

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2555

By: Ellis

AS INTRODUCED

An Act relating to environment and natural resources; amending 27A O.S. 2001, Section 1-2-101, as last amended by Section 2, Chapter 381, O.S.L. 2004 (27A O.S. Supp. 2005, Section 1-2-101), which relates to the Secretary of Environment; prohibiting the Secretary of Environment from engaging in litigation until certain events occur; providing certain exceptions; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 1-2-101, as last amended by Section 2, Chapter 381, O.S.L. 2004 (27A O.S. Supp. 2005, Section 1-2-101), is amended to read as follows:

Section 1-2-101. A. The Secretary of Environment or successor cabinet position having authority over the Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility:

1. Powers and duties for environmental areas designated to such position by the Governor;

2. The recipient of federal funds disbursed pursuant to the Federal Water Pollution Control Act, provided the Oklahoma Water Resources Board is authorized to be the recipient of federal funds to administer the State Revolving Fund Program. The federal funds received by the Secretary of Environment shall be disbursed to each state environmental agency and state agency with limited environmental responsibilities based upon its statutory duties and responsibilities relating to environmental areas as determined by the Secretary of Environment in consultation with the Secretary of

Agriculture. Such funds shall be distributed to the appropriate state environmental agency or state agency with limited environmental responsibilities within thirty (30) days of its receipt by the Secretary or as otherwise provided by grant or contract terms without any assessment of administrative fees or costs. Disbursement of other federal environmental funds shall not be subject to this section. The Secretary of Environment shall make an annual written report no later than November 1 to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Chair of each environmental committee of both the House of Representatives and Senate detailing the disbursement of federal funds;

3. Coordinate pollution control and complaint management activities of the state carried on by all state agencies to avoid duplication of effort including but not limited to the development of a common data base for water quality information with a uniform format for use by all state agencies and the public; ~~and~~

4. Act on behalf of the public as trustee for natural resources under the federal Oil Pollution Act of 1990, the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the federal Water Pollution Control Act and any other federal laws providing that a trustee for the natural resources is to be designated. The Secretary is authorized to make claims against federal funds, receive federal payments, establish and manage a revolving fund in relation to duties as the natural resources trustee consistent with the federal enabling acts and to coordinate, monitor and gather information from and enter into agreements with the appropriate state environmental agencies or state agencies with limited environmental responsibilities in carrying out the duties and functions of the trustee for the natural resources of this state; and

5. The Secretary of the Environment shall not engage in litigation against agricultural nonpoint sources of pollution by targeting certain water bodies or watershed areas, unless and until:

- a. the water body or watershed area targeted has been listed on the 303(d) list of the state of impaired waters and it is determined that nonpoint source pollution contributed to the impairment,
- b. a Total Maximum Daily Load (TMDL) has been performed for the water body or watershed area targeted, which shall include the public participation processes prescribed by law and by the most recent Continuing Planning Process document of this state; or in lieu of a TMDL, a 319 Watershed Implementation Plan prepared by the Oklahoma Conservation Commission,
- c. a 319 Watershed Implementation Plan has been prepared for the water body or watershed area targeted,
- d. state and federal cost-share resources for conservation practices to remedy the nonpoint source problems in the water body or watershed area have been sought and implemented, and
- e. a reasonable amount of time has elapsed in order for the 319 Watershed Implementation Plan to be implemented and to show improvement in the water body or watershed area targeted.

This language does not prohibit administrative or legal action against individual agricultural producers who are not complying with state law.

B. 1. The Secretary of the Environment or successor cabinet position having authority over the Department of Environmental Quality shall develop and implement, by January 1, 2000, public participation procedures for the development and/or modification of:

- a. the federally required list of impaired waters (303(d) report),
- b. the federally required water quality assessment (305(b) report),
- c. the federally required nonpoint source state assessment (319 report), and
- d. the continuing planning process document.

2. The procedures shall provide for the documents to be submitted for formal public review with a published notice consistent with the Administrative Procedures Act, providing for a thirty-day comment period and the preparation of a responsiveness summary by the applicable state environmental agency.

3. Information from current research shall be considered when made available to the agency.

SECTION 2. This act shall become effective November 1, 2006.

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