

ENROLLED HOUSE  
BILL NO. 2284

By: Balkman of the House

and

Price of the Senate

An Act relating to waters and water rights; amending 82 O.S. 2001, Section 1085.2, which relates to authority of Oklahoma Water Resources Board; expanding duties; amending 82 O.S. 2001, Sections 1603, as amended by Section 3, Chapter 46, O.S.L. 2002 and 1604, as amended by Section 4, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2003, Sections 1603 and 1604), which relate to the Oklahoma Floodplain Management Act; adding definition; expanding authority of floodplain boards; establishing accreditation standards for floodplain administrators; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 82 O.S. 2001, Section 1085.2, is amended to read as follows:

Section 1085.2 In addition to any and all other authority conferred upon it by law, the Oklahoma Water Resources Board shall also have authority:

1. Generally to do all such things as in its judgment may be necessary, proper or expedient in the accomplishment of its duties;

2. To make such contracts and execute such instruments as in the judgment of the Board are necessary or convenient to the exercise of any of the powers conferred upon it by law. Provided, however, no contract shall be made conveying the title or use of any waters of the State of Oklahoma to any person, firm, corporation or other state or subdivision of government, for sale or use in any other state, unless such contract be specifically authorized by an act of the Oklahoma Legislature and thereafter as approved by it;

3. To negotiate contracts and other agreements with the federal government to arrange for the development of water resources and for the storage and distribution of water for beneficial purposes; provided, however, that the Board shall act in such capacity only as an intermediary in assisting others, and under no circumstances shall the Board have any power or authority to build, construct or finance any waterways, dams or other such projects for itself, except as may be otherwise specifically provided by the laws of this state;

4. To develop statewide and local plans to assure the best and most effective use and control of water to meet both the current and long-range needs of the people of Oklahoma; to cooperate in such planning with any public or private agency, entity or person interested in water, and is directed to prepare such plans for consideration and approval by the Legislature; and to aid, at all times, counties, incorporated cities and towns and special purpose districts in the state in promoting and developing flood control and water conservation in the state;

5. To employ and fix the compensation of such officers, agents, attorneys, technical personnel and employees of the Board as it shall deem necessary to the proper performance of its duties;

6. To adopt and use an official seal;

7. To promulgate such rules and make orders as it may deem necessary or convenient to the exercise of any of the powers or the performance of any of the duties conferred or imposed upon it by this or any other law;

8. To institute and maintain, or to intervene in, any actions or proceedings in or before any court, board, commission or officer of this or any other state or of the United States to stop or prevent any use, misuse, appropriation or taking of any of the waters of this state which is in whole or in part in violation of any law, or of any rules, orders, judgments or decrees of any court, board, commission or officer of this or any state or of the United States; and to institute and maintain or intervene in any other action or proceeding where the Board deems it necessary to the proper execution and discharge of any of the powers or duties conferred or imposed upon it by law;

9. To determine, charge and receive fees to be collected in advance for the filing and examination of applications for permits to:

a. construct water use works†1

b. appropriate groundwater†1

c. appropriate stream water†1

d. establish vested rights†1

e. inspect water use works†1

f. file other papers†1

g. make copies of documents†1

h. make prints of maps and drawings†1

i. certify copies of documents, maps and drawings†1

j. file transfers of water rights†1

k. gauge wells and ditches, changes in point of diversion and changes in place of use of water†1

l. test wells~~†~~, and

m. hold hearings, make records and provide transcripts of hearings~~†~~.

~~provided that such~~ Such fees shall not be collected from any state agency or state institution;

10. To negotiate contracts or water compacts with the federal government or any department or bureau thereof, or with any other state for the purpose of obtaining assistance and cooperation in the accomplishment of the purpose of flood control and water conservation and use in the state. To that end, the Board may match funds with the federal government and with other states upon such terms as shall be agreed upon and approved by the Governor of the state, with the limitation that contracts or water compacts with other states for the division and apportionment of the cost and use of the water controlled by interstate projects shall be submitted to and approved by the Legislature of the state and the Governor of the state, and Congress and the President of the United States conformable to the State and Federal Constitutions;

11. To accept gifts and grants of money and property or any interest therein;

12. To provide funding from federal and state monies for water and wastewater project purposes to eligible entities for preliminary engineering reports and planning and feasibility studies;

13. To sell or dispose of real or personal property held by the Board when no longer needed in such manner as provided by law;

14. To make appropriations of water to all special purpose districts;

15. To execute and deliver, without actual consideration therefor, a written release of any easement or easement deed heretofore given to the Conservation Commission of the State of Oklahoma, the Planning and Resources Board or the Oklahoma Water Resources Board on lands situated in this state, whenever it shall appear to said Oklahoma Water Resources Board that the need for such easement or easement deed no longer exists; provided, the owner of the lands affected shall file a written application for such release with the Oklahoma Water Resources Board;

16. To adopt, modify or repeal and promulgate standards of quality of the waters of the state and to classify such waters according to their best uses in the interest of the public under such conditions as the Board may prescribe for the prevention, control, and abatement of pollution. The standard of quality of waters of the state adopted by the Board pursuant to the provisions of Section 1085.30 of this title shall be utilized by all appropriate state environmental agencies in implementing their respective duties to abate and prevent pollution to the waters of the state;

