

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)
2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 30

By: Muegge of the Senate

and

Leist of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to waters; amending 82 O.S. 1991, Sections 1452, 1453, 1454, as amended by Section 336, Chapter 145, O.S.L. 1993, 1455, 1456, 1457, as amended by Section 335, Chapter 145, O.S.L. 1993, 1458, 1460, 1461, as amended by Section 4, Chapter 331, O.S.L. 1993, 1462, 1462A, 1462B, 1462C, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, as amended by Section 1, Chapter 61, O.S.L. 1993, and 1471 (82 O.S. Supp. 1996, Sections 1454, 1457, 1461 and 1470), which relate to the Scenic Rivers Act; stating legislative intent; authorizing Environmental Quality Board to promulgate certain rules pursuant to the Oklahoma Water Supply Systems Act; requiring Department of Environmental Quality to develop wellhead protection program for certain purposes; specifying guidelines for program; requiring Department to develop and implement a groundwater protection education program; requiring Department to develop a program for public recognition of certain persons; providing act shall not affect certain agencies' powers and duties; modifying statutory language; clarifying references to operating areas within scenic river areas; updating agency names; adding Oklahoma Water Resources Board and Oklahoma Wildlife Conservation Commission to list of agencies authorized to assist the Scenic Rivers Commission in maintaining and improving water quality; updating statutory reference; authorizing Commission to promulgate rules for certain purposes; updating statutory reference; requiring Scenic Rivers Commissions to cooperate with local governments; modifying Commission membership; providing for certain elections; modifying certain agency name; stating purpose of certain fees; stating construction of certain act; deleting obsolete references; stating application of act; modifying amount of fee; providing for fee to be paid into certain fund; 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 2-6-310.1 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Legislature finds that a safe public groundwater supply is one of the most valuable natural resources in this state.

B. The Legislature recognizes and declares that the management, protection and conservation of public groundwater supplies and the beneficial uses thereof are essential to the economic prosperity and future well-being of the state. As such, the public interest demands procedures for the development and implementation of management practices to conserve and protect public groundwater supplies.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-310.2 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Environmental Quality Board shall promulgate rules necessary to safeguard public health and welfare and prevent pollution of public water supply systems pursuant to the Oklahoma Water Supply Systems Act.

B. The Department of Environmental Quality shall develop an Oklahoma wellhead protection program to assist municipalities, rural water districts, nonprofit water corporations and other public groundwater suppliers in the conservation and protection of their public groundwater supplies which will specify the following:

1. Guidelines specifying the duties of the Department in developing a wellhead protection program;

2. Guidelines specifying the duties of local governments in developing and implementing the wellhead protection program;

3. Guidelines for determining all potential and actual pollution sources which may have an adverse effect on public health;

4. Guidelines for taking into consideration potential sources of pollution when siting new wells for public water supplies;

5. Guidelines for developing contingency plans for pollution release containment, cleanup and the provision of alternative drinking water supplies for each public water system in the event of groundwater well or groundwater wellfield pollution; and

6. Guidelines including such other information or assistance as deemed necessary by the Department.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-310.3 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Environmental Quality shall develop and implement a groundwater protection education program. In developing such program, the Department shall consult with public health agencies, water utilities, state educational and research institutions, nonprofit environmental organizations and any other person or agency the Department deems necessary.

B. The Department shall develop a program to provide public recognition of users of land located within a public groundwater supply wellhead protection area who demonstrate successful and committed efforts to protect drinking water supplies by implementing innovative approaches to groundwater protection. Such program shall also promote groundwater protection through education of members of businesses and industry and the public.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-310.4 of Title 27A, unless there is created a duplication in numbering, reads as follows:

No provision of this act shall affect the powers and duties of any state agency or any agency of any political subdivision of the state which is charged with responsibility for water control or water management.

SECTION 5. AMENDATORY 82 O.S. 1991, Section 1452, is amended to read as follows:

Section 1452. ~~(a)~~ A. The Oklahoma Legislature finds that some of the free-flowing streams and rivers of Oklahoma possess such unique natural scenic beauty, water conservation, fish, wildlife and outdoor recreational values of present and future benefit to the people of the state that it is the policy of the Legislature to preserve these areas for the benefit of the people of Oklahoma. For this purpose there are hereby designated certain "scenic river areas" to be preserved as a part of Oklahoma's diminishing resource of free-flowing rivers and streams.

