

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2440

By: Ellis

COMMITTEE SUBSTITUTE

An Act relating to waters and water rights; amending Section 1, Chapter 485, O.S.L. 2002 and Section 4, Chapter 485, O.S.L. 2002 (82 O.S. Supp. 2003, Sections 1B and 1C), which relate to the moratorium on the sale or exploitation of certain waters and the Joint Committee on Water Planning; modifying termination date; specifying certain conditions; renaming the Committee; modifying membership; creating the Statewide Water Policy Planning Commission; specifying purpose; specifying duties; providing for appointment and qualifications; providing for region and quadrants for purposes of appointments; providing for reimbursement; requiring certain input; providing for staffing; requiring certain agencies to designate employees to assist the Commission; requiring reports; providing for minority reports; providing procedure for vacancies; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 485, O.S.L. 2002 (82 O.S. Supp. 2003, Section 1B), is amended to read as follows:

Section 1B. 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this section ~~for a three-year period beginning on the effective date of this act, unless earlier.~~ Unless otherwise repealed or revoked by the Oklahoma Legislature, the moratorium shall be in effect for a five-year period beginning on the effective

date of this act or until such time as the Oklahoma Water Resources Board conducts and completes a comprehensive scientific hydrological study of the water resources of this state.

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 Section 4, Chapter 485, O.S.L. 2002 (82 O.S. Supp. 2003, Section 1C), is amended to read as follows:

Section 1C. A. There is hereby created the ~~Joint Committee on Water Planning~~ Statewide Water Policy Planning Commission.

B. The purpose of the ~~Committee~~ Commission 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~~ Commission 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~~ Commission 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~~ this title;

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~~ concerning the collection, analysis, interpretation and use of information on water quality and water quantity data; ~~and~~

18. A census of residents in this state that do not have a potable source of drinking water; and

19. Such other areas concerning state water resources as deemed necessary by the ~~Committee~~ Commission.

~~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 cochair of the Committee. The cochairs 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 cochairs 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 1. The Commission shall be composed of twenty-four (24) members as follows:~~

a. the Governor shall appoint eight members:

(1) one member who represents the Oklahoma Rural Water Association,

(2) one member who represents an irrigation association in this state,

(3) one member who represents the Oklahoma Association of County Commissioners,

(4) one member who represents the Oklahoma Municipal League,

(5) one member who represents the Oklahoma Association of Conservation Districts,

(6) one member who is a citizen of the state residing in and representing the panhandle region of the state,

(7) one member who represents private industry in this state, and

(8) one member who represents a municipality in this state having a population of less than three hundred thousand (300,000) persons according to the last Federal Decennial Census,

b. the Speaker of the Oklahoma House of Representatives shall appoint eight members, taking into consideration any recommendations of the Chair of the House Environment and Natural Resources Committee:

- (1) two active members of the Oklahoma House of Representatives,
- (2) one member who represents an agricultural organization,
- (3) one member who represents a statewide wildlife organization with a history of promoting environmental quality and wildlife habitat for both game and nongame wildlife species,
- (4) one member who represents the electricity industry in this state,
- (5) one member who represents a municipality in this state having a population of greater than three hundred thousand (300,000) persons according to the last Federal Decennial Census,
- (6) one member who is a citizen of the state residing in and representing the southwest quadrant of the state as specified by paragraph 2 of this subsection, and
- (7) one member who is a citizen of the state residing in and representing the southeast quadrant of the state as specified by paragraph 2 of this subsection,

c. the President Pro Tempore of the State Senate shall appoint eight members, taking into consideration any recommendations of the Chair of the Senate Committee on Energy, Environmental Resources and Regulatory Affairs:

- (1) two active members of the State Senate,
- (2) one member who represents a statewide environmental organization comprised of nonindustry individual citizens that has the purpose of increased protection of water quality

- and the environment and that utilizes lobbying,  
litigation, legislation, grassroots organizing  
and public education to achieve those purposes,
- (3) one member who represents the independent oil and  
gas industry in this state,
- (4) one member who represents the Association of  
Regional Councils,
- (5) one member who represents a municipality in this  
state having a population of greater than three  
hundred thousand (300,000) persons according to  
the last Federal Decennial Census,
- (6) one member who is a citizen of the state residing  
in and representing the northwest quadrant of the  
state as specified by paragraph 2 of this  
subsection, and
- (7) one member who is a citizen of the state residing  
in and representing the northeast quadrant of the  
state as specified by paragraph 2 of this  
subsection.

