

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1051

By: Pope and Liotta of the  
House

and

Price of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the environment and natural resources; amending 27A O.S. 2001, Sections 3-4-101, 3-4-102, as amended by Section 1, Chapter 273, O.S.L. 2002, 3-4-103 and Section 2, Chapter 273, O.S.L. 2002 (27A O.S. Supp. 2002, Sections 3-4-102 and 3-4-105), which relate to the Oklahoma Carbon Sequestration Enhancement Act; requiring and adding information related to the use of marginally producing oil and/or gas wells and abandoned oil and/or gas wells; modifying findings and intent; modifying contents of reports; modifying applicant qualifications; adding to membership of the Carbon Sequestration Advisory Committee; modifying term; adding to duties of the Oklahoma Conservation Commission; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 3-4-101, is amended to read as follows:

Section 3-4-101. A. This ~~act~~ article 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, including, but not limited to, soil and vegetation including trees, improved natural resources conservation practices, including, but not limited to, vegetation, revegetation including, forestation and reforestation activities on rangeland and other agricultural and nonagricultural lands, improved practices for the capture and sequestration of carbon dioxide emissions through carbon dioxide injection in marginally producing oil and/or gas wells and abandoned oil and/or gas wells and other improved methods of stewardship of soil and vegetation for Oklahoma's natural 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~~ citizens of this state that the Oklahoma Conservation Commission document and quantify carbon sequestration associated with improved agricultural practices, ~~soil and vegetation including trees,~~ improved natural resources conservation practices, revegetation including reforestation activities, and associated with other methods of improved stewardship of soil and vegetation for Oklahoma's natural resources, on rangeland, and other agricultural and nonagricultural lands occurring on cropland in this state, and associated with the capturing and sequestration of carbon dioxide emissions through carbon dioxide injection in marginally producing oil and/or gas wells and abandoned oil and/or gas wells.

C. It is the intent of the Legislature that such efforts to document and quantify carbon sequestration on agricultural and nonagricultural lands and the capturing and sequestration of carbon dioxide emissions through carbon dioxide injection in marginal oil and/or gas wells and abandoned oil and/or gas wells within the state

will enhance the ability of the state's landowners, well owners and mineral owners to participate in any system of carbon dioxide emissions marketing or trading that may be developed in the future.

SECTION 2. AMENDATORY 27A O.S. 2001, Section 3-4-102, as amended by Section 1, Chapter 273, O.S.L. 2002 (27A O.S. Supp. 2002, Section 3-4-102), is amended to read as follows:

Section 3-4-102. 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 an agri-business that does business and trading with farmers and ranchers and is involved with day-to-day merchandising in agricultural products;

12. One member representing conservation districts in this state;

13. One member representing the ethanol industry;

14. One member representing electric cooperatives in this state designated by the industry; ~~and~~

15. The Director of the Oklahoma Climatological Survey; and

16. One member representing production agriculture who is actively engaged in carbon-based energy and wildlife-related activities to be designated by the Director of the Conservation Commission.

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, subject to availability of appropriations, 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 3-4-103 of this title;

2. Identify existing opportunities for Oklahoma agricultural and nonagricultural landowners, owners of marginally producing oil and/or gas wells and mineral owners 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, owners of marginally producing oil and/or gas wells and mineral owners 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, owners of marginally producing oil and/or gas wells and mineral owners 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 and through the use of marginally producing oil and/or gas wells and abandoned oil and/or gas wells within the state.

D. On or before December 1, ~~2002~~ 2003, the Oklahoma Conservation Commission, in consultation with the Carbon Sequestration Advisory Committee, shall prepare ~~a~~ an updated report to the Legislature. The updated report shall include, but not be limited to:

1. ~~The~~ Any new potential economic impact from utilizations of a voluntary system of carbon dioxide emissions trading or marketing for carbon sequestered on agricultural or nonagricultural lands in the state and for capturing and sequestering carbon dioxide emissions through carbon dioxide injection in marginally producing wells and abandoned oil and/or gas wells that could be used in the event carbon dioxide emissions regulations are adopted in the future;

