STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 986

By: Easley, Long, Williams and Cain of the Senate

and

Rice, Thornbrugh, Bryant and Hastings of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; transferring certain employees and program of certain city-county health departments to the Department of Environmental Quality and the State Department of Agriculture; providing for certain employees to fill employment positions by certain date; amending 74 O.S. 1991, Section 805.2, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 3, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.18), which relates to longevity pay plan; updating statutory references; providing for certain transferring employees to include previous years of service for determining longevity pay; providing for certain position to be classified; authorizing Executive Director of the Department of Environmental Quality and the Commissioner of the State Department of Agriculture to modify certain salaries; providing for employees to be given certain status; prohibiting certain examinations; setting certain base salaries; providing method for determination of certain employees status; providing for sick and annual leave accrual; requiring employees receive credit for unused annual and sick leave; allowing employees to elect retirement plan options; providing procedures for transferring retirement benefits; amending Section 4, Chapter 215, O.S.L. 1992, as amended by Section 42, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1997, Section 2-5-105), which relates to the Oklahoma Clean Air Act; removing authority to delegate to certain authority for implementing clean air program to certain city-county health departments; amending 63 O.S. 1991, Sections 1-215, as last amended by Section 21, Chapter 285, O.S.L. 1995, 1-206, as last amended by Section 1, Chapter 230, O.S.L. 1995 and 1-209, as last amended by Section 2, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1997, Sections 1-215, 1-206 and 1-209), which relate to city-county health departments; removing authority to administer certain state laws and rules of the Department of Environmental Quality; providing for certain responsibility for licensing and inspection of certain food or drink establishments to be reserved to the State Department of Health; amending 68 o.s. 1991, Section 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and

as last amended by Section 2, Chapter 191, O.S.L. 1995 and 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2 of Enrolled Senate Bill No. 1218 of the 2nd Session of the 46th Oklahoma Legislature (27A O.S. Supp. 1997, Section 2-11-402), which relate to the Waste Tire Recycling Act; defining term; modifying definitions; modifying compensation for certain capital investments; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. A. Effective July 1, 1998, all unexpended fees, property, records, and thirty-one (31) full-time-equivalent employee (FTE) positions, assigned and used by the city-county health departments to execute programs delegated by the Department of Environmental Quality are hereby transferred to the Department of Environmental Quality.

B. All full-time employees assigned and used by the city-county health departments to execute programs delegated by the Department of Environmental Quality shall have the option on July 1, 1998, to fill the employment positions created pursuant to this section.

C. Any city-county health department employees who leave the employment of a city-county health department and obtain employment with the Department of Environmental Quality outside of the provisions of this act shall be treated as a new employee and shall not be eligible for any of the benefits provided in this act.

SECTION 2. A. Effective July 1, 1998, all unexpended fees, property, records, and two (2) full-time-equivalent employee (FTE) positions, assigned and used by the city-county health departments to execute programs delegated by the State Department of Agriculture are hereby transferred to the State Department of Agriculture.

B. All full-time-equivalent employees assigned and used by the city-county health departments to execute programs delegated by the State Department of Agriculture shall have the option on

July 1, 1998, to fill the employment positions created pursuant to this section.

C. Any city-county health department employees who leave the employment of a city-county health department and obtain employment within the State Department of Agriculture outside the provisions of this act shall be treated as new employees and shall not be eligible for any of the benefits provided in this act.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 805.2, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 3, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.18), is amended to read as follows:

Section 840-2.18 A. A longevity pay plan is hereby adopted. This plan applies to all state classified, unclassified, and exempt employees, excluding members of boards and commissions, institutions under the administrative authority of the State Regents for Higher Education, employees of public school districts, and elected officials. The plan shall also apply to those employees of the Oklahoma School for the Blind and the Oklahoma School for the Deaf who qualify for longevity pay in accordance with subsection D of Section 1419 of Title 10 of the Oklahoma Statutes.

