

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1785

By: Wyrick

AS INTRODUCED

An Act relating to scenic rivers; amending 27A O.S. 2001, Section 2-2-201, which relates to Department of Environmental Quality Advisory Councils; creating the Scenic Rivers Management Advisory Council; stating composition of advisory council; amending 27A O.S. 2001, Section 2-3-101, as amended by Section 1, Chapter 139, O.S.L. 2002 (27A O.S. Supp. 2005, Section 2-3-101), which relates to the Department of Environmental Quality; creating a scenic river management program; providing short title; amending 82 O.S. 2001, Section 1452, as amended by Section 2, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1452), which relates to designation of scenic river areas; modifying name of certain act; amending 82 O.S. 2001, Section 1454, which relates to cooperation of certain state agencies; prohibiting certain state agencies to use power of eminent domain; amending 82 O.S. 2001, Section 1455, which relates to littering; modifying name of certain act; amending 82 O.S. 2001, Section 1457, as amended by Section 1, Chapter 148, O.S.L. 2002 (82 O.S. Supp. 2005, Section 1457), agencies authorized to assist in certain water quality activities; transferring duties to Department of Environmental Quality; removing obsolete language; amending 82 O.S. 2001, Section 1458, which relates to designation of additional scenic river areas; requiring Department to give certain notice; 82 O.S. 2001, Section 1460, which relates to purpose of scenic rivers; providing for Environmental Quality to adopt certain rules; amending 82 O.S. 2001, Section 1461, as last amended by Section 1, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1461), which relates to the Scenic Rivers Commission; transferring powers and duties to Environmental Quality Board; modifying certain powers and duties; amending 82 O.S. 2001, Section 1462C, as amended by Section 4, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1462C), which relates to fees; providing for certain fees to be deposited in Department of Environmental Quality Revolving Fund; amending 82 O.S. 2001, Section 1464, as amended by Section 3, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1464), which relates to construction of act; modifying construction of act; amending 82 O.S. 2001, Section 1465, which relates to powers of certain entities; modifying powers of counties; amending 82 O.S. 2001, Section 1470, as last amended by Section 1, Chapter 364, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1470), which relates to user fees; authorizing the Department to charge certain fees; requiring deposit of fees in certain revolving fund; transferring upon certain date all

unexpended fees, property and employees from the Oklahoma Scenic Rivers Commission to the Oklahoma Department of Environmental Quality; transferring all programs, rules and functions by certain date; repealing 82 O.S. 2001, Section 1451, as amended by Section 1, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1451); 82 O.S. 2001, Section 1462; 82 O.S. 2001, Section 1462A, as amended by Section 2, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1462A); 82 O.S. 2001, Section 1462B, as amended by Section 3, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1462B); 82 O.S. 2001, Section 1463, as amended by Section 5, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1463); 82 O.S. 2001, Section 1466; 82 O.S. 2001, Section 1467; 82 O.S. 2001, Section 1468; 82 O.S. 2001, Section 1469, as amended by Section 6, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1469); and 82 O.S. 2001, Section 1471, which relate to the Oklahoma Scenic Rivers Commission; providing for codification; providing for recodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-2-201, is amended to read as follows:

Section 2-2-201. A. There are hereby created:

1. The Water Quality Management Advisory Council;
2. The Hazardous Waste Management Advisory Council;
3. The Solid Waste Management Advisory Council;
4. The Radiation Management Advisory Council; ~~and~~
5. The Laboratory Services Advisory Council; and
6. The Scenic Rivers Management Advisory Council.

B. 1. Each Council created pursuant to subsection A of this section shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments shall be for three-year terms. Members of the Advisory Councils

shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

2. Each Council shall elect a chair and a vice-chair from among its members. Each Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three (3) members.

C. 1. All members of the Water Quality Management Advisory Council shall be knowledgeable of water quality and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

- (1) one member representing the field of engineering,
- (2) one member representing a statewide nonprofit environmental organization, and
- (3) one member representing the general public,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

- (1) one member representing an industry located in this state,
- (2) one member representing an oil field-related industry, and
- (3) one member representing the field of geology, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

- (1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,
- (2) one member representing a rural water district organized pursuant to the laws of this state, and

(3) one member representing the field of agriculture.

2. The jurisdictional areas of the Water Quality Management Advisory Council shall include Article VI of this chapter, water quality and protection and related activities and such other areas as designated by the Board.

D. 1. All members of the Hazardous Waste Management Advisory Council shall be knowledgeable of hazardous waste and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

(1) one member representing an industry located in this state,

(2) one member representing a statewide nonprofit environmental organization, and

(3) one member representing a political subdivision of the state who shall be a member of the local governing body of a city or town,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

(1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,

(2) one member representing the general public, and

(3) one member representing industry generating hazardous waste, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

(1) one member representing the field of engineering,

(2) one member representing the hazardous waste industry, and

(3) one member representing the field of geology.

2. The jurisdictional areas of the Hazardous Waste Management Advisory Council shall include Article VII of this chapter, the

Oklahoma Hazardous Waste Reduction Program, and such other areas as designated by the Board.

E. 1. All members of the Solid Waste Management Advisory Council shall be knowledgeable of solid waste and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

- (1) one member representing a statewide nonprofit environmental organization,
- (2) one member shall be a county commissioner, and
- (3) one member representing the general public,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

- (1) one member representing an industry located in this state generating solid waste,
- (2) one member representing a political subdivision of this state who shall be a member of the local governmental body of a city or town, and
- (3) one member representing the field of geology, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

- (1) one member representing the solid waste disposal industry in this state,
- (2) one member representing the field of engineering, and
- (3) one member representing the transportation industry.

2. The jurisdictional areas of the Solid Waste Management Advisory Council shall include Article X of this chapter, the Oklahoma Waste Tire Recycling Act and such other areas as designated by the Board.

F. 1. All members of the Radiation Management Advisory Council shall be knowledgeable of radiation hazards and radiation protection. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

- (1) one member representing an industry located in this state which uses sources of radiation in its manufacturing or processing business,
- (2) one member representing a statewide nonprofit environmental organization, and
- (3) one member representing the engineering profession who shall be a professional engineer employed and experienced in matters of radiation management and protection,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

- (1) one member representing the faculty of an institution of higher learning of university status and shall be experienced in matters of scientific knowledge and competent in matters of radiation management and protection,
- (2) one member representing the general public, and
- (3) one member representing the field of industrial radiography, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

- (1) one member representing the transportation industry,
- (2) one member representing the petroleum industry who is trained and experienced in radiation management and protection, and

- (3) one member representing a medical institution within this state who shall be experienced in matters of radiation management and protection.

