

MUNICIPALITIES AND THEIR PUBLIC TRUSTS

Diane Pedicord
General Counsel
Oklahoma Municipal League

Several occurrences during the past three years suggest that it would be timely to consider how municipalities use public trusts and how others view them. Two of these occurrences were opinions of the Oklahoma Supreme Court which did not even involve a public trust. They did remind us however why public trusts exist. These cases reaffirm the Supreme Court's long-established commitment to strictly enforce the constitutional debt limitation in Article 10 §26 of the Oklahoma Constitution. *Muskogee Urban Renewal Authority v. Excise Board of Muskogee County*, 66 O.B.J. 2124 (July 1, 1995); *City of Del City v. Fraternal Order of Police Lodge No. 114*, 869 P.2d 309 (Okla.1993). See also, *City of Tulsa v. Public Employees Relations Board*, 845 P.2d 872 (Okla.1990).

Public trusts, of course, exist because of Article 10 §26. That section of the Constitution forbids a municipality to incur long-term debt (i.e. obligations payable from revenues of a future fiscal year) unless the debt is authorized by a vote of the people. It also restricts the municipality to incurring debt only in the form of general obligation bonds ("g.o. bonds"). Public trusts do not have such restrictions. **They are nothing more than alternative financing mechanisms for municipal purposes.** The enabling legislation for public trusts makes this clear. It defines--and limits--the public trust purpose:

1. "to issue obligations and to provide funds . . .
2. 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 combinations thereof . . .
3. with the state, or any county or municipality or any combinations thereof, as the beneficiary . . ." 60 O.S.Supp.1992 §176(a).