B. The Oklahoma Conservation Commission is hereby authorized to establish a longevity pay program for employees of the conservation districts employed under Section 3-3-103 of Title 27A of the Oklahoma Statutes. Such longevity pay program shall be consistent with the longevity pay program for state employees authorized under this title and payments shall be made in a manner consistent with procedures for reimbursement to conservation districts.

C. To be eligible for longevity pay, employees must have been continuously employed in the classified or unclassified service of the state for a minimum of two (2) years in full-time status or in part-time status working more than one thousand (1,000) hours a year.

For purposes of this section, a break in service of thirty (30) calendar days or less shall not be considered an interruption

of continuous service; a break in service of more than thirty (30) calendar days shall mark an end to continuous service. The legislative session employees who have worked for two (2) years or more in part-time status and are eligible for state retirement benefits, but do not receive other longevity payments, shall be eligible and shall be considered to have been continuously employed for purposes of calculating longevity payments, notwithstanding the provisions of subsection E of this section.

D. 1. Longevity pay for the first twenty (20) years of service shall be determined pursuant to the following schedule:

Years of Service	Annual Longevity Payment
At least 2 years but less than 4 years	$250.00
At least 4 years but less than 6 years	$426.00
At least 6 years but less than 8 years	$626.00
At least 8 years but less than 10 years	$850.00
At least 10 years but less than 12 years	$1,062.00
At least 12 years but less than 14 years	$1,250.00
At least 14 years but less than 16 years	$1,500.00
At least 16 years but less than 18 years	$1,688.00
At least 18 years but less than 20 years	$1,900.00
At least 20 years	$2,000.00

2. For each additional two (2) years of service after the first twenty (20) years an additional Two Hundred Dollars ($200.00) shall be added to the amount stated above for twenty (20) years of service.

The total amount of the annual longevity payment made to an employee by any and all state agencies in any year shall not

exceed the amount shown on the table corresponding to that employee's years of service with the state, except as otherwise provided by Sections ~~7~~ 840-2.27D and ~~12~~ 840-2.28 of this ~~act~~ title. Further, no employee shall receive duplicating longevity payments for the same periods of service with any and all agencies, except as otherwise provided by Sections ~~7~~ 840-2.27D and ~~12~~ 840-2.28 of this ~~act~~ title.

E. To determine years of service, cumulative periods of full-time employment or part-time employment working more than one hundred fifty (150) hours per month with the state excluding service as specified in subsection A of this section are applicable. Part-time employment, working one hundred fifty (150) hours per month or less for the state, excluding service as specified in subsection A of this section, shall be counted only if:

1. The period of employment was continuous for at least five (5) months; and

2. The person worked more than two-fifths (2/5) time.

Other employment shall not be counted as service for purposes of longevity payments. Further, no period of employment with the state, whether with one or more than one agency, shall be counted as more than full-time service.

F. Years of service under the administrative authority of the State Regents for Higher Education or the administrative authority of the Department of Vocational and Technical Education of any employee who is now employed in a job classification which is eligible for longevity pay shall be included in years of service for purposes of determining longevity pay.

G. Years of service shall be certified through the current employing agency by the appointing authority on a form approved by the Office of Personnel Management. Said form shall be filed with the Office of Personnel Management by the current employing agency within sixty (60) calendar days before an employee becomes eligible for longevity payments and thereafter whenever the employee's anniversary date is changed.

H. Eligible employees, in full-time status or in part-time status working more than one hundred fifty (150) hours per month, shall receive one (1) lump-sum annual payment, in the amount provided on the preceding schedule, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. Eligible part-time employees who work one hundred fifty (150) hours per month or less shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. To receive longevity pay an employee must be in pay status on or after his or her anniversary date.

Eligible employees who would not otherwise receive annual longevity payments because their employment includes regular periods of leave without pay in excess of thirty (30) calendar days shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during:

1. The month of August if the employee is in pay status on July 1; or

2. During the month following the employee's first return to duty that fiscal year if the employee is not in pay status on July 1.