2. The jurisdictional areas of the Radiation Management Advisory Council shall include Article IX of this chapter and such other areas as designated by the Board.

G. 1. All members of the Laboratory Services Advisory Council shall be knowledgeable of laboratory services and certification standards. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

- (1) one member representing a private laboratory within the state certified by the Department,
- (2) one member representing the field of hydro-geology, and
- (3) one member representing permit holders required to routinely submit laboratory analyses results to the Department,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

- (1) one member representing a private laboratory within the state certified by the Department,
- (2) one member representing a public laboratory within the state certified by the Department, and
- (3) one member representing the field of microbiology, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

- (1) one member representing a private laboratory within the state certified by the Department,
- (2) one member representing permit holders required to routinely submit laboratory analyses results to the Department, and

(3) one member representing the field of environmental chemistry.

2. The jurisdictional areas of the Laboratory Services Advisory Council shall include Article IV of this chapter and such other areas designated by the Board.

H. 1. The Air Quality Council created pursuant to Section 6, Chapter 215, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-1807.1) shall remain in effect as the Air Quality Advisory Council and carry on the powers and duties assigned to it by law. The current members of the Air Quality Council shall remain on the Council until the expiration of their individual terms of office or until such offices are vacated. Future appointments to the Council shall be made according to the provisions of this section.

2. The Council shall consist of nine (9) members who shall be residents of this state and appointed by the Governor with the advice and consent of the Senate.

3. Members of the Council shall have the qualifications as follows:

- a. one member shall be selected from the engineering profession, and, as such, shall be a professional engineer and experienced in matters of air pollution equipment and control, who shall not be an employee of any unit of government,
- b. one member shall be selected from industry in general, and, as such, shall be employed as a manufacturing executive carrying on a manufacturing business within this state,
- c. one member shall be selected from a faculty of an institution of higher learning of university status and shall be experienced in matters of scientific knowledge and competent in matters of air pollution control and evaluation,

- d. one member shall be selected from the transportation industry,
- e. one member shall be selected from the petroleum industry, and, as such, shall be employed by a petroleum company carrying on a petroleum refining business within the state, and, as such, shall be trained and experienced in matters of scientific knowledge of causes as well as effects of air pollution,
- f. one member shall be selected from agriculture, and, as such, shall be engaged in or employed by a basic agricultural business or the processing of agricultural products,
- g. one member shall be selected from the political subdivisions of the state, and, as such, shall be a member of the local government body of a city or town,
- h. one member, whose first term shall expire on June 15, 1998, shall be selected from the general public, and
- i. one member, whose first term shall expire on June 15, 1999, shall be selected from the electric utilities industry, and as such, shall be knowledgeable in matters of air pollution and control.

4. Each member shall be appointed to serve a term of office of seven (7) years, except that the term of those first appointed shall expire as follows:

One at the end of one (1) year after date of appointment;

One at the end of two (2) years after date of appointment;

One at the end of three (3) years after date of appointment;

One at the end of four (4) years after date of appointment;

One at the end of five (5) years after date of appointment;

One at the end of six (6) years after date of appointment;

and

One at the end of seven (7) years after date of appointment;

The terms of all members shall be deemed to have expired on June 15th of the year of expiration, and shall continue until successors have been duly appointed and qualified. If a vacancy occurs, the Governor shall appoint a person for the remaining portion of the unexpired term created by the vacancy. Five members of the Council shall constitute a quorum.

5. The Council shall hold at least two regular meetings each calendar year at a place and time to be fixed by the Council. The Council shall select one of its members to serve as chair and another of its members to serve as vice-chair at the first regular meeting in each calendar year to serve as the chair and vice-chair for the ensuing year. Special meetings may be called, and any meeting may be canceled, by the chair, or by three members of the Council by delivery of written notice to each member of the Council.

6. The jurisdictional areas of the Air Quality Council shall include Article V of this chapter and such other areas as designated by the Board.

I. 1. The Scenic Rivers Management Advisory Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

(1) one member who is a representative of the Oklahoma Conservation Commission or the Oklahoma Tourism and Recreation Commission,

(2) one member who is an engineer,

(3) one member who is a resident of a county containing one or more designated scenic river areas, and who is also a member of the governing body of a city or town or a county commissioner

within one of the counties containing one or more
designated scenic river areas,

b. the President Pro Tempore of the Senate shall appoint
three members as follows:

(1) one member who is a representative of an Oklahoma
statewide citizens' conservation or environmental
group,

(2) one member who is a Department-licensed
recreational activity operator in one or more of
the designated scenic river areas,

(3) one member who is a resident of a county
containing a designated scenic river area,

c. the Speaker of the House of Representatives shall
appoint three members as follows:

(1) one member who is a representative of an Oklahoma
statewide citizens' conservation or environmental
group,

(2) one member who is engaged in agriculture within
the watershed of one or more of the designated
scenic rivers,

(3) one member who is a resident of a county
containing a designated scenic river area.

2. The jurisdictional areas of the Scenic Rivers Management
Advisory Council shall include Article XVI of this chapter and such
other areas as designated by the Board.

J. In addition to other powers and duties assigned to each
Council pursuant to this Code, each Council shall, within its
jurisdictional area:

1. Have authority to recommend to the Board rules on behalf of
the Department. The Department shall not have standing to recommend
to the Board permanent rules or changes to such rules within the

jurisdiction of a Council which have not previously been submitted to the appropriate Council for action;

2. Before recommending any permanent rules to the Board, give public notice, offer opportunity for public comment and conduct a public rulemaking hearing when required by the Administrative Procedures Act;

3. Have the authority to make written recommendations to the Board which have been concurred upon by at least a majority of the membership of the Council;

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

- a. pass nonbinding resolutions expressing the sense of the Council, and
- b. make recommendations to the Board or Department concerning the need and the desirability of conducting meetings, workshops and seminars; and

5. Cooperate with each other Council, the public, the Board and the Executive Director in order to coordinate the rules within their respective jurisdictional areas and to achieve maximum efficiency and effectiveness in furthering the objectives of the Department.

~~J.~~ K. The Councils shall not recommend rules for promulgation by the Environmental Quality Board unless all applicable requirements of the Administrative Procedures Act have been followed, including but not limited to notice, rule impact statement and rule-making hearings.