~~(b)~~ B. The areas of the state designated as "scenic river areas" shall include:

~~(1)~~ 1. The Flint Creek and the Illinois River above the confluence of the Barren Fork Creek in Cherokee, Adair and Delaware Counties;

~~(2)~~ 2. The Barren Fork Creek in Adair and Cherokee Counties from the present alignment of Highway 59 West to the Illinois River;

~~(3)~~ 3. The Upper Mountain Fork River above the 600-foot elevation level of Broken Bow Reservoir in McCurtain and LeFlore Counties;

~~(4)~~ 4. Big Lee's Creek, sometimes referred to as Lee Creek, located in Sequoyah County, above the 420-foot MSL elevation, excluding that portion necessary for a dam to be built in the State of Arkansas with a crest elevation of no more than the 420-foot MSL elevation. The Oklahoma Water Resources Board shall make such classifications, designations or adjustments to Oklahoma's water quality standards as required to allow the impoundment of water by said dam; and

~~(5)~~ 5. Little Lee's Creek, sometimes referred to as Little Lee Creek, located in Adair and Sequoyah Counties, beginning approximately four (4) miles east-southeast of Stilwell, Oklahoma, and ending at its conjunction with Big Lee's Creek approximately two (2) miles southwest of Short, Oklahoma.

~~(c)~~ C. The term "scenic river area" as used in this act is defined as the stream or river and the public use and access areas located within the area designated.

SECTION 6. AMENDATORY 82 O.S. 1991, Section 1453, is amended to read as follows:

Section 1453. A. Once an area is designated as a "scenic river area", it is ~~an expression of legislative~~ the intent of the Legislature that ~~the~~:

1. The stream or river in the area designated be preserved in its free-flowing condition ~~and that the~~ ; and

2. The stream or river shall not be impounded by any large dam or structure except as specifically authorized by the Legislature.

B. No agency or official of state government shall authorize or concur in plans of local, state or federal agencies for the construction, operation, or maintenance of any dam or related project in any "scenic river area", without legislative consent, except as needed by the municipalities located in the counties or the immediate vicinity of the "scenic river area", for their own municipal or domestic water supply ~~and where~~ if such structures will not significantly interfere with the preservation of the stream as a scenic free-flowing stream.

SECTION 7. AMENDATORY 82 O.S. 1991, Section 1454, as amended by Section 336, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1996, Section 1454), is amended to read as follows:

Section 1454. A. It is recognized by the Legislature that an effective program for preserving the scenic beauty of the free-flowing streams and rivers designated as "scenic river areas" necessarily involves the cooperation and support of the people in the operating areas of designated "scenic river areas", as well as the people using the "scenic river areas", and the agencies of state government administering these areas.

B. The primary purpose of the Scenic Rivers Act is to encourage the preservation of the areas designated as "scenic river areas" in their natural scenic state.

C. In order to assist in the public use and enjoyment of such areas, any Scenic Rivers Commission, the ~~Department of~~ Oklahoma Tourism and Recreation Department and the Oklahoma Wildlife Conservation Commission may acquire, develop and maintain public access points, easements or park areas in or near "scenic river areas"; ~~however, such.~~ Such acquisitions shall be by private treaty only, and the use of the power of eminent domain for these purposes is specifically prohibited by the Scenic Rivers Act.

SECTION 8. AMENDATORY 82 O.S. 1991, Section 1455, is amended to read as follows:

Section 1455. A. It is recognized by the Legislature that littering by people using the "scenic river areas" is one of the most immediate threats to the scenic beauty of our free-flowing streams and surrounding areas.

B. Any law enforcement, police or peace officer, game wardens or any other personnel of the Wildlife Conservation Commission, the personnel of the Tourism and Recreation Department, any landowner in the area, or any other interested party may file a complaint to enforce the provisions of ~~this act~~ the Scenic Rivers Act.

C. Any person who deliberately places, throws, drops, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on or near a scenic river area shall be subject to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

SECTION 9. AMENDATORY 82 O.S. 1991, Section 1456, is amended to read as follows:

Section 1456. The property rights of private landowners in and around "scenic river areas" are the same as in any other area, ~~and the~~. The unauthorized use of private property is trespassing and is subject to the penalties provided elsewhere in the statutes for such an offense.

