

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 762 By: Pederson of the Senate

3 and  
4 West (Kevin) of the House  
5

6  
7 An Act relating to public bidding and public  
8 contracts; amending 60 O.S. 2011, Section 176, as  
9 last amended by Section 22, Chapter 42, O.S.L. 2017  
10 (60 O.S. Supp. 2018, Section 176), which relates to  
11 trusts in furtherance of public functions; clarifying  
12 statutory reference; authorizing certain public  
13 trusts and public agencies to provide certain local  
14 bid preference of certain amount under certain  
15 conditions; requiring entities to adopt certain  
16 policy; stating requirements; amending 61 O.S. 2011,  
17 Section 103, as last amended by Section 2, Chapter  
18 186, O.S.L. 2013 (61 O.S. Supp. 2018, Section 103),  
19 which relates to the Public Competitive Bidding Act  
20 of 1974; authorizing certain public trusts and public  
21 agencies to provide certain local bid preference of  
22 certain amount under certain conditions; requiring  
23 entities to adopt certain policy; stating  
24 requirements; and providing an effective date.

18 AUTHOR: Add the following House Coauthor: Representative Branham

19  
20 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
and replace with:

21  
22 "An Act relating to public bidding and public  
23 contracts; amending 60 O.S. 2011, Section 176, as  
24 last amended by Section 22, Chapter 42, O.S.L. 2017  
(60 O.S. Supp. 2018, Section 176), which relates to  
trusts in furtherance of public functions;

1 clarifying statutory reference; authorizing certain  
2 public trusts and public agencies to provide certain  
3 local bid preference of certain amount under certain  
4 conditions; requiring entities to adopt certain  
5 policy; stating requirements; defining term;  
6 providing for exceptions; amending 61 O.S. 2011,  
7 Section 103, as last amended by Section 2, Chapter  
8 186, O.S.L. 2013 (61 O.S. Supp. 2018, Section 103),  
9 which relates to the Public Competitive Bidding Act  
10 of 1974; authorizing certain public trusts and  
11 public agencies to provide certain local bid  
12 preference of certain amount under certain  
13 conditions; requiring entities to adopt certain  
14 policy; stating requirements; defining term;  
15 providing for exceptions; and providing an effective  
16 date.

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

SECTION 1. AMENDATORY 60 O.S. 2011, Section 176, as last  
amended by Section 22, Chapter 42, O.S.L. 2017 (60 O.S. Supp. 2018,  
Section 176), is amended to read as follows:

Section 176. A. Express trusts may be created to issue  
obligations, enter into financing arrangements including, but not  
limited to, lease-leaseback, sale-leaseback, interest rate swaps and  
other similar transactions and to provide funds for the furtherance  
and accomplishment of any authorized and proper public function or  
purpose of the state or of any county or municipality or any and all  
combinations thereof, in real or personal property, or either or  
both, or in any estate or interest in either or both, with the  
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. Any trust created pursuant to the provisions of this  
24 section, in whole or in part, may engage in activities outside of

1 the geographic boundaries of its beneficiary, so long as the  
2 activity provides a benefit to a large class of the public within  
3 the beneficiary's geographic area or lessens the burdens of  
4 government of the beneficiary and which does not solely provide a  
5 benefit by generating administrative fees.

6 C. A municipality may convey title to real property which is  
7 used for an airport to the trustees of an industrial development  
8 authority trust whose beneficiary is the municipality. The  
9 industrial development authority trust must already have the  
10 custody, management, or control of the real property. The  
11 conveyance must be approved by a majority of the governing body of  
12 the municipality. A conveyance pursuant to this section may be made  
13 only for the sole purpose of allowing the authority to sell the  
14 property for fair market value when the property is to be used for  
15 industrial development purposes. Conveyances made pursuant to this  
16 subsection shall be made subject to any existing reversionary  
17 interest or other restrictions burdening the property and subject to  
18 any reversionary interest or other restriction considered prudent by  
19 the municipality.

