

ENROLLED SENATE
BILL NO. 1187

By: Rozell of the Senate

and

Culver of the House

An Act relating to waters and water rights; amending 82 O.S. 1991, Section 105.10, as amended by Section 1, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 1999, Section 105.10), which relates to water permit applications; providing process for pending applications; requiring Oklahoma Water Resources Board to provide certain notice; providing for hearing; providing for applications to be withdrawn and priority dates lost due to lack of response to notification; authorizing pending applications to remain pending for certain time periods upon request; stating exception; amending 82 O.S. 1991, Section 1470, as last amended by Section 25, Chapter 241, O.S.L. 1997 (82 O.S. Supp. 1999, Section 1470), which relates to the Scenic Rivers Commission; authorizing the Commission to contract with certain entities for security in certain areas; and declaring an emergency.

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

SECTION 1. AMENDATORY 82 O.S. 1991, Section 105.10, as amended by Section 1, Chapter 164, O.S.L. 1993 (82 O.S. Supp. 1999, Section 105.10), is amended to read as follows:

Section 105.10 A. 1. The date of receipt of ~~such an~~ an application for use of stream water in the ~~Board~~ office of the Oklahoma Water Resources Board shall be endorsed ~~thereon~~ and shall be noted in its the records of the Board.

2. If the application is defective as to form or unsatisfactory as to feasibility or safety of the plan, or as to the showing of the ability of the applicant to carry the construction to completion, the Board shall advise the applicant of the correction, amendments or changes required, ~~and.~~ The applicant shall have not more than sixty (60) days from the date the Board so advises shall be allowed for the re-filing thereof to refile such application. If refiled, corrected as required, within ~~such~~ the specified time limit, the application shall, upon being accepted by the Board, take priority as of date of its original filing, subject to compliance with the further provisions of the law and the ~~regulations thereunder~~ rules promulgated thereto. Any corrected application filed after the time

allowed shall be treated in all respects as an original application received on the date of its refiling.

3. The plans of construction may be amended, with the approval of the Board, at any time; ~~but, provided that~~ no ~~such~~ change shall authorize an extension of time for construction or placing the water to beneficial use beyond that authorized in the permit, except as provided in Section 105.15 of this title. A change in the proposed point of diversion of water from a stream shall be subject to the approval of the Board and shall not be allowed to the detriment of the rights of others having valid claims to the use of water from ~~said~~ the stream.

B. 1. For applications that have been pending for more than three (3) years prior to the effective date of this section, the Board shall provide written notice to the applicant at the applicant's last-known address that the application shall be deemed withdrawn and the priority date based on the original filing date shall be lost unless the applicant provides notice of the application as instructed by the Board. The Board shall provide an opportunity for a hearing if requested in order for the applicant to show cause why:

- a. notice should not be published, and
- b. the application should not be deemed withdrawn and the priority date lost.

2. Cause may be shown by substantial competent evidence that:

- a. the applicant has been diligently pursuing plans for the project for which the water is proposed to be used,
- b. construction of the project is still practical, and
- c. the applicant is still able to complete the project.

3. If the Board receives no response to the notice, the application shall be deemed withdrawn and priority date lost.

C. 1. After the effective date of this section, applications may remain pending for more than three (3) years and retain the priority date based on the original filing date if the applicant files a request to extend pending status of the application before the end of the first three-year period and each successive three-year period thereafter and as required by rules promulgated by the Board.

2. If a request to extend pending status is not filed in time and as required by Board rules, the application will be deemed withdrawn.

SECTION 2. AMENDATORY 82 O.S. 1991, Section 1470, as last amended by Section 25, Chapter 241, O.S.L. 1997 (82 O.S. Supp. 1999, 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). 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. 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 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.

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.

F. 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, including all roadways and adjacent areas to the Illinois River, Flint Creek, and the portion of the Baron Fork Creek located in Cherokee County.

~~F.~~ G. The administrator of the Scenic Rivers Commission is 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. H. 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 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 23rd day of May, 2000.

President of the Senate

Passed the House of Representatives the 25th day of May, 2000.

Speaker of the House of
Representatives