Except as otherwise provided by Sections 7 and 12 of this act, employees terminated as a result of a reduction-in-force or retiring from state employment shall receive upon said termination or retirement the proportionate share of any longevity payment which may have accrued as of the date of termination or retirement. Provided further that, the proportionate share of any longevity payment which may have accrued as of the date of death of an employee shall be made to the surviving spouse of the employee or if there is no surviving spouse to the estate of the employee.

I. Periods of leave without pay taken in accordance with Section 840-2.21 of this title shall be counted as service. Other periods of nonpaid leave status in excess of thirty (30)

calendar days shall not mark a break in service; however, they shall:

1. Not be used in calculating total months of service for longevity pay purposes; and

2. Extend the anniversary date for longevity pay by the total period of time on nonpaid leave status except as provided in subsection H of this section for employees whose conditions of employment include regular periods of leave without pay.

J. Employees currently receiving longevity pay who work for the judicial branch of state government or who work for the Department of Vocational and Technical Education shall not be eligible for the longevity pay plan provided for in this section.

K. A break in service with the state in excess of thirty (30) days but which does not exceed two (2) years which was caused by a reduction-in-force shall be treated as if it were a period of nonpaid leave status as provided for in subsection I of this section for the purpose of calculating total months of service for longevity pay. This subsection shall only apply to state employees laid off after June 30, 1982.

L. Eligible part-time employees working less than one hundred fifty (150) hours per month and other eligible employees with regular annual periods of leave without pay of more than thirty (30) calendar days will receive a prorated share of the "Annual Longevity Payment" authorized in subsection D of this section. The prorated amount of payment will be based on actual hours worked in the immediately preceding twelve (12) months.

M. An employee shall not be entitled to retroactive longevity payments as a result of amendments to this section unless specifically authorized by law.

N. The Administrator of the Office of Personnel Management is authorized to promulgate such Longevity Pay Plan Rules as he or she finds necessary to carry out the provisions of this section.

O. The University Hospitals Authority Model Personnel System shall be exempt from the provisions of this section, except as provided by Section 7 of this act.

P. As of the effective date of this act, years of service with a city-county health department for employees who left a city-county health department for employment with the Department of Environmental Quality or the State Department of Agriculture between July 1, 1993 and July 1, 1998, and who are now employed in a job classification that is eligible for longevity pay pursuant to this section, shall be included in years of service for purposes of determining longevity pay subsequent to the effective date of this act.

SECTION 4. A. Positions transferred to and employees obtaining employment with the Department of Environmental Quality or the State Department of Agriculture pursuant to Sections 1 and 2 of this act shall become classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act, Sections 840-1.1 et seq. of Title 74 of the Oklahoma Statutes.

B. The Executive Director of the Department of Environmental Quality and the Commissioner of the State Department of Agriculture shall have the discretion to reduce the salaries of employees obtaining employment with the Department of Environmental Quality or the State Department of Agriculture pursuant to Sections 1 and 2 of this act to not less than the base rate of pay as they were receiving from the city-county health department on April 10, 1998. The Executive Director of the Department of Environmental Quality or the Commissioner of the State Department of Agriculture shall have the discretion to reduce the base pay of employees obtaining employment with the Department of Environmental Quality or the State Department of Agriculture who were hired or given salary increases by the city-county health department after April 10, 1998.

C. On the effective date of this act, all such employees shall be given status in the class to which the position occupied by the employee is initially allocated by the Office of Personnel Management. The employees shall not be required to take any examination or to meet the minimum qualifications for the class. The base salary of the employee shall not be reduced as a result

of such initial allocation below the rate of pay established by the Executive Director of the Department of Environmental Quality or the Commissioner of the State Department of Agriculture, but it shall be increased to the minimum rate for the class to which the position occupied by the employee is allocated by the Office of Personnel Management.

D. The status of employees obtaining employment with the Department of Environmental Quality or the State Department of Agriculture pursuant to Sections 1 and 2 of this act shall be determined as follows:

1. An employee who has been continuously employed by a city-county health department for minimum of six (6) months immediately preceding July 1, 1998, shall be given permanent status in the classified service.