SECTION 10. AMENDATORY 82 O.S. 1991, Section 1457, as amended by Section 335, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1996, Section 1457), is amended to read as follows:

Section 1457. The Executive Director of the Department of Environmental Quality, the Corporation Commission, the State Department of Agriculture, the Oklahoma Water Resources Board, the Oklahoma Wildlife Conservation Commission and the Conservation Commission are hereby given the authority to assist the Scenic Rivers Commission in maintaining and improving water quality and in preventing and eliminating the pollution of waters within a "scenic river area".

SECTION 11. AMENDATORY 82 O.S. 1991, Section 1458, is amended to read as follows:

Section 1458. Before any plans for additional proposed "scenic river areas" are brought to the Legislature for consideration, the ~~Industrial Development and Park Commission~~ Scenic Rivers Commission and the Oklahoma Tourism and Recreation Department shall give reasonable notice in newspapers of general circulation in every county in which land and streams are situated that would be affected by the proposed "scenic river area". ~~Said~~ The notice shall include a map or drawing of the proposed area and shall give the time and place of a meeting in each county affected, at which time and place the Commission shall present their plans for the proposed area.

SECTION 12. AMENDATORY 82 O.S. 1991, Section 1460, is amended to read as follows:

Section 1460. The Legislature finds that the protection and development of the state's scenic river areas and adjacent and contiguous lands and quality of outstanding resource waters included within each Commission's operating area should be provided for by properly planned and executed ~~regulations~~ rules promulgated by that Commission respecting public services, land use, occupancy, structures, lot and plot sizes, density of population and other activities as required for the proper protection of the aesthetic, scenic, historic, archeologic and scientific features of the said affected areas, or deemed necessary for the protection of the ecosystem and the environment from pollution, despoliation and destruction or waste of natural resources and all other factors adversely affecting the public health, safety and the general welfare so long as ~~said regulations~~ the rules comply with the exempt provisions of ~~this act~~ the Scenic Rivers Act pertaining to farming, ranching, forestry, silviculture and other agricultural uses.

SECTION 13. AMENDATORY 82 O.S. 1991, Section 1461, as amended by Section 4, Chapter 331, O.S.L. 1993 (82 O.S. Supp. 1996, Section 1461), is amended to read as follows:

Section 1461. A. ~~The creation of a~~ 1. A Scenic Rivers Commission ~~is hereby authorized~~ may be created pursuant to the Scenic Rivers Act for each designated scenic river area or

combination of areas for which operating areas for planning and management have been delineated. Each Scenic Rivers Commission shall be organized in cooperation with local governments in accordance with procedures provided for in the Scenic Rivers Act.

2. Each Commission shall be an agency of the state and shall be named to reflect the area or areas subject to its jurisdiction.

3. State funds for each Commission shall be provided for by a separate line-item appropriation through the state agency specifically named or by direct appropriation. If funded through the named state agency, said state agency shall disburse the funds to the appropriate Scenic Rivers Commission in the amount and pursuant to the conditions prescribed by the Legislature.

B. 1. There is hereby re-created, to continue until July 1, ~~1997~~ 2003, in accordance with the provisions of the Oklahoma Sunset Law, ~~Section 3901 et seq. of Title 74 of the Oklahoma Statutes~~ a Scenic Rivers Commission for the Illinois River and Flint Creek Scenic River Areas and those portions of Barren Fork Creek within Cherokee County.

~~B.~~ 2. The operating area for the Scenic Rivers Commission for the Illinois River and Flint Creek will be limited to areas within Adair, Cherokee and Delaware Counties, and to areas within Cherokee County for Barren Fork Creek.

C. Each Commission shall consist of not less than seven (7) nor more than fifteen (15) members. The term of office for each member shall be four (4) years. Each Commission shall be composed of the following members:

1. The Governor shall appoint two members for initial terms of one (1) year, at least one of whom shall be a representative of the Oklahoma Conservation Commission or the Oklahoma Tourism and Recreation Commission.

The President Pro Tempore of the Senate shall appoint, for an initial term of one (1) year, one member who shall be a member of a statewide citizens' conservation or environmental group.

