

ENROLLED HOUSE
JOINT
RESOLUTION NO. 1082

BY: SEIKEL, HEFNER,
HUTCHCROFT, HAMILTON
(Jeff) and MITCHELL of
the HOUSE

and

HERBERT of the SENATE

A JOINT RESOLUTION DISAPPROVING VARIOUS RULES OF THE OKLAHOMA STATE BOARD OF HEALTH AND THE OKLAHOMA CORPORATION COMMISSION RELATING TO PUBLIC WATER SUPPLY SERVICE ANNUAL FEES AND ABOVEGROUND STORAGE TANKS FOR RETAIL SALES; AUTHORIZING READOPTION AND PROMULGATION OF CERTAIN EMERGENCY RULES; SPECIFYING CERTAIN RESTRICTIONS; AUTHORIZING CERTAIN CHANGES; SETTING RESTRICTIONS; PROVIDING LEGISLATIVE AUTHORIZATION; DISAPPROVING CERTAIN RULES IN TITLE 165, CHAPTER 26, OF THE ADMINISTRATIVE CODE, RELATING TO ABOVEGROUND STORAGE TANKS FOR RETAIL SALES; AUTHORIZING PROMULGATION OF CERTAIN RULES; SETTING CONDITIONS; DIRECTING DISTRIBUTION; AND DECLARING AN EMERGENCY.

WHEREAS, on May 8, 1992, the Oklahoma State Board of Health submitted to the Legislature a permanent Rule amending 310:250-1-5 relating to certain Public Water Supply Service Annual Fees; and

WHEREAS, the Rule amending 310:250-1-5 does not reflect the intent of the Oklahoma State Legislature; and

WHEREAS, on April 1, 1992, the Oklahoma Corporation Commission submitted to the Legislature permanent Rules amending Title 165, Chapter 26 of the Administrative Code, relating to aboveground storage tanks for retail sales, in particular 165:26-1-24(b), 165:26-3-21(c) and (d), 165:26-3-55(a), 165:26-3-62(4), 165:26-3-63(3), 165:26-3-65, 165:26-3-74(a)(2) (A) and (D), 165:26-3-74(b), 165:26-5-5, 165:26-5-6, 165:26-5-7, 165:26-5-8, 165:26-7-2(a), (d), (e) and (f), 165:26-7-3(b), 165:26-7-4(b) and (c)(1), (2) and (3), 165:26-7-5(a) and (e), 165:26-7-6, 165:26-7-7, 165:26-7-8, 165:26-7-11(b), 165:26-7-12, and 165:26-7-13; and

WHEREAS, the Rules amending Title 165, Chapter 26 of the Administrative Code adopted by the Oklahoma Corporation Commission, in part do not reflect the intent of the Oklahoma State Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 43RD OKLAHOMA LEGISLATURE:

SECTION 1. The permanent Rule submitted to the Legislature May 8, 1992, by the Oklahoma State Board of Health, amending 310:250-1-5, relating to Public Water Supply Service Annual Fees, is hereby disapproved by the Oklahoma State Legislature.

SECTION 2. A. The Oklahoma State Board of Health is authorized to readopt and promulgate as an emergency rule, Rule I.C. of the Fee Schedule for Environmental Health Services entitled "Public Water Supply Regulatory Services; Annual Fee" which was certified as an emergency rule by the Governor on August 2, 1991.

B. Except as otherwise provided by this section, any annual fee charged to a public water supply system pursuant to the provisions of the new emergency rule shall:

1. Be based upon the actual cost to the Oklahoma State Department of Health for regulatory services provided to the public water supply system based on the number of samples, or represented samples, billed for during the 1992 fiscal year.

2. Not exceed the costs or the minimum fee specified by the August 2, 1991, certified rule;

3. Not exceed the annual fee assessed to the public water supply system pursuant to the provisions of the August 2, 1991, certified rule, for the fiscal year 1992; and

4. Not be in addition to the requirements or authorizations specified by the August 2, 1991, certified rule.

C. A public water supply system may be charged an annual fee different from the fee assessed to such system pursuant to the August 2, 1991, certified rule if:

1. There has been a change in the number of service connections since the last annual assessment;

2. There is a change in the compliance status of a public water supply system;

3. The public water supply system requested a different number of samples. Provided, however, such increased payment shall be based upon the fee schedule specified by the August 2, 1991, certified rule; or

4. The Public Water Supply source is changed.

D. The provisions of this resolution shall constitute legislative authorization for the adoption and promulgation by the Oklahoma State Board of Health of the rule so specified after sine die of the Legislature.

SECTION 3. Permanent Rules submitted to the Legislature April 1, 1992, amending Title 165, Chapter 26 of the Administrative Code adopted by the Oklahoma Corporation Commission, relating to aboveground storage tanks for retail sales, specifically 165:26-1-24(b), 165:26-3-21(c) and (d), 165:26-3-55(a), 165:26-3-62(4), 165:26-3-63(3), 165:26-3-65, 165:26-3-74(a)(2) (A) and (D), 165:26-3-74(b), 165:26-5-5, 165:26-5-6, 165:26-5-7, 165:26-5-8, 165:26-7-2(a), (d), (e) and (f), 165:26-7-3(b), 165:26-7-4(b) and (c)(1), (2) and (3), 165:26-7-5(a) and (e), 165:26-7-6, 165:26-7-7, 165:26-7-8, 165:26-7-11(b), 165:26-7-12, and 165:26-7-13, are hereby disapproved by the Oklahoma State Legislature.

SECTION 4. The Corporation Commission is authorized to promulgate rules for the issuance of permits for the operation of an aboveground tank or an aboveground tank system if the tank does not comply with the current flammable and combustible liquid code, if the Commission determines that the operations of the aboveground tank or aboveground tank system will not impair or jeopardize the public health and safety from the hazards of fire and explosion arising from the storage, handling, transportation, and use of flammable liquids.

SECTION 5. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Oklahoma State Board of Health, the Oklahoma Corporation Commission and the editor of "The Oklahoma Register".

SECTION 6. 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 resolution shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 29th day of May, 1992.

Passed the Senate the 29th day of May, 1992.

Speaker of the House of
Representatives

President of the Senate