2. Improved agricultural practices, including, but not limited to, soil and vegetation ~~including trees,~~ improved natural resources conservation practices, ~~revegetation including reforestation activities~~ improved practices for the capture and sequestration of carbon dioxide emissions through carbon dioxide injection in marginal oil and/or gas wells and abandoned oil and/or gas wells, and other improved methods of stewardship ~~of soil and vegetation~~ for

Oklahoma's natural 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,~~ improved natural resources conservation practices, revegetation including reforestation activities, improved practices for the capture and sequestration of carbon dioxide emissions through carbon dioxide injection in marginal and abandoned oil and/or gas wells and other improved methods of stewardship ~~of soil and vegetation~~ for Oklahoma's natural 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~~ improved natural resources conservation practices, revegetation activities improved practices for the capture and sequestration of carbon dioxide emissions through carbon dioxide injection in marginal and abandoned oil and/or gas wells, and other methods of improved stewardship ~~of soil and vegetation~~ for natural 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. AMENDATORY 27A O.S. 2001, Section 3-4-103, is amended to read as follows:

Section 3-4-103. A. 1. The Oklahoma Conservation Commission shall, subject to availability of appropriations, in consultation with the Carbon Sequestration Advisory Committee, assess agricultural and nonagricultural lands and marginally producing and

abandoned oil and/or gas wells 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, including, but not limited to, soil and vegetation ~~including trees,~~ improved natural resources conservation practices, ~~revegetation including reforestation activities~~ improved practices for capture and sequestration of carbon dioxide through carbon dioxide injection in marginally producing and abandoned oil and/or gas wells, and other improved methods of stewardship ~~of soil and vegetation~~ for natural resources occurring on agricultural and nonagricultural lands in this state.

3. On or before January 1, ~~2003~~ 2004, the Commission shall publish ~~a~~ an updated 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,~~ improved natural resources conservation practices, ~~revegetation including reforestation activities~~ improved practices for capture and sequestration of carbon dioxide through carbon dioxide injection in marginally producing and abandoned oil and/or gas wells, and other improved methods of stewardship of ~~soil and vegetation~~ natural 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. AMENDATORY Section 2, Chapter 273, O.S.L. 2002 (27A O.S. Supp. 2002, Section 3-4-105), is amended to read as follows:

Section 3-4-105. A. The Oklahoma Conservation Commission is hereby authorized to establish and administer the carbon sequestration certification program. The purpose of the program is to provide a mechanism for creating and preserving carbon reserves in this state produced as by-products of best available resource management activities upon certified lands.

B. The Commission, in consultation with the Department of Environmental Quality and with the advice of the Carbon Sequestration Committee, shall develop and promulgate rules including, but not limited to, uniform standards and criteria for the certification of existing or potential carbon sinks located in this state. In promulgating the rules, the Commission shall develop the program to be as consistent as possible with other governmental programs designed to create carbon reserves for the purpose of voluntarily reducing greenhouse gases.

C. In order to have land certified as an existing or potential carbon sink, an applicant shall file an application with the Commission. Along with the application, the applicant shall submit a resource management plan detailing activities which will increase or maintain existing trapped carbon including, but not limited to, improved forest management, alteration of or changes in silviculture practices, and growing of designated crops and any other such practices including, but not limited to, the capture and sequestration of carbon dioxide emissions through injection of carbon dioxide in marginal and abandoned oil and/or gas wells which, based on best available information, will increase trapped carbon.

D. The Commission shall require applicants to submit such information, forms, and reports as are necessary to properly and efficiently administer the program.

E. The Commission shall adopt site certification conditions for each carbon sink for which an application is submitted. In addition the Commission shall determine, based upon compliance with the site certification conditions, the credits or offsets achievable by the specific carbon sink.

F. Applications for certification of a carbon sink shall be approved or denied in accordance with criteria promulgated by the Commission.

G. For purposes of this section, "carbon sink" means a geographical area that could be developed with reforestation, afforestation, growing agricultural crops or any existing vegetated area or marginally producing and/or abandoned oil and/or gas well area in which carbon is or could be trapped or injected.

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.

49-1-6821      KSM      04/30/03