STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1192 By: Pope (Clay)

COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; creating the Oklahoma Carbon Sequestration Enhancement Act; specifying legislative findings and intent; creating the Carbon Sequestration Advisory Committee; providing for membership and appointment; specifying compensation; providing for space; providing for powers and duties; requiring submission of a written report; specifying contents; requiring the Oklahoma Conservation Commission to assess agricultural and nonagricultural lands in Oklahoma for past and future carbon sequestration; requiring publication of report; authorizing certain contracts and application of and acceptance of gifts; creating the Carbon Sequestration Assessment Cash Fund; providing for expenditures and deposits; providing for regulation of emissions trading by the Department of Environmental Quality; amending Section 4, Chapter 215, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 6, Chapter 314, O.S.L. 1998 (27A O.S. Supp. 2000, Section 2-5-105), which relates to powers and duties of the Department of Environmental Quality; adding to duties; requiring submission of a written report; providing for codification; providing for noncodification; 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 3-4-101 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Carbon Sequestration Enhancement Act".

B. The Oklahoma Legislature finds that:

1. Increasing levels of carbon dioxide in the atmosphere have led to growing interest in national and international forums for implementing measures to slow and reverse the buildup of such

atmospheric constituents. These measures may include, but are not limited to, the establishment of systems of trading in carbon dioxide credits or adoption of practices, technologies, or other measures which decrease the concentration of carbon dioxide in the atmosphere;

2. Improved agricultural practices, soil and vegetation including trees, conservation practices, revegetation including reforestation activities and other methods of stewardship of soil and vegetation resources throughout the state have great potential to increase carbon sequestration and help offset the impact of carbon dioxide emissions on carbon dioxide concentrations in the atmosphere; and

3. It is in the interest of the public that the Oklahoma Conservation Commission document and quantify carbon sequestration associated with improved agricultural practices, soil and vegetation including trees, conservation practices, revegetation including reforestation activities, and other methods of stewardship of soil and vegetation resources, rangeland, and other agricultural and nonagricultural lands occurring on cropland in this state.

C. It is the intent of the Legislature that such efforts to document and quantify carbon sequestration on agricultural and nonagricultural lands within the state will enhance the ability of the state's landowners to participate in any system of carbon dioxide emissions marketing or trading that may be developed in the future.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-4-102 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Carbon Sequestration Advisory Committee. The Committee shall consist of the following members appointed by the Governor:

1. The Director of the Department of Agriculture or designee;

2. The Director of the Department of Environmental Quality or designee;

3. The Director of the Oklahoma Conservation Commission or designee;

4. One member representing the Natural Resources Conservation Service of the United States Department of Agriculture;

5. One member representing Oklahoma State University;

6. One member representing the Oklahoma Energy Board;

7. One member representing an entity which generates electrical energy and operates facilities/equipment associated with the transmission and distribution of electrical energy;

8. Two members who are producers of field crops at least one of whom actively employs a minimum tillage management system in his or her farming operation;

9. Two members who are producers of livestock at least one of whom is actively involved in range management;

10. One member with expertise in carbon dioxide emissions marketing or trading;

11. One member representing natural resources districts; and

12. One member representing the ethanol industry.

B. Members of the Committee shall serve without compensation but shall be reimbursed for their actual and necessary expenses as provided in the State Travel Reimbursement Act. The Oklahoma Conservation Commission shall provide space for meetings of the Committee and shall provide other assistance and staffing needs of the Committee.

C. The Carbon Sequestration Advisory Committee shall:

1. Advise and assist the Oklahoma Conservation Commission in preparing any reports required by this section and in conducting the assessment pursuant to Section 3 of this act;

2. Identify existing opportunities for Oklahoma agricultural and nonagricultural landowners to participate in any system of

carbon dioxide emissions marketing or trading that may be developed in the future, and to optimize the economic benefits to Oklahoma agricultural and nonagricultural landowners who participate in such carbon dioxide emissions trading transactions. Such policies or programs may include, but are not limited to, identifying existing or new nonprofit organizations or other public or private entities capable of serving as assemblers of carbon dioxide emissions credits or as intermediaries on behalf of agricultural and nonagricultural landowners in any carbon dioxide emissions trading or marketing system that may be developed in the future;

3. Encourage the production of educational and advisory materials regarding carbon sequestration and the opportunities to participate in any system of carbon dioxide emissions trading, or marketing that may be developed in the future; and

4. Identify and recommend areas of research needed to better understand and quantify the processes of carbon sequestration on agricultural and nonagricultural lands within the state.