17. To review disputes involving service areas or territories, rates for raw or treated water, and abrogation clauses in contracts among municipalities and rural water districts or not-for-profit rural water corporations; to recommend mediation and refer parties

in appropriate disputes to mediators and provide technical information to such mediators; and to recommend other means of resolving disputes; provided, that no party to such dispute may initiate action in any district court regarding the dispute until written notice of the dispute has been filed with the Board; provided further that the provisions of this paragraph shall not be construed to diminish any right of access to the court granted to a party by law;

18. To provide workshop training sessions for board members of rural water districts and not-for-profit rural water corporations throughout the year on a regional basis for the purpose of study and instruction in the areas of financing, law and the ethics, duties and responsibilities of such board members. Such training shall be provided by the Board in conjunction with the Oklahoma Rural Water Association as required by law. To the extent possible, the Board shall attempt to schedule training workshops in three-hour segments to be held in any public facility at a time convenient to the attendees; ~~and~~

19. To establish an agency special account through the Office of State Finance and the State Treasurer's Office as necessary for the collection and distribution of funds, including funds of sponsors and registration fees related to conferences, meetings and training sessions; and

20. To accredit persons having requisite knowledge in floodplain management and in minimization and prevention of flood hazards and losses.

SECTION 2. AMENDATORY 82 O.S. 2001, Section 1603, as amended by Section 3, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2003, Section 1603), is amended to read as follows:

Section 1603. As used in the Oklahoma Floodplain Management Act:

1. "Area of jurisdiction" means:

- a. all of the lands within an incorporated town or city, for a municipality,
- b. all of the unincorporated areas of the county, for a county, or
- c. all property owned or operated by the state, for the state;

2. "Board" means the Oklahoma Water Resources Board;

3. "Dwelling unit" means a place of residence and may be a single or multiple-dwelling building;

4. "Flood" or "flooding" means general and temporary conditions of partial or complete inundation of normally dry land areas from the overflow of lakes, streams, rivers or any other inland waters;

5. "Floodplain" means the land adjacent to a body of water which has been or may be covered by flooding, including, but not limited to, the one-hundred-year flood;

6. "Floodplain administrator" means a person accredited by the Board and designated by a floodplain board, to administer and implement laws and regulations relating to the management of floodplains;

7. "Floodplain board" means an administrative and planning board, for floodplain management, of a county, a municipality or the state or the planning commission of a municipality or a county if so designated by the governing body of the municipality or county;

~~7.~~ 8. "Floodplain regulations" mean the codes, ordinances and other regulations relating to the use of land and construction within the channel and floodplain areas including, but not limited to, zoning ordinances, platting regulations, building codes, housing codes, setback requirements and open area regulations;

~~8.~~ 9. "Floodway" means the channel of a stream, watercourse or body of water and those portions of floodplains which are reasonably required to carry and discharge the floodwater or floodflow of any river or stream;

~~9.~~ 10. "One-hundred-year flood" means a flood which has a one percent (1%) chance of occurring each year, based upon the criteria established by the Oklahoma Water Resources Board; and

~~10.~~ 11. "Program" means the overall national flood insurance program authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4128) as amended.

SECTION 3. AMENDATORY 82 O.S. 2001, Section 1604, as amended by Section 4, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2003, Section 1604), is amended to read as follows:

Section 1604. A. To allow participation in the program, the Oklahoma Water Resources Board, boards of county commissioners and municipal governing bodies are authorized to establish floodplain boards for their respective area of jurisdiction which may adopt, administer and enforce floodplain management rules and regulations, for the purpose of:

1. The delineation of floodplains and floodways;
2. The preservation of the capacity of the floodplain to carry and discharge regional floods;
3. The minimization of flood hazards;
4. The establishment and charging of reasonable fees, not to exceed Five Hundred Dollars (\$500.00), for services provided by the Board, county commissioners and municipalities in the administration of their responsibilities pursuant to the Oklahoma Floodplain Management Act;
5. The regulation of the use of land in the floodplain; ~~and~~
6. The protection of the natural and beneficial functions of the floodplain, reducing damage to property from floods, reducing injury and loss of life from floods, and allowing communities to be eligible for flood insurance; and

7. The hiring and employment of an accredited floodplain administrator.

B. The rules and regulations shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning.

C. The rules and regulations shall be approved by the Oklahoma Water Resources Board, the county or the municipality, as the case may be, by appropriate order, resolution or ordinance.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1620 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Each floodplain board shall designate a person to serve as the floodplain administrator to administer and implement floodplain regulations.

B. Beginning November 1, 2004, each floodplain administrator shall be accredited by the Oklahoma Water Resources Board.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1620.1 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In determining accreditation standards for floodplain administrators, the Oklahoma Water Resources Board may consider the knowledge, experiences, skills, and training of an applicant in floodplain management and in minimization and prevention of flood hazards and losses. The accreditation standards may include:

1. Passage of an examination;

2. Completion of approved training; or

3. Certification by a nationally recognized floodplain management organization.

B. Continued training may be required for continued accreditation of a floodplain administrator.

SECTION 6. This act shall become effective January 1, 2005.

Passed the House of Representatives the 8th day of March, 2004.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 7th day of April, 2004.

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Presiding Officer of the Senate