STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO._____ By: Easley

AS INTRODUCED

An Act relating to waters and water rights; creating the Nonpoint Source Pollution Control Financial Assistance Program; providing short title; defining terms; stating powers and duties of Oklahoma Water Resources Board; providing procedures for submission of loan or grant applications; stating criteria for consideration of applications; stating priorities for application approval; creating certain permanent account; providing for account to consist of certain monies; providing for codification; and declaring an emergency.

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

SECTION 241. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.90 of Title 82, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Nonpoint Source Pollution Control Financial Assistance Program".

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.91 of Title 82, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature to maintain, protect and improve the quality of the waters of the state through financial assistance for projects designed to prevent, control or abate nonpoint source pollution. In addition to the financial assistance program established under Sections 1085.31 through 1085.49, 1085.51 through 1085.65, and 1085.71 through 1085.84A of Title 82 of the Oklahoma Statutes pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Nonpoint Source Pollution Control Financial Assistance

Program as provided in this act. Financing projects to control nonpoint source pollution as provided by this act is hereby declared to be a public purpose.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.92 of Title 82, unless there is created a duplication in numbering, reads as follows:

As used in the Nonpoint Source Pollution Control Financial Assistance Act:

1. "Nonpoint source project" means capital works, capital improvements or equipment, or environmental protection or cleanup undertakings, all for the purpose of protecting or improving surface or underground water quality by preventing, abating or controlling nonpoint source pollution. Such projects shall include but not be limited to the following:

a. repair or replacement of on-site systems, including residential septic tanks,

b. acquisition, installation or construction of dry litter or manure storage facilities or mortality composters from animal feeding operations,

c. acquisition, installation or construction of measures for riparian habitat protection including submerged aquatic vegetation, stream bank restoration or stabilization, vegetative buffer strips, and sedimentation basins where sediment discharges impact waters of the state,

d. acquisition, installation or construction of measures for wetlands protection and restoration,

e. measures for reduction or elimination of pollution from urban stormwater runoff, including collection systems, holding basins and other best management practices where urban stormwater runoff contributes to, threatens or impairs water quality, and

f. acquisition of real estate or interests in real estate necessary for a project;

2. "Eligible entity" means any city, town, county, the State of Oklahoma or any agency or political subdivision thereof, rural water or sewer district, irrigation district, public trust, master conservancy district, or any combination thereof;

3. "State environmental agency" means any of those agencies as defined in Section 1-1-201 of Title 27A of the Oklahoma Statutes, and as such term is used in the Oklahoma Environmental Quality Act, Section 1-1-101 et seq. of Title 27A of the Oklahoma Statutes; and

4. "On-site system" means a wastewater treatment or collection system serving individual structures or a small group of structures located at or near the pollutant source.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.93 of Title 82, unless there is created a duplication in numbering, reads as follows:

In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty:

1. To establish and administer a Nonpoint Source Pollution Control Financial Assistance Program in accordance with the provisions of this act;

2. To transfer to the Water Resources Fund in the State Treasury the monies appropriated by Section 17 of Chapter 428, O.S.L. 1998, and thence to use such monies or any portion thereof

a. as security, collateral and reserve for bonds or other obligations issued by the Board pursuant to this section, and

b. to make loans to eligible entities for nonpoint source projects, and to enter into loan agreements therefor, upon terms not inconsistent with this act and Section 1085.36 of Title 82 of the Oklahoma Statutes;

3. To issue bonds or other obligations secured by the collateral described in this section or other reserve or sources to provide necessary funds to meet the demand for loan funding from the Nonpoint Source Pollution Control Financial Assistance Program, in accordance with the provisions of Sections 1085.33 and 1085.37 of Title 82 of the Oklahoma Statutes and the Oklahoma Bond Oversight and Reform Act;

4. To make loans from the proceeds of bonds issued pursuant to this section to eligible entities for nonpoint source projects, and to enter into loan agreements therefor, upon terms not inconsistent with this act and Section 1085.36 of Title 82 of the Oklahoma Statutes;

5. To invest the monies appropriated by Section 17 of Chapter 428, O.S.L. 1998 not inconsistent with applicable bond resolutions or indentures pertaining to the bonds issued pursuant to this section, and to transfer investment earnings thereon to the Nonpoint Source Pollution Control Grant Account;

6. To make grants from the monies in the Nonpoint Source Pollution Control Grant Account to eligible entities for nonpoint source projects, and to enter into grant agreements therefor, upon terms not inconsistent with this act; and

7. To promulgate rules to implement the provisions of this act and the Nonpoint Source Pollution Control Financial Assistance Program, including rules addressing which types of applicants or projects may receive grants and which types of applicants or projects may receive loans.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.94 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Upon receipt by the Oklahoma Water Resources Board of an application for a loan or grant through the Nonpoint Source Pollution Control Financial Assistance Program, the submitted

application shall be given preliminary review by the Board for an initial determination of project eligibility, applicant eligibility and for completeness and accuracy of all information deemed necessary by the Board.