~~K.~~ L. Members of the Councils shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Councils are authorized to utilize the conference rooms of the Department of Environmental Quality and obtain administrative assistance from the Department, as required.

SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-3-101, as amended by Section 1, Chapter 139, O.S.L. 2002 (27A O.S. Supp. 2005, Section 2-3-101), is amended to read as follows:

Section 2-3-101. A. There is hereby created the Department of Environmental Quality.

B. Within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality, through its duly designated employees or representatives, shall have the power and duty to:

1. Perform such duties as required by law; and

2. Be the official agency of the State of Oklahoma, as designated by law, to cooperate with federal agencies for point source pollution, solid waste, hazardous materials, pollution, Superfund, water quality, hazardous waste, radioactive waste, air quality, drinking water supplies, wastewater treatment and any other program authorized by law or executive order.

C. Any employee of the Department in a technical, supervisory or administrative position relating to the review, issuance or enforcement of permits pursuant to this Code who is an owner, stockholder, employee or officer of, or who receives compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department of Environmental Quality shall disclose such interest to the Executive Director. Such disclosure shall be submitted for Board review and shall be made a part of the Board minutes available to the public. This subsection shall not apply to financial interests occurring by reason of an employee's participation in the Oklahoma State Employees Deferred Compensation Plan or publicly traded mutual funds.

D. The Executive Director, Deputy Director, and all other positions and employees of the Department at the Division Director level or higher shall be in the unclassified service.

E. The following programs are hereby established within the Department of Environmental Quality:

1. An air quality program which shall be responsible for air quality;

2. Water programs which shall be responsible for water quality, including, but not limited to point source and nonpoint source pollution within the jurisdiction of the Department, public and private water supplies, public and private wastewater treatment, water protection and discharges to waters of the state;

3. Land protection programs which shall be responsible for hazardous waste, solid waste, radiation, and municipal, industrial, commercial and other waste within its jurisdictional areas of environmental responsibility pursuant to Section 1-3-101 of this title; ~~and~~

4. Special projects and services programs which shall be responsible for duties related to planning, interagency coordination, technical assistance programs, laboratory services and laboratory certification, recycling, education and dissemination of information; and

5. A scenic river management program which shall be responsible for implementation of the Scenic River Management Act.

F. Within the Department there are hereby created:

1. The complaints program which shall be responsible for intake processing, investigation, mediation and conciliation of inquiries and complaints received by the Department and which shall provide for the expedient resolution of complaints within the jurisdiction of the Department; and

2. The customer assistance program which shall be responsible for advising and providing to licensees, permittees and those persons representing businesses or those persons associated with and representing local political subdivisions desiring a license or permit, the necessary forms and the information necessary to comply

with the Oklahoma Environmental Quality Code. The customer assistance program shall coordinate with other programs of the Department to assist businesses and municipalities in complying with state statutes and rules governing environmental areas.

The customer assistance program shall also be responsible for advising and providing assistance to persons desiring information concerning the Department's rules, laws, procedures, licenses or permits, and forms used to comply with the Oklahoma Environmental Quality Code.

G. The Department shall be responsible for holding administrative hearings as defined in Section 2-1-102 of this title and shall provide support services related to them, including, but not limited to, giving required notices, maintaining the docket, scheduling hearings, and maintaining legal records.

H. 1. The Department shall prepare and submit an annual report assessing the status of the Department's programs to the Board, the Governor, the President Pro Tempore of the State Senate, and the Speaker of the Oklahoma House of Representatives by January 1 of each year. The annual status report shall include: the number of environmental inspections made within the various regulatory areas under the Department's jurisdiction; the number of permit applications submitted within the various regulatory areas under the Department's jurisdiction; the number of permits issued within the various regulatory areas under the Department's jurisdiction; the number and type of complaints filed with the Department; the number of resolved and unresolved Department complaints; a list of any permits and complaints which failed to be either completed or resolved within the Department's established time frames and an explanation of why the Department was unable to meet said time frames; the number and kinds of services provided corporations, businesses, cities, towns, schools, citizen groups and individuals by the customer assistance programs; a summary of the Department's

environmental education efforts; the number and type of administrative hearings held and their outcomes; a detailed description of any promulgated and pending emergency or permanent rules requested by the Department and the current status of pending rules within the rulemaking process; the number of notices of violations issued by the Department within the various regulatory areas under its jurisdiction; the amount of penalties collected by the Department within the various regulatory areas under its jurisdiction; and any other information which the Department believes is pertinent.

2. Beginning January 1, 1995, and on or before January 1 of every year thereafter, the Department shall prepare an Oklahoma Environmental Quality Report which outlines the Department's annual needs for providing environmental services within its jurisdictional areas. The report shall reflect any new federal mandates and any state statutory or constitutional changes recommended by the Department within its jurisdictional areas. The Oklahoma Environmental Quality Report shall be reviewed, amended, and approved by the Board. The Department shall transmit an approved copy of the Oklahoma Environmental Quality Report to the Governor, President Pro Tempore of the State Senate, and Speaker of the House of Representatives.

3. The Executive Director shall establish such divisions and such other programs and offices as the Executive Director may determine necessary to implement and administer programs and functions within the jurisdiction of the Department pursuant to the Oklahoma Environmental Quality Code.

I. 1. The Department may contract with other governmental entities to provide environmental services. Such contracts may include duties related to providing information to the public regarding state environmental services, resources, permitting

requirements and procedures based upon the ability, education and training of state environmental agency employees.

2. The Department, in conjunction with the state environmental agencies, may develop a program for the purpose of training government employees to provide any needed environmental services; provided, that the investigation of complaints regarding, or inspections of, permitted sites or facilities shall not be performed by employees of other agencies, unless otherwise authorized by law.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-16-101 of Title 27A, unless there is created a duplication in numbering, reads as follows:

This article shall be known and may be cited as the "Scenic Rivers Management Act".

SECTION 4. AMENDATORY 82 O.S. 2001, Section 1452, as amended by Section 2, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1452), is amended to read as follows:

Section 1452. A. The Oklahoma Legislature finds that some of the free-flowing streams and rivers of Oklahoma possess such unique natural scenic beauty, water conservation, fish, wildlife and outdoor recreational values of present and future benefit to the people of the state that it is the policy of the Legislature to preserve these areas for the benefit of the people of Oklahoma. For this purpose there are hereby designated certain "scenic river areas" to be preserved as a part of Oklahoma's diminishing resource of free-flowing rivers and streams.

