

ENROLLED HOUSE  
BILL NO. 2036

BY: HUDSON, COTNER, VAUGHN  
(George) and BEGLEY of  
the HOUSE

and

HOBSON and CAPPS of the  
SENATE

AN ACT RELATING TO WATER AND WATER RIGHTS; AMENDING  
82 O.S. 1991, SECTIONS 1086.1, 1086.2 AND 1086.5,  
WHICH RELATE TO THE STATE WATER PLAN; PROVIDING FOR  
UPDATES; PROVIDING FOR CONTENTS; MODIFYING CERTAIN  
PRINCIPLES; MODIFYING POWERS AND DUTIES OF THE  
OKLAHOMA WATER RESOURCES BOARD; REMOVING OBSOLETE  
LANGUAGE; ADDING TO LIST OF PARTICIPATING  
REPRESENTATIVES; PROVIDING FOR FIRST DECENNIAL  
UPDATE; SETTING CERTAIN TIME PERIODS; CLARIFYING  
LANGUAGE; PROVIDING AN EFFECTIVE DATE; AND  
DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 82 O.S. 1991, Section 1086.1, is  
amended to read as follows:

Section 1086.1 A. All of the people have a primary interest in the orderly and coordinated control, protection, management, conservation, development and utilization of the ~~appropriative~~ water resources of the state. The people residing within areas where waters originate benefit from the optimum development and utilization of water within the area of origin. The people in water deficient areas benefit by being able to use excess and surplus waters. The policy of the State of Oklahoma is to encourage the use of surplus and excess water to the extent that the use thereof is not required by people residing within the area where such water originates. In order to maximize the alternatives available for the use and benefit of the public and water-user entities and for the use and benefit of the public and for the general welfare and future economic growth of the state, it is therefore the purpose of this act to provide means for the expeditious and coordinated preparation of a comprehensive state water plan and decennial updates thereof for submission to the Legislature, ~~which shall contain a feasibility and cost study on the individual projects included within the plan and on the state plan as well,~~ providing for the acquisition management, protection, conservation, structural and nonstructural development and utilization of storage and transportation facilities for the excess and surplus appropriative water resources of this state, in accordance with the following principles:

1. Multiple-purpose dams and reservoir sites, both existing and planned or under construction as of the effective date of this act or amendment thereof, within the area where surplus and excess or surplus water originates and elsewhere, should be utilized to the maximum;

2. Water should be stored during periods of surplus supply for use during periods of short supply; such storage should be in the area of usage. In such cases where storage in the area of origin may be permitted, the purchasing entities shall pay to the county of origin, in lieu of ad valorem taxes and as part of the total cost of the purchase of the water, an amount computed by averaging the tax on land similar to the land taken off the tax rolls as a result of the construction of such storage facilities within the county of origin;

3. Water use within Oklahoma should be developed to the maximum extent feasible for the benefit of Oklahoma so that out-of-state downstream users will not acquire vested rights therein to the detriment of the citizens of this state;

4. Only excess ~~and~~ or surplus water should be utilized outside of the areas of origin and citizens within the areas of origin have a prior right to water originating therein to the extent that it may be required for beneficial use therein;

5. All citizens, municipalities and other water-user entities in need of water for beneficial use shall be entitled to appropriate water and vest rights therein in accordance with priorities as provided by law, and shall be entitled to cause same to be made available to the water user in the most practicable and feasible manner; and

6. Statutory power of the Oklahoma Water Resources Board in the granting of ~~appropriate~~ water rights to those citizens, municipalities and other water-user entities who utilize such water for beneficial use shall be preserved.

B. The exercise of the powers granted by this act are in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity and for the improvement of their health and living conditions. The primary purpose governing all exercise of powers hereunder shall be to maximize and not to minimize the alternatives available to all citizens, municipalities and other water-user entities in acquiring water for beneficial use.

