not less than five members and include a county  
16 commissioner and the county sheriff, or their designee, and one  
17 member appointed by each of the county commissioners. The appointed  
18 members shall not be elected officials.

19 SECTION 2. It being immediately necessary for the preservation  
20 of the public peace, health and safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

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