20 D. The trustees of a public trust having the State of Oklahoma  
21 as beneficiary shall make and adopt bylaws for the due and orderly  
22 administration and regulation of the affairs of the public trust.  
23 All bylaws of a public trust having the State of Oklahoma as  
24 beneficiary shall be submitted in writing to the Governor of the

1 State of Oklahoma. The Governor must approve the proposed bylaws  
2 before they take effect.

3 E. No public trust in which the State of Oklahoma is the  
4 beneficiary may be amended without a two-thirds (2/3) vote of  
5 approval of the trustees of the trust; provided, that any amendment  
6 is subject to the approval of the Governor of the State of Oklahoma.  
7 Any amendments shall be sent to the Governor within fifteen (15)  
8 days of their adoption.

9 F. No trust in which a county or municipality is the  
10 beneficiary shall hereafter create an indebtedness or obligation  
11 until the indebtedness or obligation has been approved by a two-  
12 thirds (2/3) vote of the governing body of the beneficiary. In the  
13 event a trust has more than one beneficiary, as authorized by this  
14 section, the trust shall not incur an indebtedness or obligation  
15 until the indebtedness or obligation has been approved by a two-  
16 thirds (2/3) vote of the governing body of two-thirds (2/3) of the  
17 beneficiaries of the trust. Provided, however, a municipality with  
18 a governing body consisting of fewer than seven (7) members shall be  
19 required to approve the creation of an indebtedness or obligation  
20 under this subsection by a three-fifths (3/5) vote of the governing  
21 body.

22 G. All bonds described in subsection F of this section, after  
23 December 1, 1976, except bonds sold to the federal government or any  
24 agency thereof or to any agency of the State of Oklahoma, shall be

1 awarded to the lowest and best bidder based upon open competitive  
2 public offering, advertised at least once a week for two (2)  
3 successive weeks in a newspaper of general circulation in the county  
4 where the principal office of the trust is located prior to the date  
5 on which bids are received and opened; provided, competitive bidding  
6 may be waived on bond issues with the approval of three-fourths  
7 (3/4) of the trustees, and a three-fourths (3/4) vote of the  
8 governing body of the beneficiary, unless the beneficiary is a  
9 county in which case a two-thirds (2/3) vote of the members of the  
10 governing body shall be required, or three-fourths (3/4) vote of the  
11 governing bodies of each of the beneficiaries of the trust, unless  
12 one of the beneficiaries is a county in which case a two-thirds  
13 (2/3) vote of the members of the governing body of such county shall  
14 be required. No bonds shall be sold for less than par value, except  
15 upon approval of three-fourths (3/4) of the trustees, unless the  
16 beneficiary is a county in which case a two-thirds (2/3) vote of the  
17 members of the governing body shall be required. In no event shall  
18 bonds be sold for less than sixty-five percent (65%) of par value;  
19 provided, however, in no event shall the original purchaser from the  
20 issuer of any bonds issued by any public trust for any purpose  
21 receive directly or indirectly any fees, compensation, or other  
22 remuneration in excess of four percent (4%) of the price paid for  
23 the bonds by the purchaser of the bonds from the original purchaser;  
24 and further provided, that the average coupon rate thereon shall in

1 no event exceed fourteen percent (14%) per annum. No public trust  
2 shall sell bonds for less than ninety-six percent (96%) of par value  
3 until the public trust has received from the underwriter or  
4 financial advisor or, in the absence of an underwriter or financial  
5 advisor, the initial purchaser of the bonds, an estimated  
6 alternative financing structure or structures showing the estimated  
7 total interest and principal cost of each alternative. At least one  
8 alternative financing structure shall include bonds sold to the  
9 public at par. Any estimates shall be considered a public record of  
10 the public trust. Bonds, notes or other evidences of indebtedness  
11 issued by any public trust shall be eligible for purchase by any  
12 state banking association or corporation subject to such limitations  
13 as to investment quality as may be imposed by regulations, rules or  
14 rulings of the State Banking Commissioner.