B. 1. Eligible applications shall be forwarded to the appropriate state environmental agency for evaluation and determination whether the proposed project will protect or improve state waters that are impaired, threatened, or vulnerable as identified by Oklahoma's Water Quality Standards, and whether the proposed project is cost effective.

2. After the state environmental agency has completed its evaluation, it shall forward its written report to the Oklahoma Water Resources Board.

C. 1. After the Oklahoma Water Resources Board receives the written determination from the state environmental agency, the application shall thereafter be reviewed by the Board in accordance with the criteria prescribed in this subsection.

2. In the review and consideration of applications for financial assistance through the Nonpoint Source Pollution Control Financial Assistance Program, the Oklahoma Water Resources Board shall give consideration to the following criteria:

a. the application, proposed loan or grant, and proposed project must be found to be in compliance with all applicable and relevant federal, state and local laws and rules, and applicant must possess all necessary and incidental legal rights and privileges necessary to commence, complete and operate the project,

b. the applicant must be an eligible entity and the proposed project must be for a qualified purpose as described in this act,

c. applications for loans shall be evaluated upon the applicant's ability to repay the loan, the security

for the loan, any applicable requirements of the pertinent bond resolution governing the loaning of bond proceeds, and any other factors bearing on the financial soundness of the loan,

d. the Oklahoma Water Resources Board shall give priority to projects as required by Section 5 of this act, and

e. in sizing and approving a Nonpoint Source Pollution Control Financial Assistance Program loan or grant, the Oklahoma Water Resources Board shall take into consideration the current and anticipated availability of program funds. In order to ensure fair and equitable distribution of such grant funds, no project shall be approved for or funded from such grant funds in excess of Fifty Thousand Dollars ($50,000.00), and no applicant shall be approved for or funded from such grant funds in excess of Fifty Thousand Dollars ($50,000.00) in any twelve-month period.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.95 of Title 82, unless there is created a duplication in numbering, reads as follows:

In administering the Nonpoint Source Pollution Control Financial Assistance Program, the Oklahoma Water Resources Board shall give priority as follows:

1. Projects in watersheds of waters which have been identified in Oklahoma's Water Quality Standards as use impaired waters, projects in watersheds of waters which have been determined from rules promulgated by the Board to be impaired, and projects in watersheds which have been identified in Oklahoma's Water Quality Standards as nutrient-limited watersheds shall be given the highest priority;

2. Projects in watersheds which have been identified in rules of the Board as nutrient threatened watersheds, projects in watersheds which have been identified in rules of the Board as nutrient vulnerable watersheds, and projects which are designed to maintain or improve the quality of waters identified in state statutes or Oklahoma's Water Quality Standards as scenic rivers or outstanding resource waters, shall be given second priority;

3. Projects which are designed to maintain or improve the quality of groundwater identified in Oklahoma's Water Quality Standards as nutrient vulnerable groundwaters shall be given third priority;

4. An applicant who is subject to an enforcement order issued by a governmental agency with environmental jurisdiction shall be given additional priority points for a proposed project which will remedy the violation out of which the order arose;

5. An applicant for a grant who contributes a share of the cost of the project shall be given additional priority points.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.96 of Title 82, unless there is created a duplication in numbering, reads as follows:

Within the Water Resources Fund created pursuant to Section 1085.33 of Title 82 of the Oklahoma Statutes, there is hereby created the "Nonpoint Source Pollution Control Grant Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies appropriated to the account;

2. Income from the investment of the monies appropriated by Section 17 of Chapter 428, O.S.L. 1998, consistent with applicable bond resolutions or indentures pertaining to the bonds issued pursuant to this act, and any other income from the investment of the reserve for such bonds; and

3. Any other sums designated for deposit to the account from any source, public or private.

SECTION 7. 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.

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