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THE STATE SENATE
Tuesday, February 22, 2005

Senate Bill No. 599

SENATE BILL NO. 599 - By: GUMM of the Senate and ARMES of the House.

An Act relating to environment and natural resources;
amending 27A O.S. 2001, Sections 2-2-101 and 2-7-103, which
relate to the Oklahoma Environmental Quality Board and the
Oklahoma Hazardous Waste Management Act; modifying certain
public meeting requirements and deleting certain definition;
and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-2-101, is
amended to read as follows:

Section 2-2-101. A. There is hereby created the Environmental
Quality Board to represent the interests of the State of Oklahoma
which shall consist of thirteen (13) members appointed by the
Governor with the advice and consent of the Senate.

B. To be eligible for appointment to the Board a person shall:

- 1. Be a citizen of the United States;
- 2. Be a resident of this state;
- 3. Be a qualified elector of this state; and
- 4. Not have been convicted of a felony pursuant to the laws of

this state, the laws of any other state or the laws of the United
States.

C. The Board shall be composed of:

(Bold face denotes Committee Amendments)

- 1 1. One member who shall be a certified or registered
2 environmental professional. Such member shall be an environmental
3 professional experienced in matters of pollution control, who shall
4 not be an employee of any unit of government;
- 5 2. One member who shall be selected from industry in general.
6 Such member shall be employed as a manufacturing executive carrying
7 on a manufacturing business within the state;
- 8 3. One member who shall be selected from the hazardous waste
9 industry within the state;
- 10 4. One member who shall be selected from the solid waste
11 industry within this state;
- 12 5. One member who shall be well versed in recreational,
13 irrigational, municipal or residential water usage;
- 14 6. One member who shall be selected from the petroleum
15 industries being regulated by the Department of Environmental
16 Quality;
- 17 7. One member who shall be selected from the agriculture
18 industries regulated by the Department of Environmental Quality;
- 19 8. One member who shall be selected from the conservation
20 districts of the state;
- 21 9. Three members who shall be citizen members of any statewide
22 nonprofit environmental organization;

1 10. One member who shall be a member of the local governing
2 body of a city or town; and

3 11. One member who shall be from a rural water district
4 organized pursuant to the laws of this state.

5 D. The term of office of a member of the Board shall be for
6 five (5) years and until a successor is appointed and qualified.

7 E. 1. An appointment shall be made by the Governor within
8 ninety (90) days after a vacancy has occurred due to resignation,
9 death, or any cause resulting in an unexpired term. In the event of
10 a vacancy on the Board due to resignation, death, or for any cause
11 resulting in an unexpired term, if not filled within ninety (90)
12 days following such vacancy, the Board may appoint a provisional
13 member to serve in the interim until the Governor acts.

14 2. A member may be reappointed.

15 3. In making appointments to the Environmental Quality Board,
16 the Governor shall recognize the geographic diversity of the state
17 and endeavor to appoint members representing each quadrant of the
18 state.

19 F. 1. The Board shall hold meetings as necessary at a place
20 and time to be fixed by the Board. The Board shall select, at its
21 first meeting, one of its members to serve as chair and another of
22 its members to serve as vice-chair. At the first meeting in each
23 calendar year thereafter, the chair and vice-chair for the ensuing

1 year shall be elected. Special meetings may be called by the chair
2 or by five members of the Board by delivery of written notice to
3 each member of the Board. A majority of the Board present at the
4 meeting shall constitute a quorum of the Board.

5 2. Members of the Board shall receive necessary travel expenses
6 according to the provisions of the State Travel Reimbursement Act.

