

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1238

By: Widener

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 1991, Section 1-106.1, as last amended by Section 12, Chapter 373, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-106.1), which relates to certain fees; clarifying language; providing for applicability of section; amending 63 O.S. 1991, Section 1-907, which relates to public water supplies; clarifying language; requiring certain negotiations; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1-106.1, as last amended by Section 12, Chapter 373, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-106.1), is amended to read as follows:

Section 1-106.1 A. The State Board of Health may establish a system of fees to be charged for ~~environmental and other~~ health services and for services rendered to members of the public in the issuance and renewal of licenses and permits by the State Commissioner of Health and the State Department of Health. This provision is subject to the following limitations:

1. No schedule of fees may be established or amended by the Board except during such times as the Legislature is in session; provided, the Board may establish or amend a schedule of fees at a time when the Legislature is not in session if the fees or schedule of fees has been specifically authorized by the Legislature or has been approved by the Contingency Review Board. The State Board of Health ~~must~~ shall follow the procedures required by Article I of the Administrative Procedures Act for adoption of rules and regulations in establishing or amending any such schedule of fees; and

2. The Board shall charge fees only within the following ranges, except as may be otherwise specified in this section.

For license or permit issuance: \$50.00 to \$2,000.00

For license or permit renewal: \$10.00 to \$500.00

For environmental health services: \$25.00 to \$250.00

provided further, that any facility exempt from the requirement to obtain a permit based on date of construction or start-up may be assessed an annual permit renewal fee equivalent.

B. The Board's authority to establish such a fee schedule shall extend to all programs administered by the State Commissioner of Health and the State Department of Health, regardless of whether the statutes creating such programs are codified in the Oklahoma Public Health Code.

C. The Board shall base its schedule of licensing or permitting fees upon the reasonable costs of review and inspection services rendered in connection with each license and permit program, but shall be within the ranges specified in subsection A of this section, except as may be otherwise specified in this section. The Department shall establish a system of training for all personnel who render review and inspection services in order to assure uniform statewide application of rules and regulations and the Board shall also base the fee on reasonable costs associated with the training of those personnel. Such fees shall not be used in the operation of local health departments whose personnel do not participate fully in applicable State Department of Health training and standardization programs.

D. The Board may exempt by rule and regulation any class of licensee or permittee or any class of facility or activity to be licensed or permitted from the requirements of the fee schedule if the Board determines that the creation of such a schedule for any such class would work an unreasonable economic hardship.

E. All statutory fees now in effect for issuance and renewal of any license or permit administered by the State Commissioner of Health and the State Department of Health shall remain in effect until such time as the Board acts to implement new fee schedules pursuant to the provisions of this act.

F. Unless a longer duration is specified for certain permits by the rules and regulations of the Board, licenses and permits issued by the Commissioner of Health shall be for a one-year period.

~~G. 1. Notwithstanding the above limits, the State Board of Health may establish an annual fee for public water supply system regulatory services based on the size and type of the system and the resultant regulatory cost of the services to the state. Such annual fee shall not result in an increase of more than thirty cents (\$0.30) per month per residential user of the public water supply systems per year. A public water supply system operated by or on behalf of a municipality or a rural water district may submit tests of such system performed by a laboratory certified pursuant to this section in lieu of tests performed by the State Department of Health pursuant to any regulatory requirement of state or federal law. The portion of the annual fee applicable to laboratory tests performed by a certified laboratory shall be deducted from the annual fee in the annual bill.~~

~~2. The State Board of Health may assess an annual minimum fee charged for:~~

- ~~a. purchase water systems, Fifty Dollars (\$50.00),~~
- ~~b. ground water systems, Seventy-five Dollars (\$75.00),~~
- ~~and~~
- ~~c. surface water systems, One Hundred Fifty Dollars (\$150.00).~~

~~3. Any state funds appropriated for public water supply system regulatory services shall be used to offset the increased costs of regulatory services to the smaller public water supply systems with a population of up to two thousand (2,000) people.~~

~~H. The Oklahoma State Board of Health shall adopt standards for certification of privately and publicly owned laboratories for performance of analyses of water and wastewater for public water supply systems. The Board may adopt standards of the United States Environmental Protection Agency by reference but in any case laboratories meeting such standards shall be certified.~~

~~I. The State Health Department shall use the standards adopted by the Board for purposes of certifying laboratories for performance of water and wastewater analyses for public water supply systems. The Department shall adopt procedures for examining and certifying laboratories for compliance with the standards. The Department shall certify those laboratories that meet the standards set by the Board.~~

~~J. The Department shall accept, for purposes of compliance monitoring and analysis, the water and wastewater analyses of those laboratories which it certifies pursuant to the standards set by the Board.~~

