

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1305

By: Easley

AS INTRODUCED

An Act relating to waters and water rights; amending 11 O.S. 2001, Section 37-119, which relates to wholesale water contracts; stating procedures for certain wholesale water sales between municipalities and rural water districts or other wholesale water purchasers; providing for water rates based on certain criteria; prohibiting municipalities from subsidizing certain public services or proprietary functions; providing for separate accounting; providing for contractual rates to be nondiscriminatory; stating provisions for rationing water; prohibiting certain elements from inclusion in wholesale water contracts; providing certain notice prior to termination of contract; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 37-119, is amended to read as follows:

Section 37-119. A. All contracts for the wholesale sale ~~or furnishing of water from a source obtained by or on behalf of a municipality by permit or prior right under state law or by general obligation bonds~~ between a municipality or its public trust and a rural water district organized pursuant to Section 1324.2 of Title 82 of the Oklahoma Statutes, a non-profit corporation as defined in Section 1324.2 and Section 1324.30 of Title 82 of the Oklahoma Statutes and any other wholesale water purchaser shall be made ~~in the name of the municipality as provided for by statute or by charter~~ pursuant to written contracts in compliance with the provisions of this act.

B. ~~All such water sold and furnished to persons or public or private entities outside the corporate limits of the municipality~~

~~shall be sold and furnished upon written contracts which~~ Wholesale water rates shall be based on the actual direct cost of the municipality or its public trust for water supply, treatment and delivery of water to the wholesale water purchaser plus a reasonable margin of profit. The municipality or its public trust shall not include expenses for its public services or other proprietary endeavors in its wholesale water rates. The municipality or its public trust shall not subsidize its public services or other proprietary endeavors by its wholesale water rates, except by use of its margin of profit. The municipality or its public trust shall use an accounting method which clearly delineates the actual direct cost for water supply, treatment and delivery of water to the wholesale water purchaser. The account shall be separately kept from the accounts for all other public services and proprietary functions. Such accounting shall be subject to the Oklahoma Open Records Act and shall be made freely available to any person requesting such accounting. The contracts shall provide for an annual review of the municipality's or its public trust's costs and shall provide for contract modification of the wholesale rates to permit the rates to be increased or decreased to the purchasers as appropriate. Any The contractual rates and any modification shall be nondiscriminatorily allocated between the municipality's customers and the purchaser. Provided, however, that only those costs that are attributable to maintaining the ability of the municipality to provide water service to the purchaser shall be included in purchaser's rates nondiscriminatory.

C. ~~The contracts shall provide that the persons or public or private entities~~ wholesale purchaser's retail customers located outside the corporate limits of the municipality shall be subject to a rationing program consistent with any rationing program ordered by the municipality or its public trust for its retail water customers located inside the municipality.

D. The following contractual provisions shall be prohibited from being included in any wholesale water contract entered into on or after the effective date of this act:

1. Buyout or takeover provisions of the wholesale purchaser's facilities, customers or service areas;

2. Waiver of statutory rights, privileges or protections;

3. Requirements that the wholesale purchaser collect fees for services not rendered by the wholesale purchaser;

4. Requirement that the wholesale purchaser build its facilities to codes or specifications beyond those required by the Department of Environmental Quality, or state or federal law unless such facility codes or specifications are necessary to maintain the integrity of the seller's system; or

5. Contract terms and provisions which are not directly related to the purchase of wholesale water.

E. Wholesale water contracts made pursuant to the provisions of this section shall not be terminated without adequate prior notice of not less than twenty-four (24) months.

SECTION 2. This act shall become effective July 1, 2002.

SECTION 3. 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.

48-2-2265

MJM

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