7 G. The Board shall:

8 1. Appoint and fix the compensation of the Executive Director
9 of the Department of Environmental Quality;

10 2. Be the rulemaking body for the Department of Environmental
11 Quality;

12 3. Review and approve the budget request of the Department to
13 the Governor;

14 4. Assist the Department in conducting periodic reviews and
15 planning activities related to the goals, objectives, priorities and
16 policies of the Department;

17 5. ~~Provide~~ In conjunction with each regular meeting of the
18 Board pursuant to subsection F and at such other times as the Board
19 may determine to be necessary and appropriate, provide a public
20 forum for receiving comments and disseminating information to the
21 public and the regulated community regarding goals, objectives,
22 priorities, and policies of the Department ~~at least quarterly~~. The
23 Board shall have the authority to adopt nonbinding resolutions

1 requesting action by the Department in response to comments received
2 or upon the Board's own initiative; and

3 6. Review and evaluate the need for amendments or additions to
4 the Oklahoma Statutes regarding the programs and functions of the
5 Department and make legislative recommendations to the Legislature.

6 H. As the rulemaking body for the Department of Environmental
7 Quality, the Board is specifically charged with the duty of
8 promulgating rules which will implement the duties and
9 responsibilities of the Department pursuant to this Code. Except as
10 provided in this subsection, rules within the jurisdiction of a
11 Council provided for by this act shall be promulgated with the
12 advice of such Council. Proposed permanent rules within the
13 jurisdiction of a Council shall not be considered by the Board for
14 promulgation until receipt of the appropriate Council's
15 recommendation on such promulgation; however, the Board may
16 promulgate emergency rules without the advice of the appropriate
17 Council when the time constraints of the emergency, as determined by
18 the Board, do not permit the timely development of recommendations
19 by the Council. All actions of the Councils with regard to
20 rulemaking shall be deemed actions of the Board for the purposes of
21 complying with the Administrative Procedures Act.

22 SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-7-103, is
23 amended to read as follows:

1 Section 2-17-103. As used in the Oklahoma Hazardous Waste
2 Management Act:

3 1. "Affected property owners" means all real property owners
4 within one (1) mile of the outer perimeter of a proposed hazardous
5 waste site;

6 2. "Affiliated person" means:

- 7 a. any officer, director or partner of the applicant,
- 8 b. any person employed by the applicant as a general or
9 key manager who directs the operations of the site or
10 facility which is the subject of the application, and
- 11 c. any person owning or controlling more than five
12 percent (5%) of the applicant's debt or equity;

13 3. "Council" means the Hazardous Waste Management Advisory
14 Council;

15 4. "Demonstrated pattern of prohibited conduct" means a series
16 of conduct of the same or like character in violation of state or
17 federal environmental laws which, as a result of the applicant's or
18 affiliated person's reckless disregard thereof, actually endangers,
19 or reasonably has the potential to endanger, human health or the
20 environment;

21 5. "Disclosure statement" means a written statement by the
22 applicant which contains:

- 1 a. the full name, business address, and social security
2 number of the applicant, and all affiliated persons,
3 b. the full name and address of any legal entity in which
4 the applicant holds a debt or equity interest of at
5 least five percent (5%), or which is a parent company
6 or subsidiary of the applicant, and a description of
7 the on-going organizational relationships as they may
8 impact operations within the state,
9 c. a description of the experience and credentials of the
10 applicant, including any past or present permits,
11 licenses, certifications, or operational
12 authorizations relating to environmental facility
13 regulation,
14 d. a listing and explanation of any administrative, civil
15 or criminal legal actions against the applicant or any
16 affiliated person which resulted in a final agency
17 order or final judgment by a court of record
18 including, but not limited to, final orders or
19 judgments on appeal in the ten (10) years immediately
20 preceding the filing of the application relating to
21 the generation, transportation, storage, treatment,
22 recycling or disposal of "hazardous waste" as defined
23 by the Oklahoma Hazardous Waste Management Act or by

1 the United States Environmental Protection Agency
2 pursuant to the Federal Resource Conservation and
3 Recovery Act. Such actions shall include, without
4 limitation, any permit denial or any sanction imposed
5 by a state regulatory authority or the United States
6 Environmental Protection Agency, and
7 e. a listing of any federal environmental agency and any
8 state environmental agency outside this state that has
9 or has had regulatory responsibility over the
10 applicant;