15 H. Public trusts created pursuant to this section shall file  
16 annually, with their respective beneficiaries, copies of financial  
17 documents and reports sufficient to demonstrate the fiscal activity  
18 of such trust, including, but not limited to, budgets, financial  
19 reports, bond indentures, and audits. Amendments to the adopted  
20 budget shall be approved by the trustees of the public trust and  
21 recorded as such in the official minutes of such trust.

22 I. Contracts for construction, labor, equipment, material or  
23 repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be  
24 awarded by public trusts to the lowest and best competitive bidder,

1 pursuant to public invitation to bid, which shall be published in  
2 the manner provided in ~~the preceding section hereof~~ subsection G of  
3 this section; the advertisements shall appear in the county where  
4 the work, or the major part of it, is to be done, or the equipment  
5 or materials are to be delivered, or the services are to be  
6 rendered; provided, however, should the trustee or the trustees find  
7 that an immediate emergency exists, which findings shall be entered  
8 in the journal of the trust proceedings, by reason of which an  
9 immediate outlay of trust funds in an amount exceeding Seventy-five  
10 Thousand Dollars (\$75,000.00) is necessary in order to avoid loss of  
11 life, substantial damage to property, or damage to the public peace  
12 or safety, then the contracts may be made and entered into without  
13 public notice or competitive bids; provided that the provisions of  
14 this subsection shall not apply to contracts of industrial and  
15 cultural trusts. Notwithstanding the provisions of this subsection,  
16 equipment or materials may be purchased by a public trust directly  
17 from any contract duly awarded by this state or any state agency  
18 under The Oklahoma Central Purchasing Act, or from any contract duly  
19 awarded by a governmental entity which is the beneficiary of the  
20 public trust. Furthermore, any construction contract issued under  
21 this section may provide for a local bid preference of not more than  
22 five percent (5%) of the bid price if the public trust governing  
23 body determines that there is an economic benefit to the local area  
24 or economy. Provided, however, the local bidder or contractor must

1 agree to perform the contract for the same price and terms as the  
2 bid proposed by the nonlocal bidder or contractor. Any bid  
3 preference granted hereunder must be in accordance with an  
4 established policy adopted by the governing body of the trust to  
5 clearly demonstrate the economic benefit to the local area or  
6 economy. Provided, further, no local bid preference shall be  
7 granted unless the local bidding entity is the second lowest  
8 qualified bid on the contract. The bid specifications shall clearly  
9 state that the bid is subject to a local bidder preference law. For  
10 purposes of this section, "local bid" means the bidding person is  
11 authorized to transact business in this state and maintains a bona  
12 fide establishment for transacting such business within this state.  
13 This provision shall not apply to any construction contract for  
14 which federal funds are available for expenditure when its  
15 provisions may be in conflict with federal law or regulation.

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

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

12 K. Provisions of this section shall not apply to entities  
13 created under Sections 1324.1 through 1324.26 of Title 82 of the  
14 Oklahoma Statutes.

15 L. Any trust created under ~~this act~~ Section 176 et seq. of this  
16 title, in whole or in part, to operate, administer or oversee any  
17 county jail facility shall consist of not less than five members and  
18 include a county commissioner and the county sheriff, or their  
19 designee, and one member appointed by each of the county  
20 commissioners. The appointed members shall not be elected  
21 officials.

22 SECTION 2. AMENDATORY 61 O.S. 2011, Section 103, as last  
23 amended by Section 2, Chapter 186, O.S.L. 2013 (61 O.S. Supp. 2018,  
24 Section 103), is amended to read as follows:

1 Section 103. A. Unless otherwise provided by law, all public  
2 construction contracts exceeding Fifty Thousand Dollars (\$50,000.00)  
3 shall be let and awarded to the lowest responsible bidder, by open  
4 competitive bidding after solicitation for sealed bids, in  
5 accordance with the provisions of the Public Competitive Bidding Act  
6 of 1974. No work shall be commenced until a written contract is  
7 executed and all required bonds and insurance have been provided by  
8 the contractor to the awarding public agency.

