

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL 1957

By: Calvey of the House

and

Brown of the Senate

COMMITTEE SUBSTITUTE

An Act relating to cities and towns; subjecting certain public water trusts to regulation by certain municipalities; enumerating powers and duties relating to waterworks within municipal limits; making certain activities unlawful; specifying penalties; providing for certain actions; defining terms; providing for construction of section; providing for codification; and providing an effective date.

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 37-128 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Any public water trust formed pursuant to Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes whose beneficiary is the state, any county or municipality or any combination thereof, supplying water directly to residents of a municipality, shall be subject to general supervision by such municipality with regards to water pressure, any water quality, and waterworks within the city limits of the municipality.

B. 1. Should the public trust not provide water which meets the minimum quality and pressure requirements set forth in the Oklahoma Administrative Code, Title 252, Chapter 630, and Title 252, Chapter 625, the municipality shall have power to promulgate regulations and enact ordinances affecting the services, operation,

management, rates and manner of conduct of the business of any such waterworks within the city limits of the municipality. Provided the rates may not be reduced by the municipality below the costs as reasonably established by the public trust in accordance with the enterprise accounting system set forth in Section 37-119 of Title 11 of the Oklahoma Statutes. Any costs of system, service, management or operations improvements or changes required by the municipality shall be included in the rates of the purchasers of such municipality.

2. The municipality shall have full visitorial and inquisitorial power to examine the records of such public water trust and keep informed as to the general condition, rates, plants, equipment, apparatus, conduct, operation, practices and services, and compliance with regulations and ordinances and laws of this state with respect to the waterworks within the city limits of the municipality and with respect to any other management or conduct of the public water trust which affects any of the waterworks within the city limits of the municipality.

C. It shall be unlawful for any public water trust to operate any waterworks within the city limits of a municipality in violation of the regulations promulgated by the Oklahoma State Department of Environmental Quality or the Oklahoma State Department of Health for operation of public water supply facilities within a municipality.

D. 1. Any person who violates any of the provisions of any regulation promulgated or enacted issued pursuant to this section, upon conviction thereof, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

2. In addition to any criminal penalty imposed pursuant to this subsection, a public water trust which has been determined by a court of competent jurisdiction to have violated any regulation issued pursuant to this section may be liable for a civil penalty of

not more than Five Hundred Dollars (\$500.00) for each day that such violation continues. The amount of such penalty shall be assessed by the court, after notice and hearing.

E. 1. The district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of such violation of any regulation or order issued pursuant to this section.

2. The court has jurisdiction to determine such action and to grant the necessary or appropriate relief, including, but not limited to, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

F. The provisions of this section shall not:

1. Apply to any public trusts that have an agreement with the municipality for the provision of water to the municipality or to the residents of the municipality;

2. Apply to public trusts with franchises or which pay a fee in lieu of franchise; or

3. Apply to public trusts providing water which meets the water quality and water pressure standards set forth in the Oklahoma Administrative Code Title 252, Chapter 630, and Title 252, Chapter 625.

G. For purposes of this section, "waterworks" means facilities used in the procurement, supply, treatment, storage, pumping or distribution of water for human consumption or for fire protection, and includes the necessary facilities from the initial source to the place for consumer utilization.

H. Nothing in this section shall be deemed to require a public trust or water district to continue to provide water service to residents outside the city limits of the beneficiary.

SECTION 2. This act shall become effective September 30, 2000.