

EHB 2284

THE STATE SENATE
Monday, April 5, 2004

ENGROSSED

House Bill No. 2284

ENGROSSED 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

1 waters of the State of Oklahoma to any person, firm, corporation or
2 other state or subdivision of government, for sale or use in any
3 other state, unless such contract be specifically authorized by an
4 act of the Oklahoma Legislature and thereafter as approved by it;

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

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

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

4 6. To adopt and use an official seal;

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

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

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

23 a. construct water use works~~+~~l

1 state, with the limitation that contracts or water compacts with
2 other states for the division and apportionment of the cost and use
3 of the water controlled by interstate projects shall be submitted to
4 and approved by the Legislature of the state and the Governor of the
5 state, and Congress and the President of the United States
6 conformable to the State and Federal Constitutions;

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

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

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

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

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

1 the lands affected shall file a written application for such release
2 with the Oklahoma Water Resources Board;

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

13 17. To review disputes involving service areas or territories,
14 rates for raw or treated water, and abrogation clauses in contracts
15 among municipalities and rural water districts or not-for-profit
16 rural water corporations; to recommend mediation and refer parties
17 in appropriate disputes to mediators and provide technical
18 information to such mediators; and to recommend other means of
19 resolving disputes; provided, that no party to such dispute may
20 initiate action in any district court regarding the dispute until
21 written notice of the dispute has been filed with the Board;
22 provided further that the provisions of this paragraph shall not be

1 construed to diminish any right of access to the court granted to a
2 party by law;

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

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

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

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

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

3 1. "Area of jurisdiction" means:

4 a. all of the lands within an incorporated town or city,
5 for a municipality,

6 b. all of the unincorporated areas of the county, for a
7 county, or

8 c. all property owned or operated by the state, for the
9 state;

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

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

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

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

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

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

5 ~~7.~~ 8. "Floodplain regulations" mean the codes, ordinances and
6 other regulations relating to the use of land and construction
7 within the channel and floodplain areas including, but not limited
8 to, zoning ordinances, platting regulations, building codes, housing
9 codes, setback requirements and open area regulations;

10 ~~8.~~ 9. "Floodway" means the channel of a stream, watercourse or
11 body of water and those portions of floodplains which are reasonably
12 required to carry and discharge the floodwater or floodflow of any
13 river or stream;

14 ~~9.~~ 10. "One-hundred-year flood" means a flood which has a one
15 percent (1%) chance of occurring each year, based upon the criteria
16 established by the Oklahoma Water Resources Board; and

17 ~~10.~~ 11. "Program" means the overall national flood insurance
18 program authorized by the National Flood Insurance Act of 1968 (42
19 U.S.C. 4001-4128) as amended.

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

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

7 1. The delineation of floodplains and floodways;

8 2. The preservation of the capacity of the floodplain to carry
9 and discharge regional floods;

10 3. The minimization of flood hazards;

11 4. The establishment and charging of reasonable fees, not to
12 exceed Five Hundred Dollars (\$500.00), for services provided by the
13 Board, county commissioners and municipalities in the administration
14 of their responsibilities pursuant to the Oklahoma Floodplain
15 Management Act;

16 5. The regulation of the use of land in the floodplain; ~~and~~

17 6. The protection of the natural and beneficial functions of
18 the floodplain, reducing damage to property from floods, reducing
19 injury and loss of life from floods, and allowing communities to be
20 eligible for flood insurance; and

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

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

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

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

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

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

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

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

23 1. Passage of an examination;

1 2. Completion of approved training; or
2 3. Certification by a nationally recognized floodplain
3 management organization.

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, ENVIRONMENT &
8 COMMUNICATIONS, dated 4-1-04 - DO PASS.