The Speaker of the House of Representatives shall appoint one member for a term of four (4) years who shall be a resident of one of the counties containing the scenic river area; and

2. a. The additional members of the Scenic Rivers Commission created pursuant to this subsection and as authorized by subsection A of this section shall be elected in a nonpartisan election to represent the following:
- ~~a.~~ (1) the registered voters who reside or own property within six hundred ~~and~~ sixty (660) feet of the Illinois River, ~~or~~ Flint Creek ~~and~~ Barren Fork Creek within Cherokee Delaware County, shall elect one member ~~for a term of two (2) years~~ to represent ~~the county in which they live or own property.~~ them,
- ~~b.~~ (2) the registered voters who reside or own property within six hundred sixty (660) feet of the Illinois River in Adair County, Oklahoma, shall elect one member to represent them,
- (3) the registered voters who reside or own property within six hundred sixty (660) feet of the Illinois River above its confluence with the Barren Fork Creek or those portions of the Barren Fork Creek in Cherokee County shall elect one member to represent them, and
- (4) the registered voters who reside or own property within six hundred ~~and~~ sixty (660) feet of:
- (a) the Illinois River, above its confluence with the Barren Fork Creek located in Adair, Cherokee and Delaware Counties, or
- (b) Flint Creek ~~and~~ located within Delaware County or Barren Fork Creek within Cherokee County,
- shall elect two at-large members ~~for terms of four (4) years~~ to represent them.
- b. All members elected under divisions (1), (2) and (3) of subparagraph a of this paragraph shall reside or own property within the county they represent. All at-large members elected under division (4) of

subparagraph a of this paragraph shall reside or own property within Adair, Delaware or Cherokee Counties.

~~3. Thereafter, vacancies~~ D. Vacancies on each Commission shall be filled, as applicable, by the procedure described in paragraphs 1, 2 and 4 of this subsection, and the terms of the members shall be for four (4) years and appointing authority or by election, pursuant to the provisions of this section. Members shall serve until their respective successors shall be appointed and qualify, or be elected, unless terminated by death or resignation.

1. Each Scenic Rivers Commission shall establish procedures consistent with the requirements of this section for replacing members who fail to attend meetings or otherwise become unable to function due to disability, death, or resignation. The replacement shall serve for the remainder of the unexpired term of the member being replaced.

~~4.~~ 2. Commission members appointed by a board of county commissioners shall cease to be members upon the expiration of their present term of office, and no further appointments shall be made by a board of county commissioners. Any vacancy that occurs in the office of a member appointed by a board of county commissioners shall not be filled. Upon the expiration of the term of office of the members of the Commission appointed by a board of county commissioners, the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives shall each appoint one member to the Commission in addition to the members provided for in paragraph 1 of ~~this~~ subsection C of this section.

~~D.~~ E. Each Commission shall be organized in cooperation with local governments in accordance with procedures provided for in the Scenic Rivers Act, Section 1451 et seq. of this title.

An interim commission consisting of the members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall provide for the

election of additional members as provided for in paragraph 2 of subsection C of this section.

~~E.~~ F. 1. Each Scenic Rivers Commission shall be invested with the power to:

- a. prepare and establish minimum standards for planning and other ordinances and ~~regulations~~ rules for the implementation of the Scenic Rivers Act by counties, municipalities, or any other local authorities in the ~~designated~~ Commissions' operating area ~~and shall make,~~ and
- b. promulgate such rules ~~and regulations~~ and issue such orders as necessary to protect the public interest and to achieve the purposes of the Scenic Rivers Act.

2. The standards shall be developed and executed in such manner as to protect and enhance the values which caused the area to be named a scenic river area without, insofar as is consistent with said protection and enhancement, limiting other uses that do not substantially interfere with the protection, public use, and enjoyment of these values.

3. Primary emphasis in the standards shall be given to protecting the aesthetic, scenic, historic, archeologic, and scientific features of the scenic river area with due consideration being given to the orderly development of the lands adjacent and contiguous to the scenic river area.

4. Standards set pursuant to the provisions of the Scenic Rivers Act shall not be less rigid or exacting than those established by any other federal or state agency having jurisdiction in respect to the subject covered by the particular standard.