B. The areas of the state designated as "scenic river areas" shall include:

1. The Flint Creek and the Illinois River above the confluence of the Barren Fork Creek in Cherokee, Adair and Delaware Counties;

2. The Barren Fork Creek in Adair and Cherokee Counties from the present alignment of Highway 59 West to the Illinois River;

3. The Upper Mountain Fork River above the 600-foot elevation level of Broken Bow Reservoir in McCurtain and LeFlore Counties;

4. Big Lee's Creek, sometimes referred to as Lee Creek, located in Sequoyah County, above the 420-foot MSL elevation, excluding that portion necessary for a dam to be built in the State of Arkansas with a crest elevation of no more than the 420-foot MSL elevation. The Oklahoma Water Resources Board shall make such classifications, designations or adjustments to Oklahoma's water quality standards as required to allow the impoundment of water by said dam; and

5. Little Lee's Creek, sometimes referred to as Little Lee Creek, located in Adair and Sequoyah Counties, beginning approximately four (4) miles east-southeast of Stilwell, Oklahoma, and ending at its conjunction with Big Lee's Creek approximately two (2) miles southwest of Short, Oklahoma.

C. The term "scenic river area" as used in the Scenic Rivers Management Act is defined as the stream or river and the public use and access areas located within the area designated.

SECTION 5. AMENDATORY 82 O.S. 2001, Section 1454, is amended to read as follows:

Section 1454. A. It is recognized by the Legislature that an effective program for preserving the scenic beauty of the free-flowing streams and rivers designated as "scenic river areas" necessarily involves the cooperation and support of the people in the operating areas of designated "scenic river areas", as well as the people using the "scenic river areas", and the agencies of state government administering these areas.

B. The primary purpose of the Scenic Rivers Management Act is to encourage the preservation of the areas designated as "scenic river areas"—in their natural scenic state.

C. In order to assist in the public use and enjoyment of such areas, ~~any Scenic Rivers Commission~~ the Department of Environmental Quality, the Oklahoma Tourism and Recreation Department and the

Oklahoma Wildlife Conservation Commission may acquire, develop and maintain public access points, easements or park areas in or near "scenic river areas". Such acquisitions shall be by private treaty only, and the use of the power of eminent domain for these purposes is specifically prohibited by the Scenic Rivers Management Act.

SECTION 6. AMENDATORY 82 O.S. 2001, Section 1455, is amended to read as follows:

Section 1455. A. It is recognized by the Legislature that littering by people using the "scenic river areas"—is one of the most immediate threats to the scenic beauty of our free-flowing streams and surrounding areas.

B. Any law enforcement, police or peace officer, game wardens or any other personnel of the Wildlife Conservation Commission, the personnel of the Tourism and Recreation Department, any landowner in the area, or any other interested party may file a complaint to enforce the provisions of the Scenic Rivers Management Act.

C. Any person who deliberately places, throws, drops, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on or near a scenic river area shall be subject to the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.

SECTION 7. AMENDATORY 82 O.S. 2001, Section 1457, as amended by Section 1, Chapter 148, O.S.L. 2002 (82 O.S. Supp. 2005, Section 1457), is amended to read as follows:

Section 1457. A. The ~~Executive Director of the Department of Environmental Quality, the~~ Corporation Commission, the State Department of Agriculture, Food and Forestry, the Oklahoma Water Resources Board, the Oklahoma Wildlife Conservation Commission and the Conservation Commission are hereby ~~given the authority~~ authorized to assist the ~~Scenic Rivers Commission~~ Department of Environmental Quality in maintaining and improving water quality and

in preventing and eliminating the pollution of waters within a "scenic river area".

B. 1. The Secretary of Environment shall coordinate with the appropriate state environmental agencies to create and maintain a coordinated watershed restoration and protection strategy for each impaired scenic river in this state. ~~The strategy shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by January 31, 2003.~~

2. The coordinated watershed restoration and protection strategy shall identify all permitted or registered water pollution sources and shall include but not be limited to:

- a. an overall pollutant-specific load reduction as identified in a developed total maximum daily load (TMDL), or as otherwise calculated in the absence of a developed total maximum daily load, to bring each impaired scenic river back into compliance with water quality standards,
- b. pollutant-specific load reduction goals for each state environmental agency to accomplish through its water quality protection programs,
- c. detailed compliance schedules indicating how much of the load reduction goal will be accomplished each year by each state environmental agency,
- d. industry-specific descriptions of how load reduction goals for each state environmental agency will be accomplished,
- e. an outline of innovative, cooperative intrastate and interstate strategies that will be pursued in order to expedite pollutant reductions, in particular where scenic river watersheds cross state lines. Such strategies may include nutrient trading and

conservation reserve enhancement program (CREP) initiatives, and

f. a list of all permitted or registered water pollution sources subject to the jurisdiction of each state agency within each impaired scenic river watershed. For the permitted or registered water pollution sources subject to each state environmental agency's jurisdiction, the following information shall be included:

- (1) types of operations or organizations regulated,
- (2) list of the registrations or permits issued,
- (3) details on governmental assistance given, and
- (4) details of enforcement actions undertaken.

C. 1. The Secretary of Environment shall coordinate with the appropriate state environmental agencies to create an annual progress report, beginning January 31, 2004, and each year thereafter. The progress report shall be submitted to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

2. The annual progress report shall include any revisions and updates to the information provided in the original strategy, in addition to the following:

- a. identification of all actions taken by each state environmental agency to reduce pollutant levels in each impaired scenic river watershed,
- b. identification of the sources of pollutants causing impairment or continued degradation of each impaired scenic river,
- c. outline of further steps to be taken by each state environmental agency to reduce pollutants from identified sources in order to accomplish pollutant-specific load reduction goals,

- d. an analysis of the effectiveness of the pollutant reduction efforts of each state environmental agency based upon data collected by the Oklahoma Water Resources Board's Beneficial Use Monitoring Program, the Conservation Commission's Small Watershed Rotational Monitoring Program and other appropriate monitoring data, and
- e. recommendations for further administrative, judicial or legislative actions necessary to achieve the load reduction goals assigned to each impaired scenic river watershed and to overcome any identified limitations or obstacles.

D. 1. For those impaired scenic river watersheds where a total maximum daily load (TMDL) for phosphorus has been developed, the Department of Environmental Quality shall initially allocate a wasteload for phosphorus for discharges from wastewater treatment facilities which is achievable by the best available waste control process.

2. The annual report required by subsection C of this section shall indicate how the Department has verified that each wastewater treatment facility having a discharge has, in fact, implemented appropriate waste controls for phosphorus.