2. An employee who has been continuously employed by a city-county health department for less than six (6) months immediately preceding July 1, 1998, shall be given probationary status in the classified service. Such employee may obtain permanent status in the classified service six (6) months after the employee's entry-on-duty date with the city-county health department pursuant to the provisions of the Merit System.

E. Employees obtaining employment with the Department of Environmental Quality or the State Department of Agriculture pursuant to Sections 1 and 2 of this act shall accrue sick leave and annual leave pursuant to the provisions of Section 840-2.20 of Title 74 of the Oklahoma Statutes. Time served with a city-county health department shall be creditable for leave accrual purposes. The annual leave accrual rate shall not be less than the rate at which the employee was accruing annual leave with the city-county health department as of June 30, 1998.

F. Employees obtaining employment with the Department of Environmental Quality or the State Department of Agriculture pursuant to Sections 1 and 2 of this act, shall receive credit for all unused annual leave the employee has accrued while employed by the city-county health department. Each city-county health department shall reimburse the Department of Environmental Quality

or the State Department of Agriculture for annual leave, by October 1, 1998, for each employee obtaining employment with the Department of Environmental Quality or the State Department of Agriculture pursuant to Sections 1 and 2 of this act, in an amount equal to the dollar amount of annual leave that the employee has accrued with the city-county health department, not to exceed the Department of Environmental Quality's or the State Department of Agriculture's annual leave accumulation limit.

G. As of the effective date of this act, years of service with a city-county health department for all employees who left a city-county health department to work for the Department of Environmental Quality or the State Department of Agriculture between July 1, 1993 and July 1, 1998, shall be included in years of service for purposes of determining the annual leave accrual rate subsequent to the effective date of this act.

H. The Department of Environmental Quality or the State Department of Agriculture shall give employees obtaining employment pursuant to Sections 1 and 2 of this act, credit for all unused sick leave the employee has accrued while employed by a city-county health department.

SECTION 5. Any employee obtaining employment with the Department of Environmental Quality or the State Department of Agriculture pursuant to Sections 1 and 2 of this act may elect to participate in the Oklahoma Public Employees Retirement System or to remain in the city-county health department's retirement system. Elections shall be made no later than August 1, 1998. If no election is made by August 1, 1998, an election to participate in the Oklahoma Public Employees Retirement System will be assumed.

1. Employees electing to participate in the Oklahoma Public Employees Retirement System shall be entitled to purchase service credit in the Oklahoma Public Employees Retirement System in an amount equal to the number of years of service they worked for the city-county health department.

a. Employees leaving the Tulsa City-County Health Department shall be entitled to use employee

contributions made to the Tulsa City-County's retirement plan to purchase service credit in the Oklahoma Public Employees Retirement System.

b. Employees leaving the City-County Health Department of Oklahoma County shall be entitled to use up to the vested amount of contributions made to the City-County Health Department of Oklahoma County's retirement plan to purchase service credit in the Oklahoma Public Employees Retirement System.

2. The Department of Environmental Quality or the State Department of Agriculture shall make contributions into the retirement plan elected pursuant to this section at a rate pursuant to the provisions of Section 920 of Title 74 of the Oklahoma Statutes. For employees electing to stay in a city-county health department retirement system, any contributions needed in excess of the state contribution, including all administrative fees, shall be paid by the transferring employee.

