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THE STATE SENATE  
Monday, April 8, 2002

ENGROSSED

House Bill No. 1980

ENGROSSED HOUSE BILL NO. 1980 - By: LEIST of the House and EASLEY of the Senate.

An Act relating to the environment and natural resources; amending 27A O.S. 2001, Sections 2-3-101, 2-3-102, 2-3-103 and 2-3-104, which relate to the Department of Environmental Quality; clarifying changes; changing names of certain programs; removing statutory name of certain offices; modifying structure of the Department; modifying content of certain reports; modifying powers and duties; removing certain authority and duties; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-3-101, is amended to read as follows:

Section 2-3-101. A. ~~1.~~ There is hereby created the Department of Environmental Quality.

B. Within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality, through its duly designated employees or representatives, shall have the power and duty to:

- 1. Perform such duties as required by law; and
- 2. Be the official agency of the State of Oklahoma, as designated by law, to cooperate with federal agencies for point source pollution, solid waste, hazardous materials, pollution,

1 Superfund, water quality, hazardous waste, radioactive waste, air  
2 quality, drinking water supplies, wastewater treatment and any other  
3 program authorized by law or executive order.

4 C. Any employee of the Department in a technical, supervisory  
5 or administrative position relating to the review, issuance or  
6 enforcement of permits pursuant to this Code who is an owner,  
7 stockholder, employee or officer of, or who receives compensation  
8 from, any corporation, partnership, or other business or entity  
9 which is subject to regulation by the Department of Environmental  
10 Quality shall disclose such interest to the Executive Director.  
11 Such disclosure shall be submitted for Board review and shall be  
12 made a part of the Board minutes available to the public. This  
13 subsection shall not apply to financial interests occurring by  
14 reason of an employee's participation in the Oklahoma State  
15 Employees Deferred Compensation Plan or publicly traded mutual  
16 funds.

17 D. The Executive Director, Deputy Director, and all other  
18 positions and employees of the Department at the Division Director  
19 level or higher shall be in the unclassified service.

20 E. The following programs are hereby established within the  
21 Department of Environmental Quality:

22 1. An air quality program which shall be responsible for air  
23 quality;

1           2. Water programs which shall be responsible for water quality,  
2 including, but not limited to point source and nonpoint source  
3 pollution within the jurisdiction of the Department, public and  
4 private water supplies, public and private wastewater treatment,  
5 water protection and discharges to waters of the state;

6           3. ~~Waste management~~ Land protection programs which shall be  
7 responsible for hazardous waste, solid waste, radiation, and  
8 municipal, industrial, commercial and other waste within its  
9 jurisdictional areas of environmental responsibility pursuant to  
10 Section 1-3-101 of this title; and

11           4. Special projects and services programs which shall be  
12 responsible for duties related to planning, interagency  
13 coordination, technical assistance programs, laboratory services and  
14 laboratory certification, recycling, education and dissemination of  
15 information.

16           F. Within the Department there are hereby created:

17           1. ~~The Office of Complaints, Investigation and Mediation~~  
18 complaints program which shall be responsible for intake processing,  
19 investigation, mediation and conciliation of inquiries and  
20 complaints received by the Department and which shall provide for  
21 the expedient resolution of complaints within the jurisdiction of  
22 the Department; and

1           2. ~~The Office of Business Assistance~~ customer assistance  
2 program which shall be responsible for advising and providing to  
3 licensees, permittees and those persons ~~desiring to obtain a license~~  
4 ~~or permit, the necessary forms and the information necessary to~~  
5 ~~comply with the Oklahoma Environmental Quality Code. The Office of~~  
6 ~~Business Assistance shall intercede with other divisions or offices~~  
7 ~~of the Department to assist businesses and other state agencies in~~  
8 ~~complying with state statutes and rules governing environmental~~  
9 ~~areas;~~

10           3. ~~The Office of Local Government Assistance which shall be~~  
11 ~~responsible for advising and providing to licensees, permittees and~~  
12 representing businesses or those persons associated with and  
13 representing local political subdivisions desiring a license or  
14 permit, the necessary forms and the information necessary to comply  
15 with the Oklahoma Environmental Quality Code. The Office of Local  
16 ~~Government Assistance~~ customer assistance program shall ~~intercede~~  
17 coordinate with other ~~divisions or offices~~ programs of the  
18 Department to assist businesses and municipalities in complying with  
19 state statutes and rules governing environmental areas~~;~~.

20           4. ~~The Office of Citizen Assistance which~~ customer assistance  
21 program shall also be responsible for advising and providing  
22 assistance to persons desiring information concerning the

1 Department's rules, laws, procedures, licenses or permits, and forms  
2 used to comply with the Oklahoma Environmental Quality Code, ~~and~~.

3 ~~5. G. The Office of Administrative Hearings which shall have~~  
4 ~~primary responsibility for conducting individual proceedings~~  
5 Department shall be responsible for holding administrative hearings  
6 as defined in Section 2-1-102 of this title and shall provide  
7 support services related to them, including, but not limited to,  
8 ~~maintenance of records, giving required notices, docketing and~~  
9 ~~scheduling, and for conducting, upon request, administrative~~  
10 ~~rulemaking hearings. The Office of Administrative Hearings shall be~~  
11 ~~maintained separate and apart from any legal division or office of~~  
12 ~~General Counsel of the Department~~ maintaining the docket, scheduling  
13 hearings, and maintaining legal records.

14 ~~G. H.~~ 1. The Department shall prepare and submit an annual  
15 report assessing the status of the Department's programs to the  
16 Board, the Governor, the President Pro Tempore of the State Senate,  
17 and the Speaker of the Oklahoma House of Representatives by January  
18 1 of each year. The annual status report shall include: the number  
19 of environmental inspections made within the various regulatory  
20 areas under the Department's jurisdiction; the number of permit  
21 applications submitted within the various regulatory areas under the  
22 Department's jurisdiction; the number of permits issued within the  
23 various regulatory areas under the Department's jurisdiction; the

1 number and type of complaints filed with the Department; the number  
2 of resolved and unresolved Department complaints; a list of any  
3 permits and complaints which failed to be either completed or  
4 resolved within the Department's established time frames and an  
5 explanation of why the Department was unable to meet said time  
6 frames; the number and kinds of services provided corporations,  
7 businesses, cities, towns, schools, citizen groups and individuals  
8 by the ~~Offices of Business Assistance, Local Government Assistance,~~  
9 ~~and Citizen Assistance~~ customer assistance programs; a summary of  
10 the Department's environmental education efforts; the number and  
11 type of administrative hearings held and their outcomes; a detailed  
12 description of any promulgated and pending emergency or permanent  
13 rules requested by the Department and the current status of pending  
14 rules within the rulemaking process; the number of notices of  
15 violations issued by the Department within the various regulatory  
16 areas under its jurisdiction; the amount of penalties collected by  
17 the Department within the various regulatory areas under its  
18 jurisdiction; and any other information which the Department  
19 believes is pertinent.

20 2. Beginning January 1, 1995, and on or before January 1 of  
21 every year thereafter, the Department shall prepare an Oklahoma  
22 Environmental Quality Report which outlines the Department's ~~two-~~  
23 ~~year~~ annual needs for providing environmental services within its

1 jurisdictional areas. The report shall reflect any new federal  
2 mandates, ~~such mandates' estimated costs,~~ and any state statutory or  
3 constitutional changes recommended by the Department within its  
4 jurisdictional areas. The Oklahoma Environmental Quality Report  
5 shall be reviewed, amended, and approved by the Board. The  
6 Department shall transmit an approved copy of the Oklahoma  
7 Environmental Quality Report to the Governor, President Pro Tempore  
8 of the State Senate, and Speaker of the House of Representatives.

9 3. The Executive Director shall establish such divisions and  
10 such other programs and offices as the Executive Director may  
11 determine necessary to implement and administer programs and  
12 functions within the jurisdiction of the Department pursuant to the  
13 Oklahoma Environmental Quality Code.

14 H. I. 1. The Department may contract with ~~the other state~~  
15 ~~environmental agencies or the local conservation districts~~  
16 governmental entities to provide environmental services ~~to the~~  
17 ~~maximum extent possible.~~ Such contracts may include duties related  
18 to providing information to the public regarding state environmental  
19 services, resources, permitting requirements and procedures based  
20 upon the ability, education and training of state environmental  
21 agency ~~or local conservation district~~ employees.

22 2. The Department, in conjunction with the state environmental  
23 agencies, may develop a program for the purpose of training ~~state~~

1 ~~environmental agency or local conservation district~~ government  
2 employees to provide any needed environmental services.

3 ~~3. Environmental services to be provided by other state~~  
4 ~~environmental agencies or by local conservation districts shall not~~  
5 ~~include; provided, that the investigation of complaints regarding,~~  
6 or inspections of, permitted sites or facilities shall not be  
7 performed by employees of other agencies, unless otherwise  
8 authorized by law.

9 ~~4. In order to promote efficiency in state government and~~  
10 ~~maximize services to rural citizens, the Department of Environmental~~  
11 ~~Quality and the Oklahoma State Department of Health may contract~~  
12 ~~between the agencies to provide services as may be needed. In~~  
13 ~~performing any services pursuant to such a contract, the Oklahoma~~  
14 ~~Department of Health shall be deemed to be a state environmental~~  
15 ~~agency for purposes of fulfilling environmental program and function~~  
16 ~~duties and responsibilities specified by such contracts between the~~  
17 ~~Oklahoma Department of Health and the Department of Environmental~~  
18 ~~Quality.~~

19 ~~5. The Department of Environmental Quality may contract as~~  
20 ~~needed with the City-County Health Department of Oklahoma County and~~  
21 ~~the Tulsa City-County Health Department for performance of~~  
22 ~~environmental services within the jurisdictional areas of~~  
23 ~~responsibility of the Department of Environmental Quality.~~

1 SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-3-102, is  
2 amended to read as follows:

3 Section 2-3-102. The Customer Services Division of the  
4 Department of Environmental Quality which includes, but is not  
5 limited to, the ~~Offices of Business Assistance, Local Government~~  
6 ~~Assistance and Citizen Assistance~~ customer assistance program, in  
7 addition to responsibilities specified by Section 2-3-101 of this  
8 title and assigned to such Division ~~or Offices~~ by the Executive  
9 Director, shall:

10 1. Establish and maintain an information and referral system to  
11 assist the public in understanding and complying with state and  
12 local governmental requirements concerning the use of natural  
13 resources and protection of the environment. The system shall  
14 provide a telephone information service and disseminate printed  
15 materials;

16 2. Standardize permits in coordination with the Board and the  
17 Department;

18 3. Identify the public information procedures currently  
19 associated with each permit program;

20 4. Provide for the ~~posting~~ statewide distribution of the  
21 telephone number of the ~~Offices of Business Assistance, Local~~  
22 ~~Government Assistance and Citizen Assistance at offices of the~~

1 ~~county commissioners, municipal offices and other public information~~  
2 ~~centers~~ customer assistance program; and

3 5. Maintain copies of all current rules of the Department.

4 SECTION 3. AMENDATORY 27A O.S. 2001, Section 2-3-103, is  
5 amended to read as follows:

6 Section 2-3-103. ~~1. A.~~ A. The Department shall employ one or more  
7 Administrative Law Judges ~~within the Office of Administrative~~  
8 ~~Hearings~~ to conduct individual proceedings, ~~preside over rulemaking~~  
9 ~~hearings on behalf of the Board or Councils, upon request,~~ and  
10 perform such other duties as are assigned to them by the Executive  
11 Director which are not inconsistent with their statutory duties.

12 ~~2. B.~~ B. Each Administrative Law Judge shall:

13 ~~a.~~ a. have

14 1. Have a general knowledge of the contaminants, pollutants,  
15 wastes and other materials which are regulated by the Oklahoma  
16 Environmental Quality Code~~;~~i

17 ~~b.~~ b. have

18 2. Have a working knowledge of the laws and rules under this  
19 Code~~;~~i

20 ~~c.~~ c. be

21 3. Be currently licensed to practice law by the Supreme Court  
22 of this state~~;~~i and

23 ~~d.~~ d. ~~not~~

1        4. Not be an owner, stockholder, employee or officer of, nor  
2 have any other business relationship with, any corporation,  
3 partnership, or other business or entity that is subject to  
4 regulation by the Department.

5        ~~3.~~ C. Individual proceedings shall be conducted in compliance  
6 with Article II of the Administrative Procedures Act, this Code and  
7 rules promulgated thereunder.

8        SECTION 4.        AMENDATORY        27A O.S. 2001, Section 2-3-104, is  
9 amended to read as follows:

10        Section 2-3-104. A. ~~The Office of Complaints, Investigation~~  
11 ~~and Mediation~~ complaints program shall, in addition to the  
12 responsibilities specified by Section ~~16~~ 2-3-101 of this ~~act~~ title,  
13 refer, upon written request, all complaints in which one of the  
14 complainants remains unsatisfied with the Department's resolution of  
15 said complaint to an outside source trained in mediation.  
16 Complainants and persons named in the complaint shall be made aware  
17 that participation in the mediation process conducted by the outside  
18 source is completely voluntary and confidential. Fulfillment of any  
19 agreements reached in mediation shall be up to the parties of the  
20 dispute. Participation in the mediation process shall not hinder or  
21 interfere with any enforcement action taken by the Department.  
22 Mediation may run parallel to any enforcement action. Participation

1 by a complainant in the mediation process shall not preclude such  
2 complainants from seeking other relief provided by law.

3 B. The ~~Office of Complaints, Investigation and Mediation~~  
4 complaints program shall maintain a roster of certified mediators  
5 which will be available to the public.

6 C. The ~~Office of Complaints, Investigation and Mediation~~  
7 complaints program shall document the outcome of mediations to  
8 determine compliance with mediated agreements and for documentation  
9 of program success.

10 SECTION 5. It being immediately necessary for the preservation  
11 of the public peace, health and safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, ENVIRONMENTAL RESOURCES &  
15 REGULATORY AFFAIRS, dated 4-4-02 - DO PASS.