11 6. "Disposal" means the final disposition of hazardous waste;

12 7. "Disposal site" means the location where any final
13 disposition of hazardous waste occurs. Disposal sites include but
14 are not limited to injection wells and surface disposal sites;

15 8. "Guarantor" means any person other than the owner or
16 operator, who provides evidence of financial responsibility for an
17 owner or operator pursuant to the Oklahoma Hazardous Waste
18 Management Act;

19 9. "Hazardous waste" means waste materials and byproducts,
20 either solid or liquid or containerized gas, which are:

21 a. to be discarded by the generator or recycled,

22 b. toxic to human, animal, aquatic or plant life, and

1 c. generated in such quantity that they cannot be safely
2 disposed of in properly operated, state-approved solid
3 waste landfills or waste, sewage or wastewater
4 treatment facilities.

5 The term "hazardous waste" may include but is not limited to
6 explosives, flammable liquids, spent acids, caustic solutions,
7 poisons, containerized gases, sludges, tank bottoms containing heavy
8 metallic ions, toxic organic chemicals, and materials such as paper,
9 metal, cloth or wood which are contaminated with hazardous waste.

10 The term "hazardous waste" shall not include domestic sewage;

11 10. "Hazardous waste facility" means and includes storage and
12 treatment facilities and disposal sites;

13 11. "History of noncompliance" means any past operations by an
14 applicant or affiliated persons which clearly indicate a reckless
15 disregard for environmental regulation or demonstrate a pattern of
16 prohibited conduct which could reasonably be expected to result in
17 endangerment to human health or the environment if a permit were
18 issued, as evidenced by findings, conclusions and rulings of any
19 final agency order or final order or judgment of a court of record;

20 12. "Multi-user on-site treatment facility" means a treatment
21 facility for hazardous waste generated by the co-owners of the
22 facility and which meets the criteria specified by the Oklahoma
23 Hazardous Waste Management Act;

1 13. "Off-site treatment, storage, recycling or disposal" means
2 the treatment, storage, recycling or disposal at a hazardous waste
3 facility of hazardous waste not generated by the owner of the
4 facility;

5 14. "On-site treatment, storage, recycling or disposal" means
6 the treatment, storage, recycling or disposal at a hazardous waste
7 facility of hazardous waste generated by the owner of the facility;

8 15. "Person" means any individual, corporation, industry, firm,
9 partnership, association, venture, trust, institution, federal,
10 state or local governmental instrumentality, agency or body or any
11 other legal entity however organized;

12 16. ~~"Qualified interest group" means any organization with~~
13 ~~twenty-five or more members who must be legal residents of the State~~
14 ~~of Oklahoma, that expresses an interest in the outcome of a~~
15 ~~construction permit application;~~

16 17. "Recycling" means the reuse, processing, treating,
17 neutralizing or rerefining of hazardous waste into a product which
18 is being reused or which has been sold for beneficial use.
19 Hazardous waste which is intended for fuel is not deemed to be
20 recycled until it is actually burned;

21 ~~18.~~ 17. "Regeneration" or "regenerated" means the regeneration
22 of spent activated carbon to render it reusable, and any treatment,
23 storage or disposal associated therewith;

1 ~~19.~~ 18. "Site" or "proposed site" means the surface area of a
2 disposal site, or other hazardous waste facility, as applied for in
3 the application for a permit for the facility;

4 ~~20.~~ 19. "Storage facility" means any location where the
5 temporary holding of hazardous waste occurs, including any tank,
6 pit, lagoon, pond, or other specific place or area;

7 ~~21.~~ 20. "Treatment" means the detoxification, neutralization,
8 incineration or biodegradation of hazardous waste in order to remove
9 or reduce its harmful properties or characteristics; and

10 ~~22.~~ 21. "Treatment facility" means any location where treating
11 or recycling of hazardous waste occurs.

12 SECTION 3. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated
17 2-17-05 - DO PASS, As and Coauthored.