SECTION 6. AMENDATORY Section 4, Chapter 215, O.S.L. 1992, as amended by Section 42, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1997, Section 2-5-105), is amended to read as follows:

Section 2-5-105. The Department <u>of Environmental Quality</u> is hereby designated the administrative agency for the Oklahoma Clean Air Act for the state. The Department is empowered to:

1. Establish, in accordance with its provisions, those programs specified elsewhere in the Oklahoma Clean Air Act;

2. Establish, in accordance with the Oklahoma Clean Air Act, a permitting program for the state which will contain the flexible source operation provisions required by Section 502(b)(10) of the Federal Clean Air Act Amendments of 1990;

3. Prepare and develop a general plan for proper air quality management in the state in accordance with the Oklahoma Clean Air Act;

4. Enforce rules of the Board and orders of the Department and the Council;

5. Advise, consult and cooperate with other agencies of the state, towns, cities and counties, industries, other states and the federal government, and with affected groups in the prevention and control of new and existing air contamination sources within the state;

6. Encourage and conduct studies, seminars, workshops, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement;

7. Collect and disseminate information relating to air pollution, its prevention and control;

8. Encourage voluntary cooperation by persons, towns, cities and counties, or other affected groups in restoring and preserving a reasonable degree of purity of air within the state;

9. Represent the State of Oklahoma in any and all matters pertaining to plans, procedures or negotiations for the interstate compacts in relation to the control of air pollution;

10. Provide such technical, scientific or other services, including laboratory and other facilities, as may be required for the purpose of carrying out the provisions of the Oklahoma Clean Air Act, from funds available for such purposes;

11. Employ and compensate, within funds available therefor, such consultants and technical assistants and such other employees on a full- or part-time basis as may be necessary to carry out the provisions of the Oklahoma Clean Air Act and prescribe their powers and duties;

12. Accept and administer grants or other funds or gifts for the purpose of carrying out any of the functions of the Oklahoma Clean Air Act;

13. Budget and receive duly appropriated monies and all other monies available for expenditures to carry out the provisions and purposes of the Oklahoma Clean Air Act;

14. Bring appropriate court action to enforce the Oklahoma Clean Air Act and final orders of the Department, and to obtain injunctive or other proper relief in the district court of the county where any alleged violation occurs or where such relief is determined necessary. The Department, in furtherance of its

statutory powers, shall have the independent authority to file an action pursuant to the Oklahoma Clean Air Act in district court. Such action shall be brought in the name of the Department of Environmental Quality;

15. Take such action as may be necessary to abate the alleged pollution upon receipt of evidence that a source of pollution or a combination of sources of pollution is presenting an immediate, imminent and substantial endangerment to the health of persons;

16. Recommend rules to the Department of Public Safety, to the extent necessary and practicable for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards;

17. Periodically enter and inspect at reasonable times or during regular business hours, any source, facility or premises permitted or regulated by the Department, for the purpose of obtaining samples or determining compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder or permit condition prescribed pursuant thereto, or to examine any records kept or required to be kept pursuant to the Oklahoma Clean Air Act. Such inspections shall be conducted with reasonable promptness and shall be confined to those areas, sources, facilities or premises reasonably expected to emit, control, or contribute to the emission of any air contaminant;

18. Require the submission or the production and examination, within a reasonable amount of time, of any information, record, document, test or monitoring results or emission data, including trade secrets necessary to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto. The Department shall hold and keep as confidential any information declared by the provider to be a trade secret and may only release such information upon authorization by the person providing such information, or as directed by court order. Any documents submitted pursuant to the Oklahoma Clean Air Act and declared to be trade secrets, to be so considered, must be plainly labeled by the provider, and be in a form whereby the confidential

information may be easily removed intact without disturbing the continuity of any remaining documents. The remaining document, or documents, as submitted, shall contain a notation indicating, at the place where the particular information was originally located, that confidential information has been removed. Nothing in this section shall preclude an in-camera examination of confidential information by an Administrative Law Judge during the course of a contested hearing;

19. Maintain and update at least annually an inventory of air emissions from stationary sources;

20. Accept any authority delegated from the federal government necessary to carry out any portion of the Oklahoma Clean Air Act; and

21. ~~Delegate to any city-county health department that state authority necessary to implement the state program within the city-county jurisdiction.~~

~~a. Such delegation from the state shall only be made upon the condition that the local authority will maintain a program consistent with the state program. Said delegation may include the authority and the responsibility to enforce the Oklahoma Clean Air Act and rules of the Board, to operate a permitting program, and the authority to collect fees for sources within their jurisdiction and to use such fees in accordance with the purposes set forth in the Oklahoma Clean Air Act. Delegation of authority to collect fees shall include the authority and duty to either:~~

