

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 903

By: Crutchfield of the Senate

and

Hilliard of the House

COMMITTEE SUBSTITUTE

[waters and water rights and state government -

Oklahoma Water Resources Development Act - Joint

Committee on Water Planning - repealer -

codification -

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 1086.10 of Title 82, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Water Resources Development Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.11 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. No later than January 1, 2007, the Oklahoma Water Resources Board shall prepare and publish a supplement to the second decennial update of the Oklahoma Comprehensive Water Plan to be designated the "Oklahoma Water Resources Development Plan". The second decennial update of the Oklahoma Comprehensive Water Plan, due September 1, 2005, pursuant to Section 1086.2 of Title 82 of the Oklahoma

Statutes, shall include a summary of any activities or issues related to the Oklahoma Water Resources Development Plan.

B. The Oklahoma Water Resources Development Plan shall incorporate the regional water plans prepared pursuant to the provisions of Section 4 of this act. In addition to the principles set forth in subsection A of Section 1086.1 of Title 82 of the Oklahoma Statutes, the Oklahoma Water Resources Development Plan, at a minimum, shall:

1. Reflect the public interest of the entire state;

2. Contain principles for construction and improvement of surface water and groundwater resources;

3. Embody principles to encourage additional voluntary redistribution of water resources;

4. Include suggestions for legislative actions that are based upon recommendations of the regional water groups which will ensure that there is an adequate supply of good quality water available for beneficial use by all citizens of Oklahoma;

5. Provide methods for the orderly development, management, and conservation of water resources to:

a. ensure public health, safety, and welfare,

b. further economic development,

c. protect the agricultural resources, recreational resources, environmental resources, and natural resources of the entire state,

d. improve conservation,

e. reuse and manage existing water supplies,

f. acquire available and existing water supplies, and

g. develop new water supplies;

6. Provide for the preparation for and response to drought conditions, in order that sufficient water will be available at a reasonable cost to the public; and

7. Contain recommendations to the Legislature regarding the:

- a. principles in developing a public policy for protection, management, conservation, development and utilization of water resources of this state,
- b. existing conditions concerning waters of the state and its uses for all purposes within this state,
- c. infrastructure needs of Oklahoma's communities,
- d. long-term sustainability of Oklahoma's water supply,
- e. beneficial uses of water which reflect the public interest of the entire state while protecting the private property rights and water rights of Oklahoma citizens. When reviewing beneficial uses of water, due consideration shall be given to alternatives which allow maximum sustainable growth in this state while protecting all designated beneficial uses of water, promoting conservation and prudent use, prioritizing public health and welfare considerations and the water rights of the citizens in the basins of origin. In addition, consideration shall be given to environmental and biological uses of water and encouraging methods for voluntary redistribution of excess or surplus water to Oklahoma regions and citizens with inadequate supplies,
- f. state and federal statutory and case law which may impact the development, management, conservation and use of Oklahoma water,
- g. definition of "excess and surplus water of this state" including water quality and water quantity,
- h. process for determining "excess and surplus" water,
- i. out-of-basin water sales and/or transfers,
- j. potential local, state, and federal funding sources for development of a comprehensive statewide water study and plan,

- k. review of water usage in this state, and
- l. uniform data regarding the collection, analysis, interpretation and use of information on water quality and water quantity data.

C. The State Water Planning Committee shall review and update the Oklahoma Water Resources Development Plan as necessary and at least every ten (10) years. The Committee shall submit any updates of the plan to the Oklahoma Water Resources Board for inclusion in the Board's decennial updates to the Oklahoma Comprehensive Water Plan.

D. 1. The State Water Planning Committee and the Oklahoma Water Resources Board shall take the Oklahoma Water Resources Development Plan and all revisions thereto into consideration in matters coming before the Committee or the Board.

2. In preparing the Oklahoma Water Resources Development Plan, the Committee shall consider the advice of representatives of the Oklahoma Water Resources Board, 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, navigation and industrial development.

