

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1493

BY: LITTLEFIELD

AS INTRODUCED

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY; ENACTING THE OKLAHOMA EMERGENCY RESPONSE AND NOTIFICATION ACT; AMENDING SECTIONS 1 AND 2, CHAPTER 166, O.S.L. 1989 (63 O.S. SUPP. 1990, SECTIONS 689.1 AND 689.2), WHICH RELATE TO THE STATE EMERGENCY RESPONSE COMMISSION; CHANGING NAME OF THE COMMISSION; PROVIDING FOR MEMBERSHIP; SPECIFYING POWERS AND DUTIES OF THE COMMISSION AND OF MEMBER AGENCIES; SPECIFYING SPECIFIC DUTIES; CREATING THE EMERGENCY RESPONSE TRUST FUND; PROVIDING FOR DEPOSITS AND EXPENDITURES; REQUIRING CERTAIN BUDGETS; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 689 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Emergency Response and Notification Act".

SECTION 2. AMENDATORY Section 1, Chapter 166, O.S.L. 1989 (63 O.S. Supp. 1990, Section 689.1), is amended to read as follows:

Section 689.1 A. For purposes of implementing the provisions of Title III of the federal Superfund Amendments and Reauthorization Act of 1986, the Governor shall appoint or designate the members of the State Emergency Response Commission.

B. The State Emergency Response Commission, hereafter known as the Oklahoma Hazardous Materials Emergency Response Commission, shall include at a minimum, the Secretary of Safety and Security, the Commissioner of the Department of Health, the Commissioner of the Department of Public Safety, the Director of the Department of Pollution and Control and the Director of the Department of Civil Defense, or their respective designees.

C. The Commission shall have the power and duty to:

1. Appoint a chairman and vice-chairman;
2. Execute a Memorandum of Understanding subject to the Administrative Procedures Act with each member agency to designate responsibilities and conduct studies;
3. Require reports or plans from member agencies;
4. Advise, consult and coordinate with other agencies of the state and federal government;
5. Ensure that the State of Oklahoma remains in compliance with the requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986;
6. Administer the Emergency Response Trust Fund;
7. Coordinate administrative penalties;
8. Cooperate development of annual budgets for each member agency's respective costs for administration and implementation of its responsibilities pursuant to the Oklahoma Emergency Response and Notification Act; and

9. Supervise and coordinate the activities of the Local Emergency Planning Committees.

D. On behalf of the Oklahoma Hazardous Materials Emergency Response Commission, member agencies shall have the following responsibilities:

1. The Oklahoma Department of Pollution Control shall:

- a. provide administrative support to the Oklahoma Hazardous Materials Emergency Response Commission,
- b. review the activities of the Local Emergency Planning Committees, and serve as liaison between the Oklahoma Hazardous Materials Emergency Response Commission, the local emergency planning committees, and federal agencies, except as related to training funds from the Federal Emergency Management Agency,
- c. administer a notification program pursuant to federal requirements for emergency releases of extremely hazardous substances and hazardous substances as identified by the Environmental Protection Agency. Such notification shall include immediate notice of the release and written follow-up notice of response actions taken, risk analyses, and advice concerning medical treatment for exposure, and shall include releases from facilities subject to Title III of the Superfund Amendments and Reauthorization Act of 1986. Such notification requirements shall be in addition to those required by other agencies;

2. The Oklahoma Civil Defense shall:

- a. administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986,
- b. receive and review emergency plans submitted by local emergency planning committees, make recommendations on

revisions to such plans for coordination purposes, and
facilitate the training for and the implementation of
such plans, and

- c. facilitate emergency training programs for local
emergency planning committees; and

3. The Oklahoma State Department of Health shall:

- a. administer and enforce the reporting requirements of
Title III of the Superfund Amendments and
Reauthorization Act of 1986, pertaining to emergency
planning notification, material safety data sheets,
chemical lists, emergency and hazardous chemical
inventory forms, and toxic chemical release forms,
- b. serve as the industrial liaison and the repository for
required information,
- c. perform such environmental services as are necessary
to validate required reports, and
- d. receive and respond to requests for information under
the Oklahoma Open Records Act.

E. Each member agency of the Oklahoma Hazardous Materials
Emergency Response Commission shall have the following powers and
duties relative to its respective Commission responsibilities:

- 1. Require reports and plans;
- 2. Prescribe rules and regulations consistent with Title III of
the Superfund Amendments and Reauthorization Act of 1986;
- 3. Adopt federal rules;
- 4. Seek legislative appropriations;
- 5. Cause investigations, inquiries and inspections;
- 6. Prescribe penalties;
- 7. Assess administrative penalties;
- 8. Cause prosecution;

9. Accept, use, disburse and administer grants, allotments, gifts, devises for the purposes of facilitating emergency response performance in the state;

10. Pay to the Emergency Response Trust Fund all penalties collected under the Oklahoma Emergency Response and Notification Act; and

11. Provide public information as requested regarding emergency response implementation in the state.

F. Any violation of the Oklahoma Emergency Response and Notification Act or rules promulgated thereto is a misdemeanor resulting, on conviction thereof, in a fine of not more than Ten Thousand Dollars (\$10,000.00), or to imprisonment for not more than one (1) year, or both such fine or imprisonment.