9 B. Notwithstanding subsection A of this section, in awarding  
10 public construction contracts exceeding Fifty Thousand Dollars  
11 (\$50,000.00), counties, cities, other local units of government and  
12 any public trust with a county or a municipality as its sole  
13 beneficiary may provide for a local bid preference of not more than  
14 five percent (5%) of the bid price if the awarding public agency  
15 determines that there is an economic benefit to the local area or  
16 economy. Provided, however, the local bidder or contractor must  
17 agree to perform the contract for the same price and terms as the  
18 bid proposed by the nonlocal bidder or contractor. Any bid  
19 preference granted hereunder must be in accordance with an  
20 established policy adopted by the governing body of the awarding  
21 public agency to clearly demonstrate the economic benefit to the  
22 local area or economy. Provided, further, no local bid preference  
23 shall be granted unless the local bidding entity is the second  
24 lowest qualified bid on the contract. The bid specifications shall

1 clearly state that the bid is subject to a local bidder preference  
2 law. For purposes of this section, "local bid" means the bidding  
3 person is authorized to transact business in this state and  
4 maintains a bona fide establishment for transacting such business  
5 within this state. This provision shall not apply to any  
6 construction contract for which federal funds are available for  
7 expenditure when its provisions may be in conflict with federal law  
8 or regulation.

9 C. Except as provided in subsection ~~D~~ E of this section, other  
10 construction contracts for the purpose of making any public  
11 improvements or constructing any public building or making repairs  
12 to the same for Fifty Thousand Dollars (\$50,000.00) or less shall be  
13 let and awarded to the lowest responsible bidder by receipt of  
14 written bids or awarded on the basis of competitive quotes to the  
15 lowest responsible qualified contractor. Work may be commenced in  
16 accordance with the purchasing policies of the public agency.

17 ~~E.~~ D. Except as provided in subsection ~~D~~ E of this section,  
18 other construction contracts for less than Five Thousand Dollars  
19 (\$5,000.00) may be negotiated with a qualified contractor. Work may  
20 be commenced in accordance with the purchasing policies of the  
21 public agency.

22 ~~D.~~ E. The provisions of this subsection shall apply to public  
23 construction for minor maintenance or minor repair work to public  
24 school district property. Other construction contracts for less

1 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated  
2 with a qualified contractor. Construction contracts equal to or  
3 greater than Twenty-five Thousand Dollars (\$25,000.00) but less than  
4 Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the  
5 lowest responsible bidder by receipt of written bids. No work shall  
6 be commenced on any construction contract until a written contract  
7 is executed and proof of insurance has been provided by the  
8 contractor to the awarding public agency.

9 ~~E.~~ F. The Construction and Properties Division of the Office of  
10 Management and Enterprise Services may award contracts using best  
11 value competitive proposals. As used in this subsection, "best  
12 value" means an optional contract award system which can evaluate  
13 and rank submitted competitive performance proposals to identify the  
14 proposal with the greatest value to the state. The Office of  
15 Management and Enterprise Services, pursuant to the Administrative  
16 Procedures Act, shall promulgate rules necessary to implement the  
17 provisions of this subsection.

18 ~~F.~~ G. 1. A public agency shall not let or award a public  
19 construction contract exceeding Fifty Thousand Dollars (\$50,000.00)  
20 to any contractor affiliated with a purchasing cooperative unless  
21 the purchasing cooperative and the contractor have complied with all  
22 of the provisions of the Competitive Bidding Act of 1974, including  
23 but not limited to open competitive bidding after solicitation for  
24 sealed bids. A public agency shall not let or award a public

1 construction contract exceeding Five Thousand Dollars (\$5,000.00) up  
2 to Fifty Thousand Dollars (\$50,000.00) to any contractor affiliated  
3 with a purchasing cooperative unless the purchasing cooperative and  
4 the contractor have complied with all of the provisions of the  
5 Public Competitive Bidding Act of 1974, including submission of a  
6 written bid upon notice of competitive bidding.