E. The regional water planning committees and State Water Planning Committee shall deliver the Oklahoma Water Resources Development Plan to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives and present the plan for review to the appropriate legislative committees.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.12 of Title 82, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Water Resources Development Plan, the state shall be divided into eleven regional water planning districts as follows with areas substantially similar to those of the regional development authorities, districts or associations and councils of government in the state:

1. Panhandle Regional Water Planning District in the Oklahoma Economic Development Authority (OEDA) area that includes the counties of Cimarron, Texas, Beaver, Harper, Woods, Ellis, Woodward, and Dewey;

2. Southwest Regional Water Planning District in the Southwest Oklahoma Development Authority (SWODA) area that includes the counties of Roger Mills, Custer, Beckham, Washita, Greer, Kiowa, Harmon, and Jackson;

3. North Central Regional Water Planning District in the Northern Oklahoma Development Authority (NODA) area that includes the counties of Alfalfa, Blaine, Grant, Kay, Garfield, Kingfisher, Major, and Noble;

4. West Central Regional Water Planning District in the Association of Central Oklahoma Governments (ACOG) area that includes the counties of Canadian, Oklahoma, Cleveland, and Logan;

5. South Central Regional Water Planning District in the Association of South Central Oklahoma Governments (ASCOG) area that includes the counties of Caddo, Grady, McClain, Comanche, Tillman, Cotton, Stephens, and Jefferson;

6. Northeast Regional Water Planning District in the Grand Gateway Economic Development Association (GGEDA) area that includes the counties of Washington, Nowata, Craig, Ottawa, Delaware, Rogers, and Mayes;

7. Mid-Central Regional Water Planning District in the Central Oklahoma Economic Development District (COEDD) area that includes the counties of Hughes, Lincoln, Seminole, Okfuskee, Pawnee, Payne, and Pottawatomie;

8. Southeast Regional Water Planning District in the Kiamichi Economic Development District of Oklahoma (KEDDO) area that includes the counties of Choctaw, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, and Pushmataha;

9. Green Country Regional Water Planning District in the Indian Nations Council of Governments (INCOG) area that includes the counties of Creek, Osage, and Tulsa;

10. East Central Regional Water Planning District in the Eastern Oklahoma Development District (EODD) area that includes the counties of Adair, Cherokee, McIntosh, Muskogee, Okmulgee, Sequoyah, and Wagoner; and

11. Southern Regional Water Planning District in the Southern Oklahoma Development Authority (SODA) area that includes the counties of Atoka, Bryan, Carter, Coal, Garvin, Johnston, Love, Marshall, Murray, and Pontotoc.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.13 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. By July 1, 2004, a regional water planning group shall be established for each regional water planning district in the state. Each regional water planning group shall be a body corporate and politic of the state. A regional water planning group shall consist of the following:

1. One member of a federally recognized Indian tribe selected by the Governor;

2. One member representing a large water user in this state selected by the Governor;

3. One member representing an industry which utilizes large quantities of water selected by the President Pro Tempore of the Senate;

4. One member involved in agricultural production in this state selected by the Speaker of the House of Representatives;

5. One member of a conservation district located within the regional water planning district area selected by the Oklahoma Conservation Commission; and

6. One representative each from the following:

- a. Oklahoma Water Resources Board,
- b. the Department of Wildlife Conservation, and
- c. the Department of Agriculture, Food, and Forestry,

who shall be selected by their governing boards and who shall serve as ex officio members of each regional water planning group.

B. The respective regional development authority, district or association, or councils of government, as the case may be, located in the area of the regional water planning district shall provide staff for the regional water planning group.

C. The regional water planning group shall designate additional representatives to serve on the regional water planning group, to ensure adequate representation from the interests comprising that region, including the public, counties, municipalities, industries, navigation, agricultural interests, nonprofit environmental protection, three representatives of multicounty lake associations if applicable, businesses, electric generating utilities, water districts, and water utilities. The regional water planning group shall maintain adequate representation from these interest groups.

D. Each regional water planning group shall have authority to enter into contracts with the Oklahoma Water Resources Board. In addition, each regional water planning group may enter into contracts with political subdivisions for administrative services resulting from duties imposed by the Oklahoma Water Resources Development Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.14 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a "State Water Planning Committee". The Committee shall be composed of thirty-four (34) members as follows:

1. The Secretary of the Environment who shall chair the Committee; and

2. Three members representing each regional water planning group, selected from within the regional water planning district.