~~B.~~ G. The State Emergency Response Commission shall:

1. designate emergency planning districts to facilitate preparation and implementation of emergency plans; and

2. appoint members of a local emergency planning committee for each emergency planning district. Each committee shall include, at a minimum, representation from each of the following groups or organizations:

- a. elected state and local officials,
- b. law enforcement,
- c. civil defense,
- d. fire fighting,
- e. first aid,
- f. health,
- g. environmental,
- h. hospital,
- i. transportation personnel,
- j. broadcast and print media,
- k. community groups, and

1. owners and operators of facilities which manufacture, store, or use in any manner those substances specified as extremely hazardous by the administrator of the Federal Environmental Protection Agency.

~~C.~~ H. The groups and organizations specified in subsection B of this section or any other person or group or organization may nominate an individual residing within the designated emergency planning district to serve on the local emergency planning committee. The names of such individuals shall be submitted to the State Emergency Response Commission. From among the names of the individuals so submitted, the State Emergency Response Commission shall appoint the membership of the local emergency planning committee.

The State Emergency Response Commission may revise its designations and appointments under this subsection as it deems appropriate. In addition, interested persons, groups or organizations may petition the State Emergency Response Commission to modify the membership of a local emergency planning committee.

~~D.~~ I. The members of the local emergency planning committee shall meet to elect a chairman who shall hold office according to rules adopted by the committee. The committee shall establish rules by which it shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan. The local emergency planning committee shall establish procedures for receiving and processing requests from the public for information. Such procedures shall include the designation of an official to serve as coordinator for information.

~~E.~~ J. Each local emergency planning committee shall:

1. complete preparation of an emergency plan in accordance with the federal Superfund Amendments and Reauthorization Act of 1986.

After completion of an emergency plan under this paragraph for an emergency planning district, the local emergency planning committee shall submit a copy of the plan to the State Emergency Response Commission. The Commission shall review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response plans of other emergency planning districts. To the maximum extent practicable, such review shall not delay implementation of such plan. The committee shall review such plan once a year, or more frequently as changed circumstances in the community or at any facility may require;

2. evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such additional resources;

3. comply with the Oklahoma Open Meeting Law; and

4. take such other action as may be required by the State Emergency Response Commission or as otherwise deemed necessary to implement the provisions of this act or the federal Superfund Amendments and Reauthorization Act of 1986.

SECTION 3. AMENDATORY Section 2, Chapter 166, O.S.L. 1989 (63 O.S. Supp. 1990, Section 689.2), is amended to read as follows:

Section 689.2 A. The Legislature finds that individuals appointed to the local emergency planning committees in developing effective comprehensive local emergency response plans serve to protect the health, safety, and welfare of the citizens and the environment of this state. The Legislature, in addition, finds that potential exposure to liability has a detrimental effect on the participation of the individuals on local emergency planning committees and that in order for these local emergency planning committees to function effectively, individuals serving on such

committees shall be exempt from civil liability, except as otherwise provided by this act, for any act or omissions made in the performance of their official duties which resulted in direct or proximate harm to any person or property.

B. 1. Any individual serving on a local emergency planning committee pursuant to appointment by the ~~State Emergency Response Commission~~ Oklahoma Hazardous Materials Emergency Response Commission, any duly authorized alternate member to a local emergency planning committee shall be exempt from civil liability for any acts or omissions made in the performance of their official duties which resulted in the direct or proximate harm or injury to any person or property.

2. The immunity provided by this subsection shall only extend to the acts or omissions of the individual while serving in their designated, official capacity.

3. The immunity provided by this subsection shall not extend to intentional torts or grossly negligent acts or omissions of such individual or to the extent specifically stated in the federal Superfund Amendments and Reauthorization Act of 1986.

4. Any action taken by an individual serving on the committee within the scope of his authority pursuant to the provisions of this act shall be deemed to be the actions of the individual as a member of the committee and not the actions of such individual as a representative of the group or organization nominating such individual.

5. The nomination of any individual to serve on the committee by any group or organization specified in subsection B of Section ~~4~~ 689.1 of this ~~act~~ title shall not subject such group or organization to any civil liability as a result of such nomination.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 689.1A of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a special fund for the Oklahoma Hazardous Material Emergency Response Commission to be designated as the "Emergency Response Trust Fund". This fund shall consist of administrative penalties and other monies designated for such fund pursuant to the Oklahoma Emergency Response and Notification Act. The fund shall be a continuing fund not subject to fiscal year limitations. Expenditures from the Fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of State Finance for approval and payment. The Oklahoma Hazardous Materials Emergency Response Commission shall use monies held in the Emergency Response Trust Fund to finance the implementation of local emergency planning committee activities, training of local emergency planning committee personnel and for the implementation of programs by the member agencies of the Commission.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 689.1B of Title 63, unless there is created a duplication in numbering, reads as follows:

Each member agency, in cooperation with the Oklahoma Hazardous Material Emergency Response Commission, shall prepare an annual budget for the implementation and administration of its respective Commission responsibilities, and submit the same as an inclusion in its agency budget to the Oklahoma Legislature for appropriations to cover the costs of performance of the requirements of the Oklahoma Emergency Response and Notification Act.

SECTION 6. This act shall become effective July 1, 1991.

SECTION 7. 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.