7       2. A purchasing cooperative and its affiliated contractors  
8 shall not be allowed to bid on any public construction contract  
9 exceeding Fifty Thousand Dollars (\$50,000.00) unless the purchasing  
10 cooperative and its affiliated contractors have complied with all of  
11 the provisions of the Public Competitive Bidding Act of 1974,  
12 including but not limited to open competitive bidding after  
13 solicitation for sealed bids. A purchasing cooperative and its  
14 affiliated contractors shall not be allowed to bid on any public  
15 construction contract exceeding Two Thousand Five Hundred Dollars  
16 (\$2,500.00) unless the purchasing cooperative and its affiliated  
17 contractors have complied with all of the provisions of the Public  
18 Competitive Bidding Act of 1974, including submission of a written  
19 bid upon notice of open competitive bidding.

20       SECTION 3. This act shall become effective November 1, 2019."  
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1 ENGROSSED SENATE  
2 BILL NO. 762

By: Pederson of the Senate

and

West (Kevin) of the House

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23 requirements; and providing an effective date.

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

SECTION 4. AMENDATORY 60 O.S. 2011, Section 176, as last  
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Section 176), is amended to read as follows:

Section 176. A. Express trusts may be created to issue  
obligations, enter into financing arrangements including, but not  
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other similar transactions and to provide funds for the furtherance

1 and accomplishment of any authorized and proper public function or  
2 purpose of the state or of any county or municipality or any and all  
3 combinations thereof, in real or personal property, or either or  
4 both, or in any estate or interest in either or both, with the  
5 state, or any county or municipality or any and all combinations  
6 thereof, as the beneficiary thereof by:

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

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

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

15 4. The express approval of two-thirds (2/3) of the membership  
16 of the governing body of each beneficiary in the event a trust has  
17 more than one beneficiary; provided, that no funds of a beneficiary  
18 derived from sources other than the trust property, or the operation  
19 thereof, shall be charged with or expended for the execution of the  
20 trust, except by express action of the legislative authority of the  
21 beneficiary prior to the charging or expending of the funds. The  
22 officers or any other governmental agencies or authorities having  
23 the custody, management, or control of any property, real or  
24 personal or mixed, of the beneficiary of the trust, or of a proposed

1 trust, which property shall be needful for the execution of the  
2 trust purposes, are authorized and empowered to lease the property  
3 for those purposes, after the acceptance of the beneficial interest  
4 therein by the beneficiary as hereinafter provided.

5 B. Any trust created pursuant to the provisions of this  
6 section, in whole or in part, may engage in activities outside of  
7 the geographic boundaries of its beneficiary, so long as the  
8 activity provides a benefit to a large class of the public within  
9 the beneficiary's geographic area or lessens the burdens of  
10 government of the beneficiary and which does not solely provide a  
11 benefit by generating administrative fees.

12 C. A municipality may convey title to real property which is  
13 used for an airport to the trustees of an industrial development  
14 authority trust whose beneficiary is the municipality. The  
15 industrial development authority trust must already have the  
16 custody, management, or control of the real property. The  
17 conveyance must be approved by a majority of the governing body of  
18 the municipality. A conveyance pursuant to this section may be made  
19 only for the sole purpose of allowing the authority to sell the  
20 property for fair market value when the property is to be used for  
21 industrial development purposes. Conveyances made pursuant to this  
22 subsection shall be made subject to any existing reversionary  
23 interest or other restrictions burdening the property and subject to

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1 any reversionary interest or other restriction considered prudent by  
2 the municipality.