G. Each Scenic Rivers Commission may engage in or supervise the conduct of studies, make a plan or plans, receive, disburse, and allocate monies granted or appropriated to it, and do all things, whether expressly enumerated in the Scenic Rivers Act or not, which may be lawful and necessary and proper for the accomplishment of the purposes of the Scenic Rivers Act. Nothing

in this section shall be interpreted as giving ~~the~~ any Commission the power of eminent domain.

~~F.~~ H. Each Scenic Rivers Commission, in addition, shall have the following powers and responsibilities:

1. Appoint and fix the salary of an administrator experienced in land resource planning and management who shall serve at the pleasure of the Commission and in accordance with its policies, budgets, powers, and responsibilities. Such administrator may be commissioned by the Oklahoma Tourism and Recreation Department as a park ranger. The administrator may select, appoint, and employ individuals to fill personnel positions authorized, budgeted, and deemed necessary by the Commission to implement the purposes of the Scenic Rivers Act;

2. Act in cooperation with all federal, state, and local governments and agencies thereof to implement the purposes of the Scenic Rivers Act;

3. Elect from the Commission membership a chairman and such other officers as the Commission deems necessary to conduct the affairs of the Commission. The officers shall be permitted to succeed themselves once for a total of two (2) consecutive years of service in any office. The Commission shall hold meetings not less than once each quarter, at such times as may be fixed by call of its chairman or as determined by majority vote in advance of the meeting. It is the responsibility of the Commissioners to encourage general public participation in the formation and adoption of plans, standards, procedures, and regulations. The meetings of the Commission shall be open to the public. Minutes of each meeting shall be kept and filed in the office of the Commission and shall be available for public inspection during reasonable office hours;

4. ~~Adopt and publish~~ Promulgate rules and issue orders necessary to the exercise of the powers of the Commission and to achieve the purposes of the Scenic Rivers Act;

5. ~~Provide rules and regulations governing the procedures necessary to implement the provisions of the Scenic Rivers Act;~~

~~6.~~ Prepare and adopt a management plan or plans to guide and control private activities and public programs and to include varying degrees of protection and development based on the special attributes of the area;

~~7.~~ 6. Provide, where appropriate in the discretion of the Commission, for the review and consideration by the Commission of the impact on the natural and aesthetic environment ~~of~~ within the Commission's operating area ~~of~~ related to any existing or proposed action by public agencies or, private individuals ~~within the operating area of the Commission or any other activity;~~

~~8.~~ 7. Accept, in the name of and through the Commission, real and personal property that is granted, bequeathed, devised, or conveyed to the Commission to implement the purposes of the Scenic Rivers Act, upon such trusts and conditions as may be prescribed by the grantors or divisors, upon approval of the Commission;

~~9.~~ 8. Enter into contracts on behalf of the Commission to implement the purposes of the Scenic Rivers Act and may accept gifts and grants, whether the grants be of federal or other funds or real or personal property;

~~10.~~ 9. Identify public and private nuisances which are adverse to the purposes of the Scenic Rivers Act and take such action as permitted by law to remove the public nuisances;

~~11.~~ 10. Own and control public access points to the scenic river area, issue use permits, and purchase easements and fee title to land within the Commission's operating area. Legal title to property shall be held in the name of the individual Scenic Rivers Commission as an agency of the State of Oklahoma;

~~12.~~ 11. Review any action taken by any local, municipal, or county authority within the operating area of the Commission in an administrative adjudicatory proceeding brought upon the petition of any officer or agency of this state, including the administrator, or of any person acting in behalf of the public interest, to determine whether such action conforms to the standards promulgated by the Commission or has an adverse effect upon the proper achievement of the purposes of the Scenic Rivers Act ~~and, upon.~~ Upon a finding that such action does not so

conform or does have such adverse effect, order that the action be nullified, superseded, or amended to the extent necessary to produce such conformity or eliminate such adverse effect, ~~and~~ the Commission may issue such orders as may be necessary and proper to effectuate its primary order;

~~13.~~ 12. Hire an attorney or request legal assistance from the district attorney or the State Attorney General when appropriate and if there is no conflict in the legal interest of the parties;

