

ENGROSSED HOUSE
BILL NO. 2314

By: Erwin and Pettigrew of
the House

and

Bell of the Senate

An Act relating to water and water rights; amending 82 O.S. 1991, Sections 1086.1, as amended by Section 1, Chapter 48, O.S.L. 1992, and 1086.2, as amended by Section 2, Chapter 48, O.S.L. 1992 (82 O.S. Supp. 1995, Sections 1086.1 and 1086.2), which relate to comprehensive state water plan; modifying and clarifying principles used in the comprehensive state water plan; modifying state water policy; requiring establishment of certain minimum lake levels; providing for legislative intent; requiring public meetings; providing for location; providing for legislative review; providing for minimum lake levels for Sardis Reservoir and Lake Hugo Reservoir; providing procedures for determining minimum lake levels; stating intent of section regarding sale on export of water outside of state; providing for codification; 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, as amended by Section 1, Chapter 48, O.S.L. 1992 (82 O.S. Supp. 1995, 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 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.

B. 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.

C. 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 providing for the management, protection, conservation, structural and nonstructural development and utilization of 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 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 or surplus water ~~should~~ shall 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 water rights to those citizens, municipalities and other water-user entities who utilize such water for beneficial use shall be preserved. In addition, privately owned cooling reservoirs and reservoirs controlled by the Federal Energy Regulatory Commission are specifically excluded, and any upstream storage contracts associated with these reservoirs will be protected.

~~B.~~ D. 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, as amended by Section 2, Chapter 48, O.S.L. 1992 (82 O.S. Supp. 1995, Section 1086.2), is amended to read as follows:

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

1. ~~To prepare~~ Prepare a comprehensive state water plan and decennial updates thereof 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,~~ The comprehensive water plan and any subsequent updates 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~~ ensure that the area of origin will never be made water deficient.

a. The Oklahoma 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 and any subsequent updates.

b. The Oklahoma Water Resources Board shall prepare such plan and updates in printed form. Upon completion thereof, the plan 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 update thereof except by express authorization and consent of the Legislature.

c. 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~~ Promulgate such rules ~~and regulations~~ as may be necessary to effectuate the purposes of this act-;

3. ~~To make~~ 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~~ 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~~ 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; and

6. ~~To cooperate~~ 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.

B. 1. After publication of the first decennial update, as part of any subsequent updates to the comprehensive state water plan pursuant to the provisions of this section, the Oklahoma Water Resources Board shall establish minimum lake levels for each water reservoir located in this state, other than municipally and privately owned lakes from which water is being sold or is intended for sale out of state and any other reservoir from which water will be taken or used as a result of or as a part of the sale. The minimum lake levels shall be established with allowable adjustments for drought years and emergency water needs for human consumption. Prior to establishing minimum lake levels pursuant to this paragraph, the Oklahoma Water Resources Board shall hold at least two public meetings in each watershed area to receive comments and recommendations from the local communities in determining the minimum lake levels including, but not limited to, existing and future water consumption, existing or future water needs, environmental and economic impacts, seasonal demands, and conservation pool levels. Particular consideration shall be given for the timely determination of lake levels and allowable adjustments for drought years and emergencies for the reservoirs specified in Section 3 of this act.

2. By September 1, 1996, and for the period of time until the second update of the comprehensive water plan is published, the Oklahoma Water Resources Board shall establish minimum lake levels

for each water reservoir subject to the provisions of this subsection. Public hearings required by paragraph 1 of this subsection shall be held prior to establishment of any such lake levels.

3. Beginning September 1, 1996, and thereafter, any lake levels established pursuant to this section shall be submitted to the Oklahoma Legislature for review within thirty (30) days of official Board approval of the levels.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.2a of Title 82, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature that:

1. In order to preserve the quality and quantity of water in Sardis Reservoir located in Pushmataha County and Lake Hugo Reservoir located in Choctaw County, for the purpose of providing sufficient supply of water for human consumption, economic growth of the area, enhancement of recreational facilities and continuation of the progressive fishing program, the Oklahoma Water Resources Board shall set the minimum lake levels for the reservoirs;

2. The minimum lake level for Sardis Reservoir shall be set at a level of five hundred ninety-seven (597) feet with allowable adjustments for drought years and emergency human consumption needs by the local community and maintained pursuant to the provisions of this paragraph until the final report of the Kiamichi Basin Waters Study Commission is published or a minimum lake level is established pursuant to Section 1086.2 of Title 82 of the Oklahoma Statutes;

3. The minimum lake level for Lake Hugo Reservoir shall be determined after notice and public hearings pursuant to subsection B of Section 1086.2 of Title 82 of the Oklahoma Statutes; and

4. The provisions of this section shall not be construed to authorize the sale of water or export of water outside of this state without the consent of the Legislature.

SECTION 4. 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 27th day of February, 1996.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate