

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2419

By: Pope (Clay)

AS INTRODUCED

An Act relating to waters and water rights; creating the Oklahoma Comprehensive State Water Plan Act; amending 82 O.S. 2001, Section 1086.1 and 1086.2, which relate to the Oklahoma Comprehensive State Water Plan Act; requiring completion of certain studies and surveys prior to any out-of-state sale or transfer of state waters; providing for collection of information concerning water resources in the state; requiring cooperation and assistance; requiring water supply model for certain state areas; setting time period; providing for contents; requiring notice; 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 1086 of Title 82, unless there is created a duplication in numbering, reads as follows:

Sections 1086.1 through 1086.6 of Title 82 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Comprehensive State Water Plan Act".

SECTION 2. AMENDATORY 82 O.S. 2001, Section 1086.1, is amended to read as follows:

Section 1086.1 A. All of the people have a primary interest in the orderly and coordinated control, protection, management, conservation, development and utilization of the water resources of the state. The people residing within areas where waters originate benefit from the optimum development and utilization of water within the area of origin. The people in water deficient areas benefit by being able to use excess and surplus waters.

B. The policy of the State of Oklahoma is to encourage the use of surplus and excess water to the extent that the use thereof is

not required by people residing within the area where such water originates.

C. In order to maximize the alternatives available for the use and benefit of the public and water-user entities and for the use and benefit of the public and for the general welfare and future economic growth of the state, it is therefore the purpose of ~~this act~~ the Oklahoma Comprehensive State Water Plan Act to provide means for the expeditious and coordinated preparation of a comprehensive state water plan and decennial updates thereof for submission to the Legislature providing for the management, protection, conservation, structural and nonstructural development and utilization of water resources of this state, in accordance with the following principles:

1. Multiple-purpose dams and reservoir sites, both existing and planned or under construction as of the ~~effective date of this act or amendment thereof~~ Oklahoma Comprehensive State Water Plan Act, within the area where excess or surplus water originates and elsewhere, should be utilized to the maximum;

2. Water should be stored during periods of surplus supply for use during periods of short supply; such storage should be in the area of usage. In such cases where storage in the area of origin may be permitted, the purchasing entities shall pay to the county of origin, in lieu of ad valorem taxes and as part of the total cost of the purchase of the water, an amount computed by averaging the tax on land similar to the land taken off the tax rolls as a result of the construction of such storage facilities within the county of origin;

3. Water use within Oklahoma should be developed to the maximum extent feasible for the benefit of Oklahoma so that out-of-state downstream users will not acquire vested rights therein to the detriment of the citizens of this state;

4. Only excess or surplus water should be utilized outside of the areas of origin and citizens within the areas of origin have a prior right to water originating therein to the extent that it may be required for beneficial use therein;

5. All citizens, municipalities and other water-user entities in need of water for beneficial use shall be entitled to appropriate water and vest rights therein in accordance with priorities as provided by law, and shall be entitled to cause same to be made available to the water user in the most practicable and feasible manner; and

6. Statutory power of the Oklahoma Water Resources Board in the granting of water rights to those citizens, municipalities and other water-user entities who utilize such water for beneficial use shall be preserved.

~~B.~~ D. 1. The exercise of the powers granted by ~~this act~~ the Oklahoma Comprehensive State Water Plan Act are in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity and for the improvement of their health and living conditions.

2. The primary purpose governing all exercise of powers ~~hereunder~~ pursuant to the Oklahoma Comprehensive State Water Plan Act shall be to maximize and not to minimize the alternatives available to all citizens, municipalities and other water-user entities in acquiring water for beneficial use.

SECTION 3. AMENDATORY 82 O.S. 2001, Section 1086.2, is amended to read as follows:

Section 1086.2 A. For the purpose of effectuating the provisions of ~~this act~~ the Oklahoma Comprehensive State Water Plan Act and the policy established in Section 1086.1 of this title, the Oklahoma Water Resources Board is hereby authorized, empowered and directed to:

1. ~~To prepare~~ Prepare a comprehensive state water plan and decennial updates thereof for submission to the Legislature and, in connection therewith, to conduct surveys and cooperate with other state and federal agencies.

a. Such comprehensive state water plan and the parts and portions thereof shall be submitted in final and completed form not later than September 1, 1975, and, in addition to the foregoing requirements, shall include a definition of "excess and surplus water of this state" and a recommended procedure for determining "excess and surplus water of this state," which definition and procedure are to be developed to insure that the area of origin will never be made water deficient.

b. The Water Resources Board shall permit representatives of the United States Army Corps of Engineers, the Bureau of Reclamation, the Soil Conservation Service and other appropriate federal agencies, as well as representatives of state agencies involved in tourism, parks, fish and wildlife, recreation, soil conservation, public health, agriculture, public utilities and industrial development to participate to the extent of their authority and capacity in the development of the comprehensive state water plan.

c. The Water Resources Board shall prepare such plan and updates in printed form. Upon completion thereof, the plan shall be submitted to the Oklahoma Legislature not later than September 1, 1975. The Board is not authorized to implement the plan or any part or update thereof except by express authorization and consent of the Legislature.

d. The first decennial update shall be prepared and submitted to the Legislature no later than September 1, 1995. Thereafter, updates shall be prepared and likewise submitted no later than September 1 of the fifth year following the taking of the Federal Decennial Census.

~~Work on the first update shall begin with the passage and approval of this act. After completion of the first update, work on subsequent updates shall remain continuous and ongoing throughout the ten-year periods between submission of the updates.~~

2. ~~To adopt~~ Adopt such rules ~~and regulations~~ as may be necessary to effectuate the purposes of ~~this act.~~ the Oklahoma Comprehensive State Water Plan Act;

3. ~~To make~~ Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers ~~under this act.~~ pursuant to the Oklahoma Comprehensive State Water Plan Act;

4. ~~To receive~~ Receive and accept from the State of Oklahoma or the United States of America or any agency or instrumentality thereof grants of funds and to receive and accept aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such grants and contributions may be made.

5. ~~To expend~~ Expend income and funds of the Board in the exercise of any or all of the powers granted to the Board under the provisions of ~~this act.~~ the Oklahoma Comprehensive State Water Plan Act; and

6. ~~To cooperate~~ Cooperate with all state institutions, agencies, departments, boards and officers in all matters relating to its duties; and all state institutions, agencies, departments, boards and officers are hereby authorized and directed to cooperate with the Board.

B. Prior to the execution of any contract by the Board for the out-of-state sale or transfer of any waters of the state, the Board shall study, investigate and survey the occurrence, quantity, quality and availability of the surface water of this state. For these purposes, the Board shall collect, receive, analyze, and process basic data and summary information concerning water resources of the state from public and private sources. All agencies of this state, including the institutions of higher learning, that collect water data or information or possess data concerning the water resources of this state shall make such data available to the Board and cooperate with and assist the Board in the collection, analysis, processing and receipt of such data, and in the development of a coordinated, efficient and effective statewide water resource data collection and dissemination network.

C. 1. No later than February 1, 2004, the Board shall develop a water supply model for the six basins in the twenty-two-county region located in southeast Oklahoma near the town of Sallisaw to the town of Hugo, Oklahoma. The model shall encompass to the extent practicable the significant water demands within the watersheds of the basins as well as the unique geology and hydrology of the regions. The Board shall collect data from all jurisdictions that allocate the waters of the watersheds including jurisdictions outside this state.

2. Within ninety (90) days of completing the water availability model required by this subsection, the Board shall provide to all holders of existing permits, and filings in each of the watersheds, the projected amount of water that would be available during a drought of record.

SECTION 4. 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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