~~14.~~ 13. Bring an action in the district court of any county of the state where service can be obtained on one or more of the defendants, to enjoin the acts or practices which appear to constitute a violation of any provision of the Scenic Rivers Act or any rule or order promulgated and to enforce compliance with the provisions of the Scenic Rivers Act or any rule or order. Upon a proper showing, a restraining order, permanent or temporary injunction, writ of mandamus, or other appropriate remedies including damages shall be granted. The court may not require the administrator or Commission to post a bond; and

~~15.~~ 14. Suspend the effectiveness of any action taken by a municipality or county within the designated operating area of such Commission when, in the exercise of alleged local functions, it appears the action has or may have an adverse effect upon the proper achievement of the purposes of the Scenic Rivers Act, whereupon all proceedings thereunder shall be held in abeyance upon receipt of written notice from the administrator pending a final determination of the Commission in regard to such action. If it is determined that such adverse effects exist, the Commission may nullify, supersede, or amend said action only to the extent necessary to achieve the purposes of the Scenic Rivers Act.

~~G.~~ I. A Commission member to whom some private benefit, direct or indirect, financial or otherwise, may come as the result of some public action should not be a participant in that action. The possibility, not the actuality, of a conflict of interest should govern. A Commission member experiencing a conflict of interest should declare his interest publicly, abstain from voting

on the matter should he have a vote, and refrain from deliberation on the matter. In addition, the Commission member should not discuss the matter with any fellow member for the purpose of influencing a decision thereon.

~~H. J.~~ The rules and orders of the Commission shall be ~~adopted and issued~~ promulgated in compliance with all applicable provisions of ~~Sections 301 through 326 of Title 75 of the Oklahoma Statutes~~ the Administrative Procedures Act.

SECTION 14. AMENDATORY 82 O.S. 1991, Section 1462, is amended to read as follows:

Section 1462. The Oklahoma Tourism and Recreation Department shall:

1. Establish procedures for organizing and certifying Scenic Rivers Commissions to administer a resource management program for designated scenic river areas and adjacent lands, consistent with the purposes of the Scenic Rivers Act, ~~Section 1451 et seq. of this title~~. No Commission shall be certified as an agency of the state to exercise the powers provided for in the Scenic Rivers Act until an interim commission has formulated procedures for holding an election for the additional Commission members. No Scenic Rivers Commission shall be established unless otherwise provided for in the Scenic Rivers Act or recommended for organization by one of the following methods:

- a. a resolution signed by two or more counties or one county and a city or conservation district of an adjoining county statutorily defined as part of the designated scenic river area, or
- b. a resolution signed by at least one county statutorily defined as part of the designated scenic river area and a state agency, or
- c. a petition signed by five hundred (500) registered voters residing in any county statutorily defined as a part of the designated scenic river area;

2. Disburse line-item or other state appropriations to certified Scenic Rivers Commissions established in accordance with the Scenic Rivers Act and provide upon request, if funds and

resources are available, technical assistance to said Commissions in the planning and administration of resource management programs within its operating areas;

3. Prepare procedures for review and comment by appropriate state and local agencies on proposed management plans, standards, and developments identified by a Scenic Rivers Commission as having a significant impact within its operating area; and

4. Establish, as provided in subsection ~~D~~ C of Section 1461 of this title, a Scenic Rivers Commission for the Flint Creek, Illinois River Scenic River Areas, and those portions of Barren Fork Creek within Cherokee County.

SECTION 15. AMENDATORY 82 O.S. 1991, Section 1462A, is amended to read as follows:

Section 1462A. A. The Director of State Finance is hereby authorized, upon request by the ~~Department of Oklahoma~~ Oklahoma Tourism and Recreation Department, to establish a special fund in the State Treasury for each Scenic Rivers Commission.

B. Said fund shall consist of all monies received by the Commission under statutory authority or appropriated for its use. The fund shall be a continuing fund not subject to fiscal year limitations.

C. Monies accruing to the credit of the fund shall be expended pursuant to laws of the state in carrying out the duties and responsibilities of the Commission, and without legislative appropriation.

D. Warrants for expenditure from the fund shall be made pursuant to claims prepared by the Administrator of the Scenic Rivers Commission, signed by the approving officer of the Oklahoma ~~Department of~~ Oklahoma Tourism and Recreation Department and approved by the Director of State Finance for payment.