~~(1) establish a special subaccount in the manner provided for in the Oklahoma Clean Air Act, or~~

~~(2) allow the collected funds to remain with the city-county health department to be used in accordance with the provisions of the Oklahoma Clean Air Act at that location; provided, however, that the Department shall require or perform, at least yearly, an audit verifying the~~

~~expenditure of such funds for the purposes set forth herein.~~

~~b. Delegation from the state shall be made by written agreement and reviewed on a yearly basis. Said agreement shall contain reasonable terms and conditions as may be necessary to assure compliance with the requirements of the Oklahoma Clean Air Act and the Federal Clean Air Act, 42 U.S.C., Section 7401 et seq. Any delegation by the state shall not, however, deprive this state of primary or concurrent jurisdiction nor shall it be construed to include any powers of the Council or the Board.~~

~~c. A final order in any administrative action brought by either the Department or the city-county health department shall preclude an administrative action by the other for the same violation; and~~

~~22.~~ Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Oklahoma Clean Air Act and fulfilling the requirements of the Federal Clean Air Act.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 1-215, as last amended by Section 21, Chapter 285, O.S.L. 1995 (63 O.S. Supp. 1997, Section 1-215), is amended to read as follows:

Section 1-215. ~~A.~~ The director of the city-county health department shall direct and supervise all public health activities in the county, except in incorporated cities and towns which are not governed by the provisions of Sections 210 to 218 of this article, and which have not entered into any agreement for the operation of the health department of such city or town. Such director shall administer and enforce all municipal and county ordinances and rules relating to public health matters, and he shall also administer state laws, and rules of the State Board of Health pertaining to public health, subject to administrative supervision of the State Commissioner of Health. ~~Such director shall also administer such state laws and rules of the Department of Environmental Quality as determined by, and subject to the~~

~~supervision of, the Executive Director of the Department of Environmental Quality.~~ Any other powers, authority, duties or functions which are now or may hereafter be conferred by law on county or city superintendents of public health are hereby conferred on such director of the city-county health department.

~~B. The director of the city-county health department is authorized to perform such environmental services, under the direction of the Executive Director of the Department of Environmental Quality, as may be mutually agreed upon, to implement the provisions of the Oklahoma Environmental Quality Code. The director of the city-county health department shall agree to continue to perform such environmental services as were provided during fiscal year 1993 and shall not disproportionately reduce the level of support. The Department of Environmental Quality shall enter into agreements for this work with those city-county health departments that successfully perform such environmental services. Employees performing such environmental services shall participate fully in the training and standardization programs of the Department of Environmental Quality, shall utilize procedures at least as stringent as the statewide standard procedures, and shall respond to complaints in the same manner as the Department of Environmental Quality employees. Employees who supervise such environmental services shall be jointly selected by the directors of the city-county health department and the Department of Environmental Quality. Employees desiring to transfer to similar positions in the other agency shall receive priority consideration and shall be exempt from any examination or other employment requirements for new state or local employees. As Department of Environmental Quality programs expand, the Department of Environmental Quality may, pursuant to a contract, assign employees to the city-county health departments. Any new initiatives mandated of city-county health departments by the Department of Environmental Quality will be funded by the Department of Environmental Quality.~~

~~C. A board or director of a city-county health department, in any county with a population of more than two hundred twenty-five~~

~~thousand (225,000) according to the latest Federal Decennial Census, may notify the Department of Environmental Quality that 180 days after receipt of notice it will cease to provide or to fund one or more environmental services such that its fiscal year 1993 level of effort is not maintained. Such notice shall identify the recipients of the services and the associated funding. After providing such notice, the Environmental Quality Board shall by emergency and permanent rules promulgate specific fee schedules requiring the Department of Environmental Quality to charge such fees to cover the lost funding essential to providing such environmental services in such jurisdictional area.~~