B. The State Water Planning Committee shall review and update the Oklahoma Water Resources Development Plan as necessary and at least every ten (10) years. The Committee shall submit any updates of the plan to the Oklahoma Water Resources Board for inclusion in the Board's decennial updates to the Oklahoma Comprehensive Water Plan.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.15 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The regional water planning group in each regional water planning district shall prepare a regional water plan pursuant to the provisions of the Oklahoma Water Resources Development Act, using the existing Oklahoma Comprehensive Water Plan and first decennial update of that plan and any local water plans prepared for guidance.

B. The Oklahoma Water Resources Board shall provide staff to regional planning efforts by the regional water planning groups.

C. 1. Guidelines prepared by the Oklahoma Water Resources Board for preparation of regional water plans shall include but not be limited to:

- a. the format in which information shall be presented in the regional water plans, and
- b. uniform data regarding the collection, analysis, interpretation and use of information on water quality and water quantity data.

2. The Board also shall provide copies of rural water survey information to the regional water planning group.

D. 1. The Board, by rule, shall require the following persons to report to the Board information on water pipelines and other facilities that can be used for water conveyance:

a. all holders of permits or other water rights to use surface water and groundwater, and

b. any other person who is transporting groundwater or surface water twenty (20) miles or more.

2. The Board shall then forward that information to the appropriate regional water planning group for consideration.

E. Nothing in the initial planning effort shall prevent development of a management plan or project where local or regional needs require action prior to completion of the initial regional water plan under this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.16 of Title 82, unless there is created a duplication in numbering, reads as follows:

Regional water plans developed by each regional water planning group shall include:

1. Principles in developing a public policy for protection, management, conservation, development and utilization of water resources;

2. Review of existing conditions concerning waters of the region and their uses for all purposes within the region;

3. Infrastructure needs of local communities;

4. Provisions for long-term sustainability of the region's water supply;

5. Methods for developing, managing, protecting and conserving water resources of the region but which allow for economic growth and development, including but not limited to:

a. improved conservation,

- b. reuse and management of existing water supplies,
- c. acquisition of available existing water supplies,
- d. development of new water supplies, and
- e. 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;

6. Beneficial uses of water that reflect the public interest of the region while protecting the private property rights and water rights of the region. When reviewing beneficial uses of water, due consideration shall be given to:

- a. alternatives which allow maximum sustainable growth in the region while protecting all designated beneficial uses of water,
- b. promoting conservation and prudent use, and
- c. prioritizing public health and welfare considerations.

In developing the regional water plans, consideration shall be given to environmental and biological use and encouraging methods for voluntary redistribution of excess or surplus water to regions within this state with inadequate supplies;

7. State and federal statutory and case law which may impact the development, management, conservation and use of the waters of the region;

8. How the region proposes to pay for water infrastructure projects identified in the plan;

9. What role the regional planning group proposes for the state in financing projects identified in the plan, giving particular attention to proposed increases in the level of state participation in funding for regional projects to meet needs beyond the reasonable financing capability of entities involved in building water infrastructure;

10. Identification of factors specific to each source of water supply in the region to be considered in determining whether to initiate a drought response;

11. Identification of existing drought planning efforts in the region and any actions to be taken as part of a drought response;

12. Specific provisions for water management strategies to be used during a drought of record;

13. Consideration and discussion of other matters related to water planning including but not limited to the following:

- a. local management plans and other plans submitted by municipalities, irrigation districts, conservancy districts, master conservancy districts, other special purpose districts and rural water districts,
- b. opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities,
- c. appropriate provision of upstream development and the effect of plans on existing navigation in the region,
- d. provisions to address needs for water in-stream system or basin of origin and in the proposed receiving-stream system or basin based on the period for which the water supply is requested, but not to exceed fifty (50) years, if interbasin transfers are contemplated,
- e. possible methods of voluntary transfer of water within the region using various means, including but not limited to regional water banks, sales, leases, options, subordination agreements, and financing agreements, and
- f. the need for emergency transfers of water including information on the part of each permit or water right for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the

property of the nonmunicipal permit or water rights holder;

14. Identification of river and stream segments and groundwater basins of unique ecological value and sites of unique value for the construction of reservoirs in the region;

15. Assessment of the impact of the plan on unique river and stream segments identified in paragraph 14 of this section if the regional water planning group or the Legislature determines that a site of unique ecological value exists;