~~K. The Department may suspend or revoke the certification of any laboratory which does not continue to comply with the standards after receiving certification from the Department. The owner and all employees of any laboratory which seeks certification pursuant to this section shall be subject to the enforcement provisions of Sections 1-1701 and 1-1701.1A through 1-1701.1B of this code, including but not limited to the sanctions and punishments provided for giving false information in an application for certification. Any owner or employee of a certified laboratory who knowingly makes any false statement, representation or certification to a client or to the Department or who knowingly renders inaccurate any monitoring device or method shall, upon conviction, be guilty of a misdemeanor, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) for each violation.~~

~~L. The limitations of paragraph 2 of subsection A of this section shall not apply to the issuance or renewal of permits by the Commissioner or Department pursuant to the National Pollutant Discharge Elimination System of the Federal Water Pollution Control Act, provided that fees assessed pursuant to the National Pollutant Discharge Elimination System of the Federal Water Pollution Control Act shall not exceed the cost incurred by the state for performing the regulatory services or Three Hundred Thousand Dollars (\$300,000.00) per year averaged over a five-year period.~~

~~M. The limitations of paragraph 2 of subsection A of this section shall not apply to the issuance or renewal of any permit by the Commissioner of the Department pursuant to the Oklahoma Clean Air Act.~~

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-907, is amended to read as follows:

Section 1-907. ~~(a)~~ A. No person shall supply water, or let a contract for any construction work or do any construction work of any nature for supplying water, for domestic purposes to the public from or by means of any waterworks without a written permit from the ~~State Commissioner of Health~~ Department of Environmental Quality.

~~(b)~~ B. An application for such permit shall be made to the ~~Commissioner~~ Executive Director on forms prescribed by the Board, and shall be accompanied by maps, plans and specifications, prepared by a licensed engineer, for the construction work, and a description of the design of the system, source from which it is proposed to derive the water supply and of the manner of storage and distribution, and purification of the water proposed for the supply previous to its delivery to consumers, together with such other data and information as may be required by the ~~Commissioner~~ Executive Director. No other additional source of supply shall subsequently be used for such waterworks, nor shall any change be made in the manner of storage or distribution, or purification or treatment of the supply, without an additional permit, which permit shall be obtained in a similar manner from the ~~Commissioner~~ Executive Director. A permit applied for shall be issued by the ~~Commissioner~~ Executive Director if in his judgment the proposed water supply will not be prejudicial to the public health; or he may make an order stating the conditions under which the permit will be granted. If the applicant considers the terms of the order to be illegal, unjust or unreasonable, he may, within thirty (30) days after the making of the order, appeal therefrom to the district or superior court of the county in which the proposed waterworks or construction work is to be located, in the same manner as appeals from other orders of the ~~Commissioner~~ Executive

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Director, and the court shall hear the appeal without delay, and shall render a decision approving, setting aside or modifying the order, or fixing the terms upon which the permit shall be granted.

~~(c)~~ C. Whenever complaint shall be made to the ~~Commissioner~~ Executive Director by the mayor of any city, or the president of the board of trustees of any incorporated town, or by the local health officer, relating to the sanitary quality of water supplied to the public for domestic or drinking purposes within the county, the ~~Commissioner~~ Executive Director shall investigate the character of the water supply concerning which the complaint is made, and whenever the ~~Commissioner~~ Executive Director shall have reason to believe that the sanitary quality of any water supplied to the public for domestic or drinking purposes is such as to be prejudicial to the public health, he may, upon his own motion, investigate the character of such water supply. It shall be the duty of the person having the water supply involved to furnish, on demand, to the ~~Commissioner~~ Executive Director information relative to the source or sources from which the supply of water is derived, and the manner of storage, distribution and purification or treatment necessary or desirable for the determination of its sanitary quality.

~~(d)~~ D. The ~~Commissioner~~ Executive Director shall have authority to make an order requiring such change in the source or sources of the water supply, or in the manner of storage, distribution, purification or treatment of the supply, before delivery to consumers as may be necessary in his judgment to safeguard the public health.

E. It shall be the duty of the person having in charge the water supply, or the works for the development or distribution of the supply, to comply with the order of the ~~Commissioner~~ Executive Director. If any person considers the requirements of the order to be illegal, unjust or unreasonable, he may, within thirty (30) days after the making of the order, appeal therefrom to the district or superior court of the county in which the waterworks is located, in the same manner as appeals from other orders of the ~~Commissioner~~ Executive Director, and the court shall hear the case

without delay and shall render a decision approving, setting aside or modifying the order.

F. The Department of Environmental Quality shall negotiate with persons in charge of public water supply systems for restructuring required permits or licenses.

SECTION 3. 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.

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