~~D. If during any fiscal year a board or director of a city-county health department, in any county with a population of more than two hundred twenty-five thousand (225,000) according to the latest Federal Decennial Census, fails to contract for, fails to provide or elects to stop providing any environmental services such that its fiscal year 1993 level of effort is not maintained, the Department of Environmental Quality, with written notice to the board of the city-county health department, may assume the duty of providing the services. Said notice shall request the identification of recipients of the services. Within one hundred eighty (180) days after such identification is received, the Environmental Quality Board shall promulgate rules setting fee schedules therefor and requiring the Department of Environmental Quality to charge fees essential to providing such services. Upon such cessation, to recover the lost funding, the appropriate proportion of funds, used by the city-county board of health to support those environmental services in fiscal year 1993 shall be paid, upon invoice at the end of the fiscal year, to the Department of Environmental Quality Revolving Fund for the period of time between the cessation of service and the effective date of the rules.~~

SECTION 8. Any employee obtaining employment with the Department of Environmental Quality pursuant to Section 1 of this act or the State Department of Agriculture pursuant to Section 2 of this act shall not count against each department's respective

full-time-equivalent employee (FTE) positions outlined in each department's respective appropriation bill.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 1-206, as last amended by Section 1, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1997, Section 1-206), is amended to read as follows:

Section 1-206. A. A county department of health, a district department of health, a cooperative department of health, and a city-county department of health shall, in their respective jurisdictions:

1. Maintain programs for disease prevention and control, health education, guidance, maternal and child health, including school health services, health in the working environment, nutrition and other matters affecting the public health;

2. Provide preventive services to the chronically ill and aged;

3. Maintain vital records and statistics;

4. Assist the State Commissioner of Health in the performance of official duties, and perform such other acts as may be required by the Commissioner; and

5. Enter into written agreements with the governing body of any municipality or county for the performance of services within the respective jurisdictions and authorities that are necessary and proper pursuant to the authority granted to municipalities and counties by the Constitution and the laws of this state.

B. A county department of health, a district department of health, a cooperative department of health, and a city-county department of health may maintain programs for mental health and day care for children.

C. Nothing contained herein relating to pollution shall be in conflict with the existing jurisdiction of any other state environmental agency.

D. Except as otherwise provided by law, responsibility for the licensing and inspection of nursing facilities and specialized facilities, as defined in the Nursing Home Care Act and for the enforcement of state health and safety standards applicable to such facilities, shall be reserved to the State Department of

Health and shall be exercised pursuant to the provisions of the Nursing Home Care Act.

E. Except as otherwise provided by law, responsibility for the licensing and inspection of any establishment where food or drink is offered for sale or sold, in accordance with the provisions of Section 1-1118 of this title, and for the enforcement of state health and safety standards applicable to such establishments, shall be reserved to the State Department of Health.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 1-209, as last amended by Section 2, Chapter 230, O.S.L. 1995 (63 O.S. Supp. 1997, Section 1-209), is amended to read as follows:

Section 1-209. A. 1. Except as may be otherwise provided by city charter, the governing board of each city or incorporated town shall serve, ex officio, as the board of health for such city or town, and shall appoint, and fix the duties and compensation of, a health officer and other personnel to enforce the ordinances of such city or town relating to public health.

2. Except as otherwise provided by this subsection, the governing board may adopt such ordinances and rules as it deems necessary for the protection of the public health; provided such ordinances and rules are not inconsistent with state laws or rules of the State Board of Health. The governing board shall enforce such laws and rules as may be required by the State Commissioner of Health and may, by agreement with the medical director of the county or district department of health, delegate to such department the authority to enforce ordinances of the city or town relating to public health. Except as otherwise provided by law, responsibility for licensing, regulation and inspection of nursing facilities and specialized facilities, as defined in the Nursing Home Care Act and for enforcement of state health and safety standards applicable to such facilities, shall be reserved to the State Department of Health and shall be exercised pursuant to the provisions of the Nursing Home Care Act.