16. Description of the impact of any proposed water projects on water quality; and

17. Recommendations as to the need for the mandatory development and adoption of conservation and drought plans by water right holders and recommendations for criteria for such plans.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.17 of Title 82, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Water Resources Board shall provide technical and, to the extent funds are available as determined by the Board, financial assistance to the regional water planning groups in the development of their plans.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.18 of Title 82, unless there is created a duplication in numbering, reads as follows:

General procedures for preparation and development of regional water plans shall be as follows:

1. Prior to the preparation of the initial draft of the regional water plan, the regional water planning group shall, after notice, hold at least one public meeting at some central location within the regional planning area to gather suggestions and recommendations from the public as to issues that should be

addressed in the plan or provisions that should be considered for inclusion in the plan;

2. The regional water planning group shall provide an ongoing opportunity for public input during the preparation of the regional water plan; and

3. After the initial draft of the regional water plan is prepared, the regional water planning group shall, after notice, hold at least one public meeting at some central location within the regional water planning area. The group shall make copies of the initial draft plan available for public inspection at least thirty (30) days before the meeting by making a copy of the initial draft plan available in the county courthouse and in at least one public library of each county having land in the region. Notice for the meeting shall include a list of all locations where the initial draft plan is available for review.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.19 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The State Water Planning Committee shall submit the Oklahoma Water Resources Development Plan to the Oklahoma Water Resources Board by January 1, 2006, for inclusion in the Oklahoma Water Resources Development Plan.

B. Subsequent revisions of the Oklahoma Water Resources Development Plan shall be submitted to the Board during preparation of subsequent decennial updates of the Comprehensive Oklahoma Water Resources Development Plan. Public participation for revision of the Oklahoma Water Resources Development Plan shall follow the procedures under Section 9 of this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.20 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Water Resources Board may provide financial assistance to eligible entities under Chapter 14 of Title 82 of the Oklahoma Statutes for water supply projects only if:

1. The Board determines that the needs to be addressed by the project will be addressed in a manner that is consistent with the Oklahoma Water Resources Development Plan; and

2. Beginning January 1, 2007, the Board:

a. has reviewed a regional water plan and any required updates of such regional plan, for the region of the state that includes the area benefiting from the proposed project, and

b. determines that the needs to be addressed by the project will be addressed in a manner that is consistent with that regional water plan.

B. The Board may provide financial assistance when the requirements of subsection A of this section have not been met if the Board determines that public health, safety, and welfare warrant the assistance.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.21 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. A cause of action shall not accrue against a regional water planning group or a representative who serves on the regional water planning group for an act or omission in the course and scope of the person's work relating to the regional water planning group.

B. A regional water planning group or a representative who serves on the regional water planning group is not liable for damages that may arise from an act or omission in the course and scope of the person's work relating to the regional water planning group.

C. The Attorney General, on request, shall represent a regional water planning group in a suit arising from an act or omission relating to the regional water planning group.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.22 of Title 82, unless there is created a duplication in numbering, reads as follows:

Each regional water planning group shall examine the financing needed to implement the water management strategies and projects identified in the group's most recent regional plan reviewed by the Oklahoma Water Resources Board and, not later than June 30, 2007, shall report such financial needs to the Oklahoma State Legislature.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1086.23 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, established within the Statewide Water Development Revolving Fund created by Section 1085.40 of Title 82 of the Oklahoma Statutes, a separate account called the Comprehensive Oklahoma Water Resources Development Plan Account. The Comprehensive Oklahoma Water Resources Development Plan Account shall be a continuing account not subject to fiscal year limitations and shall consist of monies deposited into the account from appropriations and from other sources, public or private, that have been designated by the source thereof for deposit in said account.

B. Monies in the Comprehensive Oklahoma Water Resources Development Plan Account shall be used to provide financial assistance to the regional water planning groups pursuant to the Oklahoma Water Resources Development Act.

1. The Board shall submit annually to the Legislature a list of expenditures made from the Comprehensive Oklahoma Water Resources Development Plan Account.

2. The Board may enter into contracts with the regional water planning group to provide financial assistance. Such contracts

shall contain a budget detailing categories of expected expenditures and authorize payment only upon confirmation of such expenditures.

SECTION 15. REPEALER Section 4, Chapter 485, O.S.L. 2002 (82 O.S. Supp. 2003, Section 1C), is hereby repealed.

SECTION 16. 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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