2. The region and quadrants shall be identified as follows:

- a. the panhandle region shall constitute the three  
counties in the panhandle of Oklahoma,
- b. the northwest quadrant shall consist of that part of  
the state north of Interstate Highway 40 and west of  
Interstate Highway 35,
- c. the northeast quadrant shall consist of that part of  
the state north of Interstate Highway 40 and east of  
Interstate Highway 35,
- d. the southwest quadrant shall consist of that part of  
the state south of Interstate Highway 40 and west of  
Interstate Highway 35, and

e. the southeast quadrant shall consist of that part of the state south of Interstate Highway 40 and east of Interstate Highway 35.

D. 1. Members shall serve at the pleasure of their appointing authorities. A vacancy on the Commission shall be filled by the original appointing authority. Members of the Commission may not be absent from more than five official meetings within one (1) year.

2. A majority of the members present at a meeting shall constitute a quorum and may act for the Commission. The chair shall only vote in case of a tie vote by the Commission.

3. Within thirty (30) days of the effective date of this act, the Speaker of the Oklahoma House of Representatives shall designate the chair and the President Pro Tempore of the State Senate shall designate the vice-chair of the Commission from among the members of the Commission to serve through January 1, 2005, and until a new chair and vice-chair are appointed. After January 1, 2005, members of the Commission shall elect the chair and vice-chair.

4. The chair of the Commission shall convene a meeting of the Commission within sixty (60) days of the effective date of this act.

5. The members of the Commission shall determine meeting dates. The Commission shall meet a minimum of ten times per year.

6. The chair of the Commission may appoint subcommittees as deemed necessary from the members of the Commission for the purpose of carrying out its duties pursuant to the provisions of the Oklahoma Comprehensive State Water Plan Act of 2002.

7. At least one meeting of the Commission shall be held in the panhandle region and in each quadrant of the state.

E. The Commission shall:

1. Actively seek and consider input from the public, the business community, environmental organizations, agricultural organizations, conservation districts, public interest organizations, professional organizations, or any other groups or

persons with an interest in the water development and water use programs of this state and the work of the Commission; and

2. Solicit and accept written comments, recommendations and proposals, and shall hold public hearings to obtain comments from the public.

F. The Commission shall be assisted by the staff of the Oklahoma House of Representatives and the State Senate and by the Assistant Attorney General for the Environment and Natural Resources Division of the Office of the Oklahoma Attorney General.

G. 1. The Oklahoma Water Resources Board, the Oklahoma Conservation Commission, the Oklahoma Department of Agriculture, Food, and Forestry, the Department of Wildlife Conservation, the Department of Tourism and Recreation, the Department of Environmental Quality, the Oklahoma Corporation Commission and the Secretary of Environment shall each designate an employee with appropriate and relevant education and experience to assist in the work and duties of the Commission.

2. In addition such agencies and any other department, officer, agency and employee of the state shall cooperate with the Commission in carrying out its duties and responsibilities, including, but not limited to, providing any information, records and reports as may be requested by the Commission.

H. 1. The Commission shall submit an annual interim report to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate on or before January 1 of each year, beginning with the year 2005, and a final report on or before January 1, 2006, regarding the findings and recommendations of the Commission.

2. Any minority reports offered by members of the Commission shall be included in the interim reports submitted to the Governor and the Legislature.

I. Members of the Commission shall receive no salary; however, all members of the Commission shall be reimbursed for their actual and necessary travel expenses as follows:

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

2. Nonlegislative Commission members employed by the state shall be reimbursed by their respective employing agency pursuant to the State Travel Reimbursement Act; and

3. Any other Commission member shall receive reimbursement pursuant to the State Travel Reimbursement Act by their appointing authority.

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.

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