D. On or before December 1, 2002, the Oklahoma Conservation Commission, in consultation with the Carbon Sequestration Advisory Committee, shall prepare a report to the Legislature. The report shall include, but not be limited to:

1. The potential for development of a voluntary system of carbon dioxide emissions trading or marketing for carbon sequestered on agricultural or nonagricultural lands in the state that could be used in the event carbon dioxide emissions regulations are adopted in the future;

2. Improved agricultural practices, soil and vegetation including trees, conservation practices, revegetation including reforestation activities, and other methods of stewardship of soil and vegetation resources which occur on agricultural and nonagricultural lands and which increase stored soil carbon and/or minimize carbon dioxide emissions associated with agricultural

practices and other types of activities that may generate carbon dioxide emissions;

3. Methods for measuring and modeling net carbon sequestration associated with improved agricultural practices, soil and vegetation including trees, conservation practices, revegetation including reforestation activities and other methods of stewardship of soil and vegetation resources which occur on agricultural and nonagricultural lands;

4. Areas of scientific uncertainty with respect to quantifying and understanding sequestration associated with improved agricultural practices, soil and vegetation conservation practices, revegetation activities, and other methods of stewardship of soil and vegetation resources occurring on agricultural and nonagricultural lands; and

5. Any recommendations of the Carbon Sequestration Advisory Committee developed pursuant to the Oklahoma Carbon Sequestration Enhancement Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-4-103 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. 1. The Oklahoma Conservation Commission shall, in consultation with the Carbon Sequestration Advisory Committee, assess agricultural and nonagricultural lands in this state for past carbon sequestration and future carbon sequestration potential.

2. The assessment shall seek to quantify carbon sequestration associated with improved agricultural practices, soil and vegetation including trees, conservation practices, revegetation including reforestation activities, and other methods of stewardship of soil and vegetation resources occurring on agricultural and nonagricultural lands in this state.

3. On or before January 1, 2003, the Commission shall publish a report of the findings. The Commission may, from time to time,

update such findings as advancements in understanding of the processes of carbon sequestration and new data become available.

B. The assessment required in subsection A of this section shall be conducted in a manner that provides a means for owners of land in this state to estimate past and future net carbon sequestration resulting from improved agricultural practices, soil and vegetation, including trees, conservation practices, revegetation including reforestation activities, and other methods of stewardship of soil and vegetation resources occurring on their property.

C. The Commission may contract and cooperate with the Natural Resources Conservation Service of the United States Department of Agriculture to conduct assessment activities provided for in this section.

D. The Commission may apply for and accept grants, gifts, or other sources of public and private funds to carry out the purposes of the Oklahoma Carbon Sequestration Enhancement Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-4-104 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The "Carbon Sequestration Assessment Cash Fund" is hereby created. The fund shall be used by the Oklahoma Conservation Commission to carry out the Oklahoma Carbon Sequestration Enhancement Act. The State Treasurer shall credit to the fund any money appropriated to the fund by the Legislature and any money received as gifts, grants, or other contributions from public or private sources obtained for the purposes of the Oklahoma Carbon Sequestration Enhancement Act.

SECTION 5. AMENDATORY Section 4, Chapter 215, O.S.L. 1992, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 6, Chapter 314, O.S.L. 1998 (27A O.S. Supp. 2000, Section 2-5-105), is amended to read as follows:

Section 2-5-105. The Department of Environmental Quality 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. Establish programs to regulate emissions marketing or trading of any kind, involving air emissions, or air and any other media which may sequester potential air emissions, and to regulate minor emission sources; 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 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

On or before December 1, 2002, the Department of Environmental Quality shall prepare a report to the Legislature. The report shall include, but not be limited to, the potential for development of a system or systems of carbon emissions trading or markets for carbon sequestration on agricultural and nonagricultural lands.

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.

48-1-6475 KSM 6/12/15