3. If the state's water quality monitoring data demonstrate that the water quality standards for phosphorus applicable to a watershed remain impaired, and only after all permitted or registered water pollution sources have also implemented the best available waste control processes for phosphorus to address the pollutant or pollutants contributing to the impairment of the watershed, the Department shall again evaluate and require regulated entities to take additional actions to achieve water quality standards for phosphorus.

E. 1. The ~~Scenic Rivers Commission~~ Department shall require all entities using scenic rivers for recreational activities, which are licensed by the ~~Commission~~ Department, to implement a program to control the amount of pollution entering an impaired scenic river watershed from such recreational activities.

2. The ~~Scenic Rivers Commission~~ Department shall include in the coordinated watershed restoration and protection strategy, and all subsequent annual reports, an identification of the pollution from recreational activities which are licensed or permitted by the ~~Commission~~ Department and those actions taken and planned to reduce the amount of pollution from entering an impaired scenic river watershed.

F. If the Legislature or the Governor finds, based on any of the annual reports required by this section, that any of the state environmental agencies have failed to appropriately protect water quality standards in an impaired scenic river watershed, the Governor and the Legislature shall take any and all necessary and appropriate action to require the agency to meet its mandated responsibilities.

SECTION 8. AMENDATORY 82 O.S. 2001, Section 1458, is amended to read as follows:

Section 1458. Before submitting any plans for additional proposed "scenic river areas" ~~are brought~~ to the Legislature for consideration, the ~~Scenic Rivers Commission~~ Department of Environmental Quality and the Oklahoma Tourism and Recreation Department shall give reasonable notice in newspapers of general circulation in every county in which land and streams are situated that would be affected by the proposed "scenic river area". The notice shall include a map or drawing of the proposed area and shall give the time and place of a meeting in each county affected, at which time and place the ~~Commission~~ agencies shall present their plans for the proposed area.

SECTION 9. AMENDATORY 82 O.S. 2001, Section 1460, is amended to read as follows:

Section 1460. The Legislature finds that the protection and development of the state's scenic river areas and adjacent and contiguous lands and quality of outstanding resource waters included within each ~~Commission's operating~~ scenic river area should be provided for by properly planned and executed rules ~~promulgated by that Commission~~ adopted by the Board of Environmental Quality respecting public services, land use, occupancy, structures, lot and plot sizes, density of population and other activities as required for the proper protection of the aesthetic, scenic, historic, archeologic and scientific features of the ~~said~~ affected areas, or deemed necessary for the protection of the ecosystem and the environment from pollution, despoliation and destruction or waste of natural resources and all other factors adversely affecting the public health, safety and the general welfare so long as the rules comply with the exempt provisions of the Scenic Rivers Management Act pertaining to farming, ranching, forestry, silviculture and other agricultural uses.

SECTION 10. AMENDATORY 82 O.S. 2001, Section 1461, as amended by Section 1, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1461), is amended to read as follows:

Section 1461. A. ~~1. A Scenic Rivers Commission may be created pursuant to the Scenic Rivers Act for each designated scenic river area or combination of areas for which operating areas for planning and management have been delineated. Each Scenic Rivers Commission shall be organized in cooperation with local governments in accordance with procedures provided for in the Scenic Rivers Act.~~

~~2. Each Commission shall be an agency of the state and shall be named to reflect the area or areas subject to its jurisdiction.~~

~~3. State funds for each Commission shall be provided for by a separate line-item appropriation through the state agency~~

~~specifically named or by direct appropriation. If funded through the named state agency, said state agency shall disburse the funds to the appropriate Scenic Rivers Commission in the amount and pursuant to the conditions prescribed by the Legislature.~~

~~B. 1. There is hereby re-created, to continue until July 1, 2009, in accordance with the provisions of the Oklahoma Sunset Law, a Scenic Rivers Commission for the Illinois River and Flint Creek Scenic River Areas within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County.~~

~~2. The operating area for the Scenic Rivers Commission for the Illinois River and Flint Creek will be limited to areas within Adair, Cherokee and Delaware Counties, and to areas within Cherokee County for Barren Fork Creek.~~

~~C. Each Commission shall consist of not less than seven (7) nor more than fifteen (15) members. The term of office for each member shall be four (4) years. Each Commission shall be composed of the following members:~~

~~1. a. The Governor shall appoint three members, one of whom shall be a representative of the Oklahoma Conservation Commission or the Oklahoma Tourism and Recreation Commission.~~

~~b. The President Pro Tempore of the Senate shall appoint two members who shall each be a member of a statewide citizens' conservation or environmental group.~~

~~c. The Speaker of the House of Representatives shall appoint two members who shall each be a resident of one of the counties containing the scenic river area, and one of whom shall be a representative of the agriculture industry; and~~

~~2. a. The additional members of the Scenic Rivers Commission created pursuant to this subsection and as authorized~~

~~by subsection A of this section shall be elected in a nonpartisan election to represent the following:~~

- ~~(1) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of the Illinois River or Flint Creek within Delaware County, shall elect one member to represent them,~~
- ~~(2) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of the Illinois River in Adair County, Oklahoma, shall elect one member to represent them,~~
- ~~(3) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of the Illinois River above its confluence with the Barren Fork Creek or those portions of the Barren Fork Creek in Cherokee County shall elect one member to represent them,~~
- ~~(4) the registered voters who reside, own real property, or own permanent residential structures within six hundred sixty (660) feet of:
 - ~~(a) the Illinois River, above its confluence with the Barren Fork Creek located in Adair, Cherokee and Delaware Counties, or~~
 - ~~(b) Flint Creek located within Delaware County or Barren Fork Creek within Cherokee County,~~shall elect two at-large members to represent them, and~~
- ~~(5) no person shall be eligible to vote in more than one of the jurisdictional areas outlined in~~

~~divisions (1), (2) and (3) of subparagraph a of this paragraph.~~

~~b. All members elected under divisions (1), (2) and (3) of subparagraph a of this paragraph shall reside or own property within the county they represent. All at-large members elected under division (4) of subparagraph a of this paragraph shall reside or own property within Adair, Cherokee or Delaware Counties.~~

~~D. The Scenic Rivers Commission shall promulgate rules governing the procedure and conduct of elections for Commission members. Such rules shall be consistent with the purposes of general election laws except where otherwise provided for by this act.~~

~~E. 1. Vacancies on each Commission shall be filled, as applicable, by the appointing authority or by election, pursuant to the provisions of this section. Members shall serve until their respective successors shall be appointed and qualify, or be elected, unless terminated by death or resignation.~~

