

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1233

By: Leist

COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending Sections 1 and 5, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Sections 1 and 5), which relate to state environmental agencies; modifying short title; removing obsolete language; requiring certain agencies to use standardized complaint process; requiring certification of need for certain solid waste facilities; requiring certain information on application for certification of need; requiring certain investigation; stating grounds for issuing certification of need; providing for written findings; providing for appeals; requiring exercise of authority; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 1), is amended to read as follows:

Section 1. ~~Sections 1 through 12 of this act~~ Article I of this title shall be known and may be cited as the "Oklahoma Environmental Quality Act".

SECTION 2. AMENDATORY Section 5, Chapter 398, O.S.L. 1992 (27A O.S. Supp. 1992, Section 5), is amended to read as follows:

Section 5. A. ~~Until December 31, 1992, in addition to powers and duties specified by law, the Pollution Control Coordinating Board shall recommend by December 1, 1992,~~ Each agency shall utilize a standardized complaint investigation and response process that will ensure all state environmental agencies with authority to investigate, mitigate and resolve complaints, respond to complaints in a timely manner by initiating appropriate action

and inform the complainant regarding potential actions that may occur. Complainants shall also be notified, in writing, of the resolution of the complaint. Rules to implement such system shall be developed by each state environmental agency as provided in Section 11 of this ~~act~~ title.

~~B. 1. Through December 31, 1992, the Pollution Control Coordinating Board and the Department of Pollution Control shall continue to be responsible for implementation of the Pollution Control Coordinating Act of 1968. Effective January 1, 1993, the Pollution Control Coordinating Board and the Department of Pollution Control shall be abolished.~~

~~2.~~ Effective January 1, 1993, all unexpended funds, property, records, personnel not to exceed four (4) full-time-equivalent employees (FTE) and any outstanding financial obligations or encumbrances of the Pollution Control Coordinating Board and the Department of Pollution Control related to the acceptance of loans, funds and grants from private and governmental sources by the Board and Department are hereby transferred to the Secretary of the Environment.

~~3.~~ 2. Effective January 1, 1993, all unexpended funds, property, records, remaining personnel and any outstanding financial obligations or encumbrances of the Pollution Control Coordinating Board and the Department of Pollution Control related to jurisdictional areas of the Board and Department other than the acceptance of loans, funds and grants from private and governmental sources are hereby transferred to the Department of Environmental Quality.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. No person, firm, association, corporation or cooperative shall construct, build or equip any solid waste processing or disposal facility unless a certificate of need therefor has been issued pursuant to this section. No governmental entity shall issue a license for the operation of such a facility unless the certificate of need required by this section has been obtained.

B. Every entity desiring to construct, build or equip any solid waste processing or disposal facility shall make application to the Environmental Quality Board for a certificate of need in such form and accompanied by such information as the Board shall prescribe, including but not limited to:

1. The name and location of the entity;
2. The name and address of each person having an ownership interest in the entity;
3. The nature of the construction, building or equipment;
4. The size of the construction, building or equipment;
5. The approximate cost of the construction, building or equipment;
6. The projected date of completion;
7. That the action proposed in the application for such certificate of need is necessary and desirable in order to provide the services required in the locality to be served;
8. That the proposed action can be economically accomplished and maintained;
9. That the proposed action will contribute to the orderly development of services in the locality;
10. Any documentation supporting the applicant's request for a determination of need. Such documentation shall include:
 - a. the availability of disposal processing or disposal facilities in the designated area including but not limited to the location, area of service, and number of clients served,
 - b. the adequacy of financial resources for the new facility and for the continued operation thereof, and
 - c. any other matter which the Board deems appropriate; and
11. Any other information as the Board shall prescribe.

C. Promptly upon receipt of any such application, the Board shall examine the application and cause a thorough investigation to be made of the proposed action based upon the application to determine whether a certificate of need should be issued.

D. No certificate of need shall be issued by the Board unless, after investigation, the Board determines that:

1. The action proposed in the application for such certificate of need is necessary and desirable in order to provide the services required in the locality to be served;

2. The proposed action can be economically accomplished and maintained; and

3. The proposed action will contribute to the orderly development of services in the locality.

E. When the Department completes its investigation and makes a determination to issue or deny a certificate of need, it shall provide written findings to the applicant, other reviewers and to other persons upon their request. The Board shall adopt rules concerning the time in which a decision must be made by the Board on an application.

F. Any final determination by the Board under this section may be appealed by the applicant or any other aggrieved party under the Administrative Procedures Act. The decision of the Board shall be upheld by the court unless it is arbitrary or capricious or is not in accordance with applicable law.

G. Any person obtaining a certificate hereunder for any facility shall exercise said authority within a reasonable time. If such person fails or refuses to provide adequate service after notice and a reasonable opportunity to do so, the Board, in addition to other powers provided by law, shall have the power to vacate the certificate.

SECTION 4. This act shall become effective July 1, 1993.

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.