SECTION 16. AMENDATORY 82 O.S. 1991, Section 1462B, is amended to read as follows:

Section 1462B. A. The Director of State Finance is hereby authorized, upon request by the ~~Department of Oklahoma~~ Oklahoma Tourism and Recreation Department, to establish a Petty Cash Fund for each

Scenic Rivers Commission in an amount not to exceed Five Hundred Dollars (\$500.00).

B. The fund shall be established and replenished from any monies available to a Scenic Rivers Commission for operating expenses.

C. The Director of State Finance shall prescribe all forms, systems and procedures for administering a Petty Cash Fund so established.

SECTION 17. AMENDATORY 82 O.S. 1991, Section 1462C, is amended to read as follows:

Section 1462C. A. ~~The Legislature hereby declares that the~~ fees collected pursuant to the provisions of subsection B of Section 1470 of this title shall be used to purchase additional public access areas along the Flint Creek and Illinois River Scenic River Areas and those portions of Barren Fork Creek within Cherokee County or for the general operations of the Commission.

B. 1. For these purposes, there is hereby created in the State Treasury a revolving fund for the Scenic Rivers Commission, to be designated the "Scenic Rivers Commission Revolving Fund".

2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Scenic Rivers Commission, from all canoe fees. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Scenic Rivers Commission for the purpose of performing the duties imposed by law upon the Scenic Rivers Commission.

3. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 18. AMENDATORY 82 O.S. 1991, Section 1463, is amended to read as follows:

Section 1463. A. Each Scenic Rivers Commission may be dissolved by a joint resolution passed by the boards of county commissioners of all counties that make up a part of the affected

area and an affirmative vote of two-thirds (2/3) of the members of the Scenic Rivers Commission.

B. Upon the dissolution of a Commission, the title to all real property and other property and funds shall vest in the State of Oklahoma.

SECTION 19. AMENDATORY 82 O.S. 1991, Section 1464, is amended to read as follows:

Section 1464. A. Nothing in ~~this act~~ the Scenic Rivers Act shall be construed to unduly restrict or adversely affect the use of property within the jurisdiction of any Scenic Rivers Commission for farming, ranching, forestry, silviculture and other agricultural uses so long as they are not inconsistent with the purposes of this act.

B. Present farming, ranching, forestry, silviculture and other agricultural uses and practices, including existing building and replacement structures, are hereby exempt from the provisions of any Scenic Rivers Commission. ~~Nor shall this act~~

C. The Scenic Rivers Act shall not be construed in any way to affect existing rights between a landowner and utility or pipeline companies.

SECTION 20. AMENDATORY 82 O.S. 1991, Section 1465, is amended to read as follows:

Section 1465. A. All cities and incorporated towns and counties that make up a part of a jurisdiction of a certified Scenic Rivers Commission are hereby invested with full power to plan, zone and enact all ordinances and regulations that are necessary and proper to carry out the purposes of ~~this act~~ the Scenic Rivers Act.

B. The cities, incorporated towns and counties shall follow their respective general procedures in the conduct of legislative functions.

C. In exercising planning and zoning functions, said cities, incorporated towns and counties shall utilize the organization and procedures available to cities and incorporated towns under the general planning and zoning laws of the state. Provided that, when a county exercises the powers provided by ~~this act~~ the Scenic

Rivers Act, the board of county commissioners of that county shall perform the obligations and exercise the powers in the same manner as a local legislative body or mayor of a city, incorporated town or municipality.

SECTION 21. AMENDATORY 82 O.S. 1991, Section 1466, is amended to read as follows:

Section 1466. Each county, city, incorporated town or other governmental entity that makes up a part of the ~~territorial jurisdiction~~ operating area of a Scenic Rivers Commission is hereby authorized to grant or otherwise provide funds for the operation of the Commission.

SECTION 22. AMENDATORY 82 O.S. 1991, Section 1467, is amended to read as follows:

Section 1467. Any person who willfully violates any rule, ~~regulation~~ or order issued ~~under this act~~ pursuant to the Scenic Rivers Act, except such rules, ~~regulations~~ or orders as relate solely to procedural matters, upon conviction thereof, shall be guilty of a misdemeanor.