3. Except as otherwise provided by law, responsibility for the licensing and inspection of any establishment where food or

drink is offered for sale or sold, in accordance with the provisions of Section 1-1118 of this title, and for the enforcement of state health and safety standards applicable to such establishments, shall be reserved to the State Department of Health.

B. The governing board of each city or incorporated town may adopt and enforce such ordinances as it deems necessary for the protection of the environment, provided such ordinances are not inconsistent with state laws or rules of the Environmental Quality Board. The governing board may, by agreement with the Department of Environmental Quality, delegate to the local representative of the Department of Environmental Quality the authority to investigate ordinances of the city or town relating to the environment and submit such investigative results to the clerk of the city or town.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 191, Chapter 95, O.S.L. 1996 (27A O.S. Supp. 1997, Section 2-11-402), is amended to read as follows:

Section 2-11-402. As used in the Oklahoma Waste Tire Recycling Act:

1. "Department" means the Department of Environmental Quality;

2. "Tire" means any solid or air-filled covering for motor vehicle wheels;

3. "Tire dealer" means any person engaged in the business of selling new and used tires to final consumers, not for resale; and

4. "Waste tire facility" means any place which is permitted as a solid waste disposal site, in accordance with the Oklahoma Solid Waste Management Act, at which waste tires are collected or deposited for processing by shredding or other technology, except baling, which alters the form of at least one-half of the tires collected, for the purpose of facilitating the future extraction of useful materials for recycling, reuse or energy recovery.

5. "Waste tire processing" means the preparation of waste tires to facilitate use for recycling, reuse or energy recovery.

SECTION 12. AMENDATORY 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 2 of Enrolled Senate Bill No. 1218 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 2-11-405. A. Of the monies accruing annually to the Waste Tire Recycling Indemnity Fund, four percent (4%) thereof shall be available to the Oklahoma Tax Commission and four percent (4%) thereof shall be available to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Waste Tire Recycling Act. In addition, an amount not to exceed Fifty Thousand Dollars ($50,000.00) per required audit shall be available to the State Auditor and Inspector for the purpose of conducting audits of the Oklahoma Waste Tire Recycling Program pursuant to Section 2-11-411 of this title.

B. Of the ninety-two percent (92%) of the remaining monies in the Waste Tire Recycling Indemnity Fund, ten percent (10%) shall be allocated to businesses located in Oklahoma who manufacture new products or derive energy benefits from waste tires which have been processed according to the requirements of the Oklahoma Waste Tire Recycling Act. Such businesses shall be eligible for compensation in a total amount not to exceed ~~fifty percent (50%)~~ one hundred percent (100%) of their capital investment in equipment necessary to utilize processed waste tires purchased on or after January 1, 1995, at a rate of Twenty Dollars ($20.00) per ton of processed waste tires consumed in the manufacturing or energy recovery process. Funds shall be awarded based on a proportionate share of the funds available and based on the relative amount of each capital investment. Such businesses may apply for compensation monthly to the Oklahoma Tax Commission, and shall supply any information required by the Commission to document compliance with the provisions of the Oklahoma Waste Tire Recycling Indemnity Act.

C. The balance of the monies remaining in the Waste Tire Recycling Indemnity Fund shall be allocated pursuant to the provisions of the Oklahoma Waste Tire Recycling Act to waste tire

facilities or persons, corporations or other legal entities authorized by the provisions of the Oklahoma Waste Tire Recycling Act to receive reimbursement which, through the filing of appropriate applications, reports, and other documentation that may be required by the Department of Environmental Quality pursuant to the Oklahoma Waste Tire Recycling Act, demonstrate that such facilities or legal entities have successfully processed discarded vehicle tires pursuant to the Oklahoma Waste Tire Recycling Act.

SECTION 13. The provisions of Sections 1, 2, 4, 5 and 8 of this act shall not be codified in the Oklahoma Statutes.

SECTION 14. This act shall become effective July 1, 1998.

SECTION 15. 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.

46-2-3183 MJM (<time=system>)