~~2. Each Scenic Rivers Commission shall promulgate rules consistent with the requirements of this section for replacing members who fail to attend meetings or otherwise become unable to function due to disability, death, or resignation. The replacement shall serve for the remainder of the unexpired term of the member being replaced.~~

~~F. 1. Each Commission shall be organized in cooperation with local governments in accordance with procedures provided for in the Scenic Rivers Act.~~

~~2. An interim commission consisting of the members appointed by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall provide for the election of additional members as provided for in paragraph 2 of subsection C of this section.~~

~~G. 1. Each Scenic Rivers Commission shall be invested with the power to:~~

~~a. prepare and establish minimum standards for planning and other ordinances and rules for the implementation of the Scenic Rivers Act by counties, municipalities, or any other local authorities in the Commissions' operating area, and~~

~~b. promulgate The Environmental Quality Board shall have the power and duty to:~~

~~1. Adopt such rules and ~~issue such orders~~ as necessary to protect the public interest and to achieve the purposes of the Scenic Rivers Management Act.~~

~~2. The ~~standards~~ rules shall be developed and ~~executed in such manner as~~ to protect and enhance the values which caused the area to be named a scenic river area without, ~~insofar as is consistent with said protection and enhancement,~~ unnecessarily limiting other uses that do not substantially interfere with the protection, public use, and enjoyment of these values.~~

~~3. Primary emphasis in the ~~standards~~ rules shall be given to protecting the aesthetic, scenic, historic, archeologic, and scientific features of the scenic river area with due consideration being given to the orderly development of the lands adjacent and contiguous to the scenic river area.~~

~~4. Standards set pursuant to the provisions of the Scenic Rivers Management Act shall not be less ~~rigid or exacting~~ stringent than those established by any other federal or state agency having jurisdiction ~~in respect to~~ over the subject covered by the particular ~~standard~~ rule.~~

~~H. ~~Each Scenic Rivers Commission~~ B. The Department of Environmental Quality may engage in or supervise the conduct of studies, make a plan or plans, receive, disburse, and allocate monies granted or appropriated to it, and do all things, whether~~

expressly enumerated in the Scenic Rivers Management Act or not, which may be lawful and necessary and proper for the accomplishment of the purposes of the Scenic Rivers Management Act. Nothing in this section shall be interpreted as giving ~~any Commission~~ the Department the power of eminent domain.

~~I. Each Scenic Rivers Commission,~~ C. The Department, in addition, shall have the following powers and responsibilities:

~~1. Appoint and fix the salary of an administrator experienced in land resource planning and management who shall serve at the pleasure of the Commission and in accordance with its policies, budgets, powers, and responsibilities. Such administrator may be commissioned as a peace officer. The administrator may select, appoint, and employ individuals to fill personnel positions authorized, budgeted, and deemed necessary by the Commission to implement the purposes of the Scenic Rivers Act;~~

~~2. Act in cooperation with all federal, state, and local governments and agencies thereof to implement the purposes of the Scenic Rivers Management Act;~~

~~3. Elect from the Commission membership a chair and such other officers as the Commission deems necessary to conduct the affairs of the Commission. The officers shall be permitted to succeed themselves once for a total of two (2) consecutive years of service in any office. The Commission shall hold meetings not less than once each quarter, at such times as may be fixed by call of its chair or as determined by majority vote in advance of the meeting. It is the responsibility of the Commissioners to encourage general public participation in the formation and adoption of plans, standards, procedures, and regulations. The meetings of the Commission shall be open to the public. Minutes of each meeting shall be kept and filed in the office of the Commission and shall be available for public inspection during reasonable office hours;~~

~~4. Promulgate rules and issue orders necessary to the exercise of the powers of the Commission and to achieve the purposes of the Scenic Rivers Act;~~

~~5.~~ 2. Prepare and adopt a management plan or plans to guide and control private activities and public programs and to include varying degrees of protection and development based on the special attributes of the area;

~~6. Provide, where appropriate in the discretion of the Commission, for the review and consideration by the Commission of the impact on the natural and aesthetic environment within the Commission's operating area related to any existing or proposed action by public agencies, private individuals or any other activity;~~

~~7.~~ 3. Accept, ~~in the name of and through the Commission,~~ real and personal property that is granted, bequeathed, devised, or conveyed to the ~~Commission~~ Department to implement the purposes of the Scenic Rivers Management Act, upon such trusts and conditions as may be prescribed by the grantors or divisors, ~~upon approval of the Commission;~~

~~8.~~ 4. Enter into contracts ~~on behalf of the Commission~~ to implement the purposes of the Scenic Rivers Management Act and may accept gifts and grants, ~~whether the grants be of federal or other funds or real or personal property;~~

~~9.~~ 5. Identify public and private nuisances which are adverse to the purposes of the Scenic Rivers Management Act and take such action as permitted by law to remove the public nuisances;

~~10.~~ 6. Own and control public access points to the scenic river area, issue use permits, and purchase easements and fee title to land within the ~~Commission's operating~~ scenic river area. Legal title to property shall be held in the name of the ~~individual Scenic Rivers Commission~~ Department as an agency of the State of Oklahoma;

~~11. Review any action taken by any local, municipal, or county authority within the operating area of the Commission in an administrative adjudicatory proceeding brought upon the petition of any officer or agency of this state, including the administrator, or of any person acting in behalf of the public interest, to determine whether such action conforms to the standards promulgated by the Commission or has an adverse effect upon the proper achievement of the purposes of the Scenic Rivers Act. Upon a finding that such action does not so conform or does have such adverse effect, order that the action be nullified, superseded, or amended to the extent necessary to produce such conformity or eliminate such adverse effect, the Commission may issue such orders as may be necessary and proper to effectuate its primary order;~~

~~12. Hire an attorney or request legal assistance from the district attorney or the State Attorney General when appropriate and if there is no conflict in the legal interest of the parties; and~~

~~13. 7. Bring an action in the district court of any county of the state where service can be obtained on one or more of the defendants, to enjoin the acts or practices which appear to constitute a violation of or adversely affect the purposes to be achieved by any provision of the Scenic Rivers Management Act or any rule or order promulgated and to enforce compliance with the provisions of the Scenic Rivers Management Act or any rule or order. Upon a proper showing, a restraining order, permanent or temporary injunction, writ of mandamus, or other appropriate remedies including damages shall be granted. The court may not require the ~~administrator or Commission~~ Department to post a bond; and~~