SECTION 2. AMENDATORY 82 O.S. 1991, Section 1086.2, is amended to read as follows:

Section 1086.2 For the purpose of effectuating the provisions of this act and the policy established in Section ~~4 hereof~~ 1086.1 of this title, the Oklahoma Water Resources Board is hereby authorized, empowered and directed:

1. To prepare a comprehensive state water plan and ~~the parts and portions~~ decennial updates thereof, ~~including feasibility and cost studies on designated projects within the plan and on the plan itself~~, for submission to the Legislature and, in connection therewith, to conduct surveys and cooperate with other state and federal agencies. Such comprehensive state water plan and the parts and portions thereof shall be submitted in final and completed form not later than September 1, 1975, and, in addition to the foregoing requirements, shall include a definition of "excess and surplus water of this state" and a recommended procedure for determining "excess and surplus water of this state," which definition and procedure are to be developed to insure that the area of origin will never be made water deficient.

~~Said plan for the counties of Atoka, Beckham, Bryan, Caddo, Canadian, Carter, Choctaw, Cleveland, Coal, Comanche, Cotton, Custer, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, Johnston, Kiowa, Love, Marshall, McClain, McCurtain, Murray, Oklahoma, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Stephens, Tillman and Washita shall include findings and conclusions of an investigation to determine the economics and engineering feasibility~~

~~for the development of the land, water and related resources of all proposed projects. Said report shall be of sufficient detail to serve as a basic document for securing legislative authorization. For the balance of the state, the plan shall include office studies of existing data and sufficient reconnaissance field surveys, information on the potentialities of land and water resource development, to indicate whether further detailed investigations are justified and, if so, the scope of such investigations.~~

The Water Resources Board shall permit representatives of the United States Army Corps of Engineers, the Bureau of Reclamation, the Soil Conservation Service and other appropriate federal agencies, as well as representatives of state agencies involved in tourism, parks, fish and wildlife, recreation, soil conservation, public health, agriculture, public utilities and industrial development to participate to the extent of their authority and capacity in the development of the comprehensive state water plan. ~~It shall be the duty and responsibility of the~~ The Water Resources Board to complete the state water plan and the parts and portions thereof, shall prepare such plan and updates in printed form and ~~prepare and complete the feasibility and cost studies on designated projects in the plan.~~ Upon completion thereof, the plan ~~and feasibility studies~~ shall be submitted to the Oklahoma Legislature not later than September 1, 1975. The Board is not authorized to implement the plan or any part or ~~portion~~ update thereof except by express authorization and consent of the Legislature. The first decennial update shall be prepared and submitted to the Legislature no later than September 1, 1995. Thereafter, updates shall be prepared and likewise submitted no later than September 1 of the fifth year following the taking of the Federal Decennial Census.

Work on the first update shall begin with the passage and approval of this act. After completion of the first update, work on subsequent updates shall remain continuous and ongoing throughout the ten-year periods between submission of the updates.

2. To adopt such rules and regulations as may be necessary to effectuate the purposes of this act.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.

4. To receive and accept from the State of Oklahoma or the United States of America or any agency or instrumentality thereof grants of funds and to receive and accept aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such grants and contributions may be made.

5. To expend income and funds of the Board in the exercise of any or all of the powers granted to the Board under the provisions of this act.

6. To cooperate with all state institutions, agencies, departments, boards and officers in all matters relating to its duties; and all state institutions, agencies, departments, boards and officers are hereby authorized and directed to cooperate with the Board.

SECTION 3. AMENDATORY 82 O.S. 1991, Section 1086.5, is amended to read as follows:

Section 1086.5 ~~Nothing in this act~~ Sections 1086.1 through 1086.6 of this title shall not be construed or applied to deprive or impair the existing rights of citizens, municipalities or other water-user entities with respect to stream water appropriations now or hereafter granted by the Water Resources Board, or applications for same, or storage rights exercised in connection therewith, nor

priorities established thereby as provided by law, nor impair or adversely affect in any manner any applications for stream water appropriation now or hereafter pending.

SECTION 4. This act shall become effective July 1, 1992.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 26th day of February,  
1992.

Speaker of the House of  
Representatives

Passed the Senate the 1st day of April, 1992.

President of the Senate