3 D. The trustees of a public trust having the State of Oklahoma  
4 as beneficiary shall make and adopt bylaws for the due and orderly  
5 administration and regulation of the affairs of the public trust.  
6 All bylaws of a public trust having the State of Oklahoma as  
7 beneficiary shall be submitted in writing to the Governor of the  
8 State of Oklahoma. The Governor must approve the proposed bylaws  
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10 E. No public trust in which the State of Oklahoma is the  
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12 approval of the trustees of the trust; provided, that any amendment  
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14 Any amendments shall be sent to the Governor within fifteen (15)  
15 days of their adoption.

16 F. No trust in which a county or municipality is the  
17 beneficiary shall hereafter create an indebtedness or obligation  
18 until the indebtedness or obligation has been approved by a two-  
19 thirds (2/3) vote of the governing body of the beneficiary. In the  
20 event a trust has more than one beneficiary, as authorized by this  
21 section, the trust shall not incur an indebtedness or obligation  
22 until the indebtedness or obligation has been approved by a two-  
23 thirds (2/3) vote of the governing body of two-thirds (2/3) of the  
24 beneficiaries of the trust. Provided, however, a municipality with

1 a governing body consisting of fewer than seven (7) members shall be  
2 required to approve the creation of an indebtedness or obligation  
3 under this subsection by a three-fifths (3/5) vote of the governing  
4 body.

5 G. All bonds described in subsection F of this section, after  
6 December 1, 1976, except bonds sold to the federal government or any  
7 agency thereof or to any agency of the State of Oklahoma, shall be  
8 awarded to the lowest and best bidder based upon open competitive  
9 public offering, advertised at least once a week for two (2)  
10 successive weeks in a newspaper of general circulation in the county  
11 where the principal office of the trust is located prior to the date  
12 on which bids are received and opened; provided, competitive bidding  
13 may be waived on bond issues with the approval of three-fourths  
14 (3/4) of the trustees, and a three-fourths (3/4) vote of the  
15 governing body of the beneficiary, unless the beneficiary is a  
16 county in which case a two-thirds (2/3) vote of the members of the  
17 governing body shall be required, or three-fourths (3/4) vote of the  
18 governing bodies of each of the beneficiaries of the trust, unless  
19 one of the beneficiaries is a county in which case a two-thirds  
20 (2/3) vote of the members of the governing body of such county shall  
21 be required. No bonds shall be sold for less than par value, except  
22 upon approval of three-fourths (3/4) of the trustees, unless the  
23 beneficiary is a county in which case a two-thirds (2/3) vote of the  
24 members of the governing body shall be required. In no event shall

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2 provided, however, in no event shall the original purchaser from the  
3 issuer of any bonds issued by any public trust for any purpose  
4 receive directly or indirectly any fees, compensation, or other  
5 remuneration in excess of four percent (4%) of the price paid for  
6 the bonds by the purchaser of the bonds from the original purchaser;  
7 and further provided, that the average coupon rate thereon shall in  
8 no event exceed fourteen percent (14%) per annum. No public trust  
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11 financial advisor or, in the absence of an underwriter or financial  
12 advisor, the initial purchaser of the bonds, an estimated  
13 alternative financing structure or structures showing the estimated  
14 total interest and principal cost of each alternative. At least one  
15 alternative financing structure shall include bonds sold to the  
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18 issued by any public trust shall be eligible for purchase by any  
19 state banking association or corporation subject to such limitations  
20 as to investment quality as may be imposed by regulations, rules or  
21 rulings of the State Banking Commissioner.

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24 documents and reports sufficient to demonstrate the fiscal activity

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2 reports, bond indentures, and audits. Amendments to the adopted  
3 budget shall be approved by the trustees of the public trust and  
4 recorded as such in the official minutes of such trust.

5 I. Contracts for construction, labor, equipment, material or  
6 repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be  
7 awarded by public trusts to the lowest and best competitive bidder,  
8 pursuant to public invitation to bid, which shall be published in  
9 the manner provided in ~~the preceding section hereof~~ subsection G of  
10 this section; the advertisements shall appear in the county where  
11 the work, or the major part of it, is to be done, or the equipment  
12 or materials are to be delivered, or the services are to be  
13 rendered; provided, however, should the trustee or the trustees find  
14 that an immediate emergency exists, which findings shall be entered  
15 in the journal of the trust proceedings, by reason of which an  
16 immediate outlay of trust funds in an amount exceeding Seventy-five  
17 Thousand Dollars (\$75,000.00) is necessary in order to avoid loss of  
18 life, substantial damage to property, or damage to the public peace  
19 or safety, then the contracts may be made and entered into without  
20 public notice or competitive bids; provided that the provisions of  
21 this subsection shall not apply to contracts of industrial and  
22 cultural trusts. Notwithstanding the provisions of this subsection,  
23 equipment or materials may be purchased by a public trust directly  
24 from any contract duly awarded by this state or any state agency

1 under The Oklahoma Central Purchasing Act, or from any contract duly  
2 awarded by a governmental entity which is the beneficiary of the  
3 public trust. Furthermore, any construction contract issued under  
4 this section may provide for a local bid preference of not more than  
5 five percent (5%) of the bid price if the public trust governing  
6 body determines that there is an economic benefit to the local area  
7 or economy. Provided, however, the local bidder or contractor must  
8 agree to perform the contract for the same price and terms as the  
9 bid proposed by the nonlocal bidder or contractor. Any bid  
10 preference granted hereunder must be in accordance with an  
11 established policy adopted by the governing body of the trust to  
12 clearly demonstrate the economic benefit to the local area or  
13 economy. Provided, further, no local bid preference shall be  
14 granted unless the local bidding entity is the second lowest  
15 qualified bid on the contract. The bid specifications shall clearly  
16 state that the bid is subject to a local bidder preference law.

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

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

13 K. Provisions of this section shall not apply to entities  
14 created under Sections 1324.1 through 1324.26 of Title 82 of the  
15 Oklahoma Statutes.

16 L. Any trust created under ~~this act~~ Section 176 et seq. of this  
17 title, in whole or in part, to operate, administer or oversee any  
18 county jail facility shall consist of not less than five members and  
19 include a county commissioner and the county sheriff, or their  
20 designee, and one member appointed by each of the county  
21 commissioners. The appointed members shall not be elected  
22 officials.

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1 SECTION 5. AMENDATORY 61 O.S. 2011, Section 103, as last  
2 amended by Section 2, Chapter 186, O.S.L. 2013 (61 O.S. Supp. 2018,  
3 Section 103), is amended to read as follows:

4 Section 103. A. Unless otherwise provided by law, all public  
5 construction contracts exceeding Fifty Thousand Dollars (\$50,000.00)  
6 shall be let and awarded to the lowest responsible bidder, by open  
7 competitive bidding after solicitation for sealed bids, in  
8 accordance with the provisions of the Public Competitive Bidding Act  
9 of 1974. No work shall be commenced until a written contract is  
10 executed and all required bonds and insurance have been provided by  
11 the contractor to the awarding public agency.

12 B. Notwithstanding subsection A of this section, in awarding  
13 public construction contracts exceeding Fifty Thousand Dollars  
14 (\$50,000.00), counties, cities, other local units of government, and  
15 any public trust with county or a municipality as its sole  
16 beneficiary may provide for a local bid preference of not more than  
17 five percent (5%) of the bid price if the awarding public agency  
18 determines that there is an economic benefit to the local area or  
19 economy. Provided, however, the local bidder or contractor must  
20 agree to perform the contract for the same price and terms as the  
21 bid proposed by the nonlocal bidder or contractor. Any bid  
22 preference granted hereunder must be in accordance with an  
23 established policy adopted by the governing body of the awarding  
24 public agency to clearly demonstrate the economic benefit to the

1 local area or economy. Provided, further, no local bid preference  
2 shall be granted unless the local bidding entity is the second  
3 lowest qualified bid on the contract. The bid specifications shall  
4 clearly state that the bid is subject to a local bidder preference  
5 law.