~~14. Suspend the effectiveness of any action taken by a municipality or county within the designated operating area of such Commission when, in the exercise of alleged local functions, it appears the action has or may have an adverse effect upon the proper achievement of the purposes of the Scenic Rivers Act, whereupon all~~

~~proceedings thereunder shall be held in abeyance upon receipt of written notice from the administrator pending a final determination of the Commission in regard to such action. If it is determined that such adverse effects exist, the Commission may nullify, supersede, or amend said action only to the extent necessary to achieve the purposes of the Scenic Rivers Act.~~

~~J. A Commission member to whom some private benefit, direct or indirect, financial or otherwise, may come as the result of some public action should not be a participant in that action. The possibility, not the actuality, of a conflict of interest should govern. A Commission member experiencing a conflict of interest should declare his or her interest publicly, abstain from voting on the matter should he or she have a vote, and refrain from deliberation on the matter. In addition, the Commission member should not discuss the matter with any fellow member for the purpose of influencing a decision thereon.~~

~~K. The rules and orders of the Commission shall be promulgated in compliance with all applicable provisions of the Administrative Procedures Act.~~

~~L. 1. The administrator may appoint commissioned D. Commissioned peace officers employed by the Department and certified by the Council on Law Enforcement Education and Training ~~to~~ may secure ~~such~~ scenic river ~~area~~ areas, including all roadways and adjacent areas to the Illinois River and Flint Creek within Adair, Cherokee and Delaware Counties, and those portions of the Barren Fork Creek within Cherokee County. All ~~persons appointed by the administrator as~~ Department peace officers shall be and have the full powers and authority of peace officers of the State of Oklahoma in securing ~~such~~ scenic river ~~area~~ areas, including all roadways and adjacent areas to the Illinois River and Flint Creek within Adair, Delaware and Cherokee Counties, and those portions of the Barren~~

Fork Creek within Cherokee County. ~~All peace officers appointed by the administrator shall be in the unclassified service.~~

~~2. Peace officers who become employed under this subsection or who are transferred to the Scenic Rivers Commission pursuant to this act who have service credit in the Oklahoma Law Enforcement Retirement System may, within thirty (30) days after becoming employed or transferred, elect to continue membership in the Oklahoma Law Enforcement Retirement System; otherwise they may be eligible to enroll only in the Oklahoma Public Employees Retirement System.~~

~~3. Any peace officer who has completed twenty (20) years of service or retires from the Scenic Rivers Commission may maintain possession of his or her badge and assigned firearm.~~

~~4. The administrator is authorized to employ seasonal personnel, including commissioned peace officers certified by the Council on Law Enforcement Education and Training throughout the calendar year to secure such scenic river area, including all roadways and adjacent areas to the Illinois River and Flint Creek within Adair, Cherokee and Delaware Counties, and those portions of the Barren Fork Creek within Cherokee County. Project labor employed by the Scenic Rivers Commission for a period of time necessary to complete a project shall be in the unclassified service of the state as provided by the Oklahoma Personnel Act. Such employees shall not be entitled to paid leave, paid holidays, retirement, health, dental or life insurance, and shall be exempt from any laws, rules or practices providing such benefits. The administrator shall submit in its annual budget reporting a summary of the use of project labor that shall include the number of workers employed under the provisions of this section and the total wages paid to these employees.~~

SECTION 11. AMENDATORY 82 O.S. 2001, Section 1462C, as amended by Section 4, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1462C), is amended to read as follows:

Section 1462C. A. The fees collected pursuant to the provisions of subsection B of Section ~~1470~~ 14 of this ~~title act~~ shall be used to purchase additional public access areas along the Flint Creek and Illinois River Scenic River Areas within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County or for the general operations of the ~~Commission scenic rivers program.~~

B. ~~1. For these purposes, there is hereby created in the State Treasury a revolving fund for the Scenic Rivers Commission, to be designated the "Scenic Rivers Commission Fees collected pursuant to the Scenic Rivers Management Act shall be deposited into the Department of Environmental Quality Revolving Fund".~~

~~2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Scenic Rivers Commission from all fees. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Scenic Rivers Commission for the purpose of performing the duties imposed by law upon the Scenic Rivers Commission.~~

~~3. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.~~

SECTION 12. AMENDATORY 82 O.S. 2001, Section 1464, as amended by Section 3, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1464), is amended to read as follows:

Section 1464. A. Nothing in the Scenic Rivers Management Act shall be construed to unduly restrict or adversely affect the use of property within ~~the jurisdiction of any Scenic Rivers Commission~~ any scenic river area for farming, ranching, forestry, silviculture and

other agricultural uses so long as they are not inconsistent with the purposes of the Scenic Rivers Management Act.

B. ~~Present~~ Existing farming, ranching, forestry, silviculture and other agricultural uses and practices, including existing building and replacement structures, ~~are hereby exempt from the~~ may continue notwithstanding any provisions of any Scenic Rivers Commission the Scenic Rivers Management Act.

C. The Scenic Rivers Management Act shall not be construed in any way to affect existing rights between a landowner and utility or pipeline companies.

SECTION 13. AMENDATORY 82 O.S. 2001, Section 1465, is amended to read as follows:

Section 1465. A. All cities and incorporated towns and counties that make up a part of ~~a jurisdiction of a certified Scenic Rivers Commission~~ scenic river area are hereby invested with full power to plan, zone and enact all ordinances and regulations that are necessary and proper to carry out the purposes of the Scenic Rivers Management Act.

B. The cities, incorporated towns and counties shall follow their respective general procedures in the conduct of legislative functions.

C. In exercising planning and zoning functions, ~~said the~~ the cities, incorporated towns and counties shall utilize the organization and procedures available to cities, ~~and~~ incorporated towns and counties under the general planning and zoning laws of the state. ~~Provided that, when a county exercises the powers provided by the Scenic Rivers Act, the board of county commissioners of that county shall perform the obligations and exercise the powers in the same manner as a local legislative body or mayor of a city, incorporated town or municipality.~~

SECTION 14. AMENDATORY 82 O.S. 2001, Section 1470, as last amended by Section 1, Chapter 364, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1470), is amended to read as follows:

Section 1470. A. 1. ~~The Scenic Rivers Commission for the~~ For the scenic rivers areas of Flint Creek and the Illinois River within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County, the Department of Environmental Quality is authorized and directed to charge an annual use fee of Five Dollars (\$5.00) per commercially owned and operated flotation device.

