

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1410

By: Henry of the Senate

and

Begley of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to waters and water rights and state government; establishing a three-year moratorium on sale or exportation of water outside of Oklahoma by certain public entities; providing exceptions; providing for construction; amending 74 O.S. 2001, Section 1221, which relates to the Joint Committee on State-Tribal Relations; requiring certain cooperative agreements to be effective only upon the approval of the Oklahoma Legislature; requiring consent of Legislature; providing for legislative intent; specifying purpose; establishing moratorium on state or tribal compact or intergovernmental cooperative agreement apportioning surface water or groundwater ownership or authorizing or implementing sale or exportation of certain water outside this state for certain time period; stating effective date of moratorium; creating the Joint Committee on Water Planning; specifying purpose; specifying duties; providing for appointment and composition; providing for meetings; requiring public meetings; setting certain time lines; authorizing subcommittees; providing for reimbursement; providing for staffing; providing for report; providing for codification; 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 1B of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In order to provide for the conservation, preservation, protection and optimum development and utilization of surface water and groundwater within Oklahoma, the Legislature hereby establishes a moratorium on the sale or exportation of surface water and/or groundwater outside this state pursuant to the provisions of this

section for a three-year period beginning on the effective date of this act, unless earlier repealed or revoked by the Oklahoma Legislature.

B. Subject to the moratorium set by subsection A of this section, no state agency, authority, board, commission, committee, department, trust or other instrumentality of this state or political subdivision thereof, nor elected or appointed officer, member of any governing body or other person designated to act for an agency or on behalf of the state, or a political subdivision thereof shall contract for the sale or exportation of surface water or groundwater outside the state, or sell or export surface water or groundwater outside the state without the consent of the Oklahoma Legislature specifically authorizing such sale or export of water.

C. Nothing in this section shall be construed as affecting or intending to affect:

1. Any contract for the sale or exportation of surface water or groundwater outside the state executed prior to the effective date of this act which has received legislative approval or was executed pursuant to law, provided such sale or exportation of surface water or groundwater does not exceed eight million (8,000,000) gallons of water per month; or

2. Water contained in agricultural crops, animal and dairy products, beverages, or processed or manufactured products or to products transported in cans, bottles, packages, kegs, or barrels.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 1221, is amended to read as follows:

Section 1221. A. The State of Oklahoma acknowledges federal recognition of Indian Tribes recognized by the Department of Interior, Bureau of Indian Affairs.

B. The State of Oklahoma recognizes the unique status of Indian Tribes within the federal government and shall work in a spirit of cooperation with all federally recognized Indian Tribes in

furtherance of federal policy for the benefit of both the State of Oklahoma and Tribal Governments.

C. 1. The Governor, or ~~his~~ named designee, is authorized to negotiate and enter into cooperative agreements on behalf of this state with federally recognized Indian Tribal Governments within this state to address issues of mutual interest. ~~Such~~ Except as otherwise provided by this subsection, such agreements shall become effective upon approval by the Joint Committee on State-Tribal Relations.

2. If ~~such~~ the cooperative agreements specified and authorized by paragraph 1 of this subsection involve trust responsibilities, approval by the Secretary of the Interior or ~~his~~ designee shall be required.

3. Any cooperative agreement specified and authorized by paragraph 1 of this subsection involving the surface water and/or groundwater resources of this state or which in whole or in part apportions surface and/or groundwater ownership shall become effective only upon the consent of the Oklahoma Legislature authorizing such cooperative agreement.

D. 1. The governing board of ~~the~~ a political subdivision of this state is authorized to negotiate and enter into intergovernmental cooperative agreements in behalf of the political subdivision, with ~~the~~ a federally recognized Indian Tribal ~~Governments~~ Government within this state to address issues of mutual interest. ~~Such~~ Except as otherwise provided by this subsection, such agreements shall be effective upon approval by the Joint Committee on State-Tribal Relations and the Governor, or ~~his~~ named designee; ~~provided, agreements.~~

2. Agreements for juvenile detention facilities made pursuant to Section 1108 of Title 10 of the Oklahoma Statutes shall become effective upon approval by the board of county commissioners. ~~Provided, further agreements~~

3. Any cooperative agreement specified and authorized by paragraph 1 of this subsection involving the surface water and/or groundwater resources of this state shall become effective only upon the consent of the Oklahoma Legislature authorizing such cooperative agreement.

4. Agreements between the Military Department of the State of Oklahoma and an Indian tribe for the management or operation of a juvenile facility shall not be subject to the requirements of this section.