6 C. Except as provided in subsection ~~D~~ E of this section, other  
7 construction contracts for the purpose of making any public  
8 improvements or constructing any public building or making repairs  
9 to the same for Fifty Thousand Dollars (\$50,000.00) or less shall be  
10 let and awarded to the lowest responsible bidder by receipt of  
11 written bids or awarded on the basis of competitive quotes to the  
12 lowest responsible qualified contractor. Work may be commenced in  
13 accordance with the purchasing policies of the public agency.

14 ~~C.~~ D. Except as provided in subsection ~~D~~ E of this section,  
15 other construction contracts for less than Five Thousand Dollars  
16 (\$5,000.00) may be negotiated with a qualified contractor. Work may  
17 be commenced in accordance with the purchasing policies of the  
18 public agency.

19 ~~D.~~ E. The provisions of this subsection shall apply to public  
20 construction for minor maintenance or minor repair work to public  
21 school district property. Other construction contracts for less  
22 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated  
23 with a qualified contractor. Construction contracts equal to or  
24 greater than Twenty-five Thousand Dollars (\$25,000.00) but less than

1 Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the  
2 lowest responsible bidder by receipt of written bids. No work shall  
3 be commenced on any construction contract until a written contract  
4 is executed and proof of insurance has been provided by the  
5 contractor to the awarding public agency.

6 ~~E.~~ F. The Construction and Properties Division of the Office of  
7 Management and Enterprise Services may award contracts using best  
8 value competitive proposals. As used in this subsection, "best  
9 value" means an optional contract award system which can evaluate  
10 and rank submitted competitive performance proposals to identify the  
11 proposal with the greatest value to the state. The Office of  
12 Management and Enterprise Services, pursuant to the Administrative  
13 Procedures Act, shall promulgate rules necessary to implement the  
14 provisions of this subsection.

15 ~~F.~~ G. 1. A public agency shall not let or award a public  
16 construction contract exceeding Fifty Thousand Dollars (\$50,000.00)  
17 to any contractor affiliated with a purchasing cooperative unless  
18 the purchasing cooperative and the contractor have complied with all  
19 of the provisions of the Competitive Bidding Act of 1974, including  
20 but not limited to open competitive bidding after solicitation for  
21 sealed bids. A public agency shall not let or award a public  
22 construction contract exceeding Five Thousand Dollars (\$5,000.00) up  
23 to Fifty Thousand Dollars (\$50,000.00) to any contractor affiliated  
24 with a purchasing cooperative unless the purchasing cooperative and

1 the contractor have complied with all of the provisions of the  
2 Public Competitive Bidding Act of 1974, including submission of a  
3 written bid upon notice of competitive bidding.

4 2. A purchasing cooperative and its affiliated contractors  
5 shall not be allowed to bid on any public construction contract  
6 exceeding Fifty Thousand Dollars (\$50,000.00) unless the purchasing  
7 cooperative and its affiliated contractors have complied with all of  
8 the provisions of the Public Competitive Bidding Act of 1974,  
9 including but not limited to open competitive bidding after  
10 solicitation for sealed bids. A purchasing cooperative and its  
11 affiliated contractors shall not be allowed to bid on any public  
12 construction contract exceeding Two Thousand Five Hundred Dollars  
13 (\$2,500.00) unless the purchasing cooperative and its affiliated  
14 contractors have complied with all of the provisions of the Public  
15 Competitive Bidding Act of 1974, including submission of a written  
16 bid upon notice of open competitive bidding.

17 SECTION 6. This act shall become effective November 1, 2019.

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