

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 151

By: Morgan and Crutchfield of  
the Senate

and

Benge and Newport of the  
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Conservation Commission; making an appropriation; stating purpose; authorizing certain transfers; requiring budgeting in certain categories and amounts; requiring certain performance measures; providing for duties and compensation of employees; limiting salary of the Executive Director; providing budgetary limitations; making certain employee positions contingent on federal funds; providing for certain terminations; providing for certain employee positions; exempting certain employees from Merit System of Personnel Administration; amending 74 O.S. 2001, Section 18c, as amended by Section 4, Chapter 438, O.S.L. 2002 (74 O.S. Supp. 2004, Section 18c), which relates to the employment of attorneys; adding Conservation Commission to list of agencies that may employ or appoint attorneys; suspending certain payments; providing lapse dates; requiring and prohibiting certain budget procedures; providing an effective date; and declaring an emergency.

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

SECTION 1. There is hereby appropriated to the Oklahoma Conservation Commission from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 2006, the sum of Seven Million Four Hundred Three Thousand Nine Hundred Twenty-eight Dollars (\$7,403,928.00) or so much thereof as may be necessary to perform the duties imposed upon the Oklahoma Conservation Commission by law.

SECTION 2. The Oklahoma Conservation Commission is authorized to expend an amount not to exceed One Million Dollars (\$1,000,000.00) from the Rural Economic Action Plan Water Projects Fund from the gross production tax, as apportioned by Section 1004 of Title 68 of the Oklahoma Statutes, to be transferred to the Small Watersheds Flood Control Fund ("200" Fund) created in Section 3-3-405 of Title 27A of the Oklahoma Statutes for the purpose of performing the duties imposed upon the Oklahoma Conservation Commission by law.

SECTION 3. The Oklahoma Conservation Commission is authorized to expend an amount not to exceed One Million Dollars (\$1,000,000.00) from the Rural Economic Action Plan Water Projects Fund from the gross production tax, as apportioned by Section 1004 of Title 68 of the Oklahoma Statutes, to be transferred to the Conservation Cost-Share Fund ("210" Fund) created in Section 3-3-115 of Title 27A of the Oklahoma Statutes for the purpose of performing the duties imposed upon the Oklahoma Conservation Commission by law.

SECTION 4. The Oklahoma Conservation Commission is authorized to expend an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00) from the Rural Economic Action Plan Water Projects Fund from the gross production tax, as apportioned by Section 1004 of Title 68 of the Oklahoma Statutes, to be transferred to the Rural Economic Action Plan Water Projects Fund ("405" Fund) for the purpose of performing the duties imposed upon the Oklahoma Conservation Commission by law.

SECTION 5. For the fiscal year ending June 30, 2006, the Oklahoma Conservation Commission shall budget all funds in the following categories and amounts:

<u>Category</u>	<u>Appropriation</u>	<u>Total</u>
Administration	\$ 675,000.00	\$ 1,325,000.00
Watershed Operation and		
Maintenance	525,000.00	6,025,000.00

Field Service	6,153,928.00	8,653,928.00
Abandoned Mine Land Reclamation	0.00	10,000,000.00
Water Quality/Wetlands	<u>50,000.00</u>	<u>6,800,000.00</u>
TOTAL	\$7,403,928.00	\$32,803,928.00

The agency shall develop outcome-based performance measures for each category.

SECTION 6. The duties and compensation of employees, not otherwise prescribed by law, necessary to perform the duties imposed upon the Oklahoma Conservation Commission by law shall be set by the Executive Director of the Commission. The salary of the Executive Director of the Oklahoma Conservation Commission shall not exceed Sixty-two Thousand Two Hundred Eighty-four Dollars (\$62,284.00) per annum, payable monthly for the fiscal year ending June 30, 2006. The Oklahoma Conservation Commission for the fiscal year ending June 30, 2006, shall be subject to the following budgetary limitations on full-time-equivalent employees and expenditures excluding expenditures for capital and special projects, except as may be authorized pursuant to the provisions of Section 3603 of Title 74 of the Oklahoma Statutes:

<u>Budgetary Limitation</u>	<u>Amount</u>
Average Number of Full-time-equivalent Employees, Excluding Seasonal Employees and Project Labor	62.0
Lease-Purchase Agreements	\$0.00

SECTION 7. Of the full-time-equivalent employee positions authorized in this act, six (6) shall be filled contingent upon procurement of federal funds for the Abandoned Mine Lands program and thirty-four (34) shall be filled contingent upon procurement of federal funds for the Water Quality 319 Program. Such full-time-equivalent employee positions supported by federal funds shall be terminated upon the discontinuation of federal funds. Such full-time-equivalent employee positions shall be unclassified and, except

for leave regulations, shall be exempt from the rules of the Merit System of Personnel Administration.

SECTION 8. AMENDATORY 74 O.S. 2001, Section 18c, as amended by Section 4, Chapter 438, O.S.L. 2002 (74 O.S. Supp. 2004, Section 18c), is amended to read as follows:

Section 18c. A. 1. Except as otherwise provided by this subsection, no state officer, board or commission shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the Corporation Commission, the Council on Law Enforcement Education and Training, the Consumer Credit Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Oklahoma Health Care Authority, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission, the Oklahoma Energy Resources Board, the Department of Central Services, the Oklahoma Merit Protection Commission, the Office of Personnel Management, the Oklahoma Water Resources Board, the Department of Labor, the State Department of Agriculture, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Conservation Commission and the Office of Juvenile Affairs.

3. The provisions of paragraph 2 of this subsection shall not be construed to authorize the Office of Juvenile Affairs to employ any attorneys that are not specifically authorized by law.

4. All the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that:

- a. the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title, and
- b. liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court.

B. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity. At the request of any such state officer, board or commission, the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, if after investigation the Attorney General is convinced there is sufficient legal merit to justify the action.

C. Any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of the Governmental Tort Claims Act.

D. Nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and

departments of state specified in subsection B of this section, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

SECTION 9. Appropriations made by this act, not including appropriations made for capital outlay purposes, may be budgeted for the fiscal year ending June 30, 2006 (hereafter FY-06), or may be budgeted for the fiscal year ending June 30, 2007 (hereafter FY-07). Funds budgeted for FY-06 may be encumbered only through June 30, 2006, and must be expended by November 15, 2006. Any funds remaining after November 15, 2006, and not budgeted for FY-07, shall lapse to the credit of the proper fund for the then current fiscal year. Funds budgeted for FY-07 may be encumbered only through June 30, 2007. Any funds remaining after November 15, 2007, shall lapse to the credit of the proper fund for the then current fiscal year. These appropriations may not be budgeted in both fiscal years simultaneously. Funds budgeted in FY-06, and not required to pay obligations for that fiscal year, may be budgeted for FY-07, after the agency to which the funds have been appropriated has prepared and submitted a budget work program revision removing these funds from the FY-06 budget work program and after such revision has been approved by the Office of State Finance.

SECTION 10. This act shall become effective July 1, 2005.

SECTION 11. 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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