2. The operation of a commercial flotation device without displaying a proper ~~Oklahoma Scenic Rivers Commission~~ Department license is subject to a fine not to exceed One Hundred Dollars (\$100.00). The penalty will be assessed upon the owner or operator of the commercial flotation device business and not upon the individual renting the commercial flotation device.

B. 1. In addition to the annual use fee imposed on a commercially owned and operated flotation device, there shall be imposed a user fee of One Dollar (\$1.00) per person per flotation device or raft to be paid by the individual renting the commercial flotation device or raft. The fee shall be paid into the ~~Scenic Rivers Commission~~ Department of Environmental Quality Revolving Fund.

2. A per-person user fee of One Dollar (\$1.00) shall also be levied on privately owned flotation devices and rafts.

3. Property owners adjacent to the rivers located within ~~the operating area of the Scenic Rivers Commission~~ a scenic river area may own and operate one flotation device for their individual use without paying the user fees assessed by this section.

4. If a commercial operator fails to remit such user fees on schedule as required by the ~~Scenic Rivers Commission~~ Department, such operator shall be assessed an additional fee of Twenty-five

Dollars (\$25.00) per week for each week he or she remains in arrearage. The fee shall be paid into the ~~Scenic Rivers Commission~~ Department of Environmental Quality Revolving Fund.

5. Fees assessed pursuant to this subsection shall be collected year-round.

C. ~~The Scenic Rivers Commission for the Flint Creek and Illinois River within Adair, Cherokee and Delaware Counties and those portions of Barren Fork Creek within Cherokee County Scenic River Areas~~ Environmental Quality Board shall ~~promulgate~~ adopt rules and ~~regulations~~ for the collection and administration of the fees imposed pursuant to the provisions of this section in accordance with the Administrative Procedures Act.

D. ~~The Oklahoma Tax Commission shall conduct an on-the-scene audit of only those fees collected and reported that are required be paid into the Scenic Rivers Commission Revolving Fund pursuant to paragraphs 1 and 4 of subsection B of this section. Such audit shall be conducted at least once each three (3) years.~~

~~E. The Commission~~ The Board may establish a fee for use of camping sites located in public use and access areas controlled by the ~~Commission~~ Department. The fee ~~charged by the Commission~~ shall not exceed the rate charged by the Oklahoma Tourism and Recreation Department for camping sites. ~~The Commission~~ Board is authorized to ~~promulgate~~ adopt rules to implement ~~such the~~ the fee pursuant to Article I of the Administrative Procedures Act.

~~F. The administrator of the Scenic Rivers Commission is authorized to be commissioned as a peace officer after completion of all required training for the purpose of supervision of peace officers employed by the Commission and such administrator may be utilized for any law enforcement purpose as may be necessary.~~

~~G.~~ E. For the purposes of this section, the term commercial flotation device shall mean a canoe, boat, kayak, inner tube or other similar device suitable for the transportation of a person or

persons on waterways which is available for hire by the public for use on waterways within ~~the operating area of the Oklahoma Scenic Rivers Commission~~ a scenic river area. The term "raft" shall mean a privately owned or commercially operated inflatable flotation device which has a fixed floor and is able to transport two or more persons.

SECTION 15. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. Effective July 1, 2006, all unexpended fees, property, records and full-time-equivalent employee (FTE) positions, assigned and used by the Oklahoma Scenic Rivers Commission to execute the Oklahoma Scenic Rivers Act are hereby transferred to the Oklahoma Department of Environmental Quality.

B. All individuals in FTEs assigned and used by the Scenic Rivers Commission to execute the Oklahoma Scenic Rivers Act shall have the option on July 1, 2006 to fill the employment positions transferred pursuant to this section.

C. Any employee of the Scenic Rivers Commission who leaves the employment of the Scenic Rivers Commission and obtains employment with the Oklahoma Department of Environmental Quality outside the provisions of this Act shall be treated as a new employee of the Oklahoma Department of Environmental Quality.

D. The budgetary limitation of the Oklahoma Department of Environmental Quality for 571.0 FTEs is hereby increased to 578.0 to implement the provisions of this act.

E. Except to the extent inconsistent with the purposes and provisions of this act, the principles of Section 1-1-205 of Title 27A of the Oklahoma Statutes shall be deemed to apply to the transfer of programs, functions, rules, licenses, permits, applications, orders, rights, obligations, remedies, causes of action or claims to the Department of Environmental Quality pursuant to this act. The deadline for adoption of replacement rules by the

Environmental Quality Board pursuant to this act shall be March 15, 2007.

SECTION 16. REPEALER 82 O.S. 2001, Section 1451, as amended by Section 1, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1451); 82 O.S. 2001, Section 1462; 82 O.S. 2001, Section 1462A, as amended by Section 2, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1462A); 82 O.S. 2001, Section 1462B, as amended by Section 3, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1462B); 82 O.S. 2001, Section 1463, as amended by Section 5, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1463); 82 O.S. 2001, Section 1466; 82 O.S. 2001, Section 1467; 82 O.S. 2001, Section 1468; 82 O.S. 2001, Section 1469, as amended by Section 6, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1469); and 82 O.S. 2001, Section 1471, are hereby repealed.

SECTION 17. RECODIFICATION 82 O.S. 2001, Section 1452, as amended by Section 2, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1452), shall be recodified as Section 2-16-102 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1453, shall be recodified as Section 2-16-103 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1454, shall be recodified as Section 2-16-104 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1455, shall be recodified as Section 2-16-105 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1456, shall be recodified as Section 2-16-106 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1457, as amended by Section 1, Chapter 148, O.S.L. 2002 (82 O.S. Supp. 2005, Section 1457), shall be recodified as Section 2-16-107 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1458, shall be recodified as Section 2-16-108 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1460, shall be recodified as Section 2-16-109 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1461, as amended by Section 1, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section

1461), shall be recodified as Section 2-16-110 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1462C, as amended by Section 4, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1462C), shall be recodified as Section 2-16-111 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1464, as amended by Section 3, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1464), shall be recodified as Section 2-16-112 of Title 27A of the Oklahoma Statutes; 82 O.S. 2001, Section 1465, shall be recodified as Section 2-16-113 of Title 27A of the Oklahoma Statutes; and 82 O.S. 2001, Section 1470, as last amended by Section 1, Chapter 364, O.S.L. 2003 (82 O.S. Supp. 2005, Section 1470), shall be recodified as Section 2-16-114 of Title 27A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 18. This act shall become effective July 1, 2006.

SECTION 19. 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.

50-2-3080

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