SECTION 23. AMENDATORY 82 O.S. 1991, Section 1468, is amended to read as follows:

Section 1468. Action taken hereunder by any Scenic Rivers Commission or by its administrator may be reviewed in the district court of the county in which the ~~Commission~~ office of the Commission is located or the county in which the property affected is located and in accordance with the standards established by the Administrative Procedures Act of this state.

SECTION 24. AMENDATORY 1469 O.S. 1991, Section 1469, is amended to read as follows:

Section 1469. A. It is hereby declared to be the policy of the State of Oklahoma to develop in an orderly and expeditious manner the Scenic Rivers Commissions contemplated in the Scenic Rivers Act, ~~Section 1451 et seq. of this title.~~

B. For such purposes, the provisions of ~~this act~~ the Scenic Rivers Act shall apply only to the Illinois River, Flint Creek, those portions of Barren Fork Creek within Cherokee County and the operating areas ~~surrounding and contiguous thereto, delineated~~

~~herein and in other provisions of law~~ of the Scenic Rivers Commission established pursuant to subsection C of Section 1461 of this title.

SECTION 25. AMENDATORY 82 O.S. 1991, Section 1470, as amended by Section 1, Chapter 61, O.S.L. 1993 (82 O.S. Supp. 1996, Section 1470), is amended to read as follows:

Section 1470. A. 1. The Scenic Rivers Commission for the Flint Creek, Illinois River and those portions of Barren Fork Creek within Cherokee County is authorized and directed to charge an annual use fee of Five Dollars (\$5.00) per commercially owned and operated flotation device.

2. The operation of a commercial flotation device without displaying a proper Oklahoma Scenic Rivers Commission license is subject to a fine not to exceed One Hundred Dollars (\$100.00). ~~Said~~ The penalty will be assessed upon the owner or operator of the commercial flotation device business and not upon the individual renting the commercial flotation device.

B. 1. In addition to the annual use fee imposed on a commercially owned and operated flotation device, there shall be imposed a user fee of One Dollar (\$1.00) per trip per flotation device to be paid by the individual renting the commercial flotation device. ~~Said~~ The fee shall be paid into the Scenic Rivers Commission Revolving Fund.

2. This per-trip user fee shall also be levied on privately owned canoes except as stated by subsection E of this section. If a commercial operator fails to remit such user fees on schedule as required by the Scenic Rivers Commission, such operator shall be assessed an additional fee of ~~One Hundred Dollars (\$100.00)~~ Twenty Five Dollars (\$25.00) per week for each week he remains in arrearage. The fee shall be paid into the Scenic Rivers Commission Revolving Fund.

C. The Scenic Rivers Commission for the Flint Creek, Illinois River and those portions of Barren Fork Creek within Cherokee County Scenic River Areas shall promulgate rules and regulations for the collection and administration of the fees imposed pursuant to the provisions of this section in accordance with the

Administrative Procedures Act, ~~Sections 301 through 326 of Title 75 of the Oklahoma Statutes.~~

D. The Oklahoma Tax Commission shall conduct an annual on-the-scene audit of all commercial flotation device businesses to determine if all fees required are being properly collected and reported. Such audit shall be conducted at least once each three (3) years.

E. Property owners adjacent to the rivers under the operating area of the Scenic Rivers Commission may own and operate one canoe for their individual use without paying the use fee. The Commission may contract with the Oklahoma Tourism and Recreation Department or the sheriff's office of Cherokee County, Adair County, or Delaware County for the ranger personnel necessary to secure said scenic river area.

F. The administrator of the Scenic Rivers Commission is ~~hereby~~ authorized to be commissioned as a state park ranger after completion of all required training for the purpose of supervision of park rangers employed by the Commission and such administrator may be utilized for any law enforcement purpose as may be necessary.

G. For the purposes of this section, the term commercial flotation device shall mean a canoe, boat, raft, inner tube or other similar device suitable for the transportation of a person or persons on waterways which is available for hire by the public for use on waterways within the operating area of the Oklahoma Scenic Rivers Commission.

SECTION 26. AMENDATORY 82 O.S. 1991, Section 1471, is amended to read as follows:

Section 1471. Fees assessed in subsection B of Section 1470 of ~~Title 82 of the Oklahoma Statutes~~ this title shall be collected for the months May 1 through October 1.

SECTION 27. This act shall become effective July 1, 1997.

SECTION 28. 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.

46-1-1445

MJM