STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 599 By: Gumm

AS INTRODUCED

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:

1. One member who shall be a certified or registered environmental professional. Such member shall be an environmental professional experienced in matters of pollution control, who shall not be an employee of any unit of government;

2. One member who shall be selected from industry in general. Such member shall be employed as a manufacturing executive carrying on a manufacturing business within the state;

3. One member who shall be selected from the hazardous waste industry within the state;

4. One member who shall be selected from the solid waste industry within this state;

5. One member who shall be well versed in recreational, irrigational, municipal or residential water usage;

6. One member who shall be selected from the petroleum industries being regulated by the Department of Environmental Quality;

7. One member who shall be selected from the agriculture industries regulated by the Department of Environmental Quality;

8. One member who shall be selected from the conservation districts of the state;

9. Three members who shall be citizen members of any statewide nonprofit environmental organization;

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

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

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

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

2. A member may be reappointed.

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

F. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall select, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each member of the Board. A majority of the Board present at the meeting shall constitute a quorum of the Board.

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

G. The Board shall:

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

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

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

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

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

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

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

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

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

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

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

2. "Affiliated person" means:

a. any officer, director or partner of the applicant,

b. any person employed by the applicant as a general or key manager who directs the operations of the site or facility which is the subject of the application, and

c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity;

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

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

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

a. the full name, business address, and social security number of the applicant, and all affiliated persons,

b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant, and a description of the on-going organizational relationships as they may impact operations within the state,

c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to environmental facility regulation,

d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any affiliated person which resulted in a final agency order or final judgment by a court of record

including, but not limited to, final orders or judgments on appeal in the ten (10) years immediately preceding the filing of the application relating to the generation, transportation, storage, treatment, recycling or disposal of "hazardous waste" as defined by the Oklahoma Hazardous Waste Management Act or by the United States Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the United States Environmental Protection Agency, and

e. a listing of any federal environmental agency and any state environmental agency outside this state that has or has had regulatory responsibility over the applicant;

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

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

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

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

a. to be discarded by the generator or recycled,

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

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

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

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

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

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

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

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

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

16. ~~"Qualified interest group" means any organization with twenty-five or more members who must be legal residents of the State~~

~~of Oklahoma, that expresses an interest in the outcome of a construction permit application;~~

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

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

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

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

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

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

SECTION 3. 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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