E. An executed original of every agreement approved pursuant to this section shall be filed with the Secretary of State.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1221.A of Title 74, unless there is created a duplication in numbering, reads as follows:

In order to provide for the conservation, preservation, protection and optimum development and utilization of surface water and groundwater within this state, the Legislature hereby establishes a moratorium on any state or tribal compact or any intergovernmental cooperative agreement, authorized pursuant to law, which is drafted in whole or in part to apportion surface water or groundwater ownership, or authorize or otherwise implement any sale or exportation of surface water or groundwater outside this state, except as authorized by the provisions of this act. Such moratorium shall begin on the effective date of this act and remain in effect for a three year period unless earlier repealed or revoked by the Legislature.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1C of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Joint Committee on Water Planning.

B. The purpose of the Committee shall be to study, investigate, examine and analyze issues relating to a comprehensive statewide water study and plan, and to consider and make recommendations to the Legislature regarding:

1. Principles in developing a public policy for protection, management, conservation, development and utilization of water resources of this state;

2. The existing conditions concerning waters of the state and its uses for all purposes within the State of Oklahoma;

3. The infrastructure needs of Oklahoma's communities;

4. The long-term sustainability of Oklahoma's water supply;

5. The methods for developing, managing, protecting and conserving water resources of the state but which allow for economic growth and development;

6. Review beneficial uses of water which reflect the public interest of the entire state while protecting the property rights of Oklahoma citizens. When reviewing beneficial uses of water, due consideration shall be given to alternatives which allow maximum sustainable growth in Oklahoma while protecting all designated beneficial uses of water, promoting conservation and prudent use, prioritizing public health and welfare considerations, protecting the rights of citizens and the water rights of Oklahoma citizens, in particular the water rights of the citizens in the basins of origin, protecting natural ecosystems, and encouraging methods for voluntary redistribution of excess or surplus water to Oklahoma regions and citizens with inadequate supplies;

7. The state and federal statutory and case law which may impact the development, management, conservation and use of Oklahoma water;

8. Regional or statewide systems for the orderly development, management, conservation and use of water resources of the entire

state. For this purpose, the Committee shall recommend either the creation of regional plans or a statewide plan;

9. Various water management strategies including: improved conservation, reuse and management of existing water supplies, acquisition of available existing water supplies, development of new water supplies, and preparation for and response to drought conditions in order that sufficient water at the highest quality possible will be available at a reasonable cost to Oklahoma residents to ensure public health, safety and welfare, further economic development and to protect the agricultural, recreational and natural resources;

10. Cooperative arrangements with other states;

11. The definition of "excess and surplus water of this state" including water quality and water quantity. In determining the definition of excess and surplus water of the state, the Committee shall be guided by the principles and policies regarding the waters of this state enumerated in the Oklahoma Statutes including, but not limited to, Section 1084.1 of Title 82 of the Oklahoma Statutes;

12. The process for determining "excess and surplus" water;

13. The out-of-basin and out-of-state water sales and/or transfers;

14. Potential local, state, and federal funding sources for development of a comprehensive statewide water study and plan;

15. The advice of representatives of the United States Army Corps of Engineers, the Bureau of Reclamation, the Natural Resources Conservation Service, United States Geological Survey, United States Fish and Wildlife Service, and other appropriate federal agencies, as well as representatives of state agencies involved in tourism, environmental quality, parks, fish and wildlife, recreation, conservation, public health, agriculture, public utilities and industrial development;

16. The review of water usage in this state;

17. Uniform data regarding the collection, analysis, interpretation and use of information on water quality and water quantity data; and

18. Such other areas concerning state water resources as deemed necessary by the Committee.

C. The Committee shall be composed of nineteen (19) legislative members as follows: seven members of the Oklahoma House of Representatives shall be appointed by the Speaker of the House of Representatives, seven members of the Oklahoma Senate shall be appointed by the President Pro Tempore of the Senate, and five legislative members appointed by the Governor.

D. Members shall be appointed after the 1st day of the 1st Session of the 49th Oklahoma Legislature and no later than the last day of February 2003. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a legislative member to serve as co-chair of the Committee. The co-chairs of the Committee shall convene a meeting of the Committee within thirty (30) days of the effective date of the appointments. The membership of the Committee shall determine a meeting schedule by majority approval of the Committee. A majority of the members present at a meeting shall constitute a quorum. All meetings of the Committee shall be open to the public and shall be held in accordance with the Oklahoma Open Meeting Act.

E. The Committee shall be staffed by the staff of the Oklahoma House of Representatives and the Oklahoma State Senate and by any other state agency staff as deemed necessary by the Committee.

F. The work of the Committee shall be finalized no later than January 15, 2005, and any written recommendations of the Committee shall be made available to the public and delivered to each member of the Oklahoma Legislature by February 1, 2005.

G. The co-chairs of the Committee may appoint subcommittees as deemed necessary from the members of the Committee for the purpose

of carrying out its duties pursuant to the provisions of this section.

H. Legislative members of the Committee shall receive reimbursement from the house in which they serve pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

SECTION 5. 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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