

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1872

By: Johnson (Dennis) of the
House

7 and

Garrison of the Senate

8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to the environment and natural
12 resources; creating the Oklahoma Forever Land Trust
13 Act; creating the Oklahoma Forever Advisory Council;
14 stating membership of Council; providing for
15 appointments, terms of office, officers, meetings,
16 staff support, and travel reimbursement; authorizing
17 the Council to promulgate rules; stating duties of
18 the Council; requiring disclosure of certain
19 interests; providing procedures and criteria for
20 listing a project; stating legislative findings;
21 encouraging certain partnerships; requiring public
22 agencies to coordinate land acquisition programs;
23 requiring long-term financial commitment to managing
24 public lands; requiring a competitive selection
process for projects; requiring funds to be used to
implement certain goals and objectives; directing
distribution of funds; requiring funds to be expended
in a certain manner; directing certain state agencies
to develop acquisition and restoration lists; listing
required goals of funded projects or acquisitions;
requiring acquired land to be managed for multiple
objectives; defining multiple uses; allowing acquired
land to be designated as single-use; providing for
submission of applications for land acquisitions;
directing the Council to evaluate proposals using
certain criteria; specifying conditions for project
proposal consideration; directing the Council to

1 develop a proposed project list; requiring the
2 Council to competitively evaluate and rank proposed
3 projects; listing criteria for evaluating and ranking
4 proposed projects; giving priority to projects that
5 meet certain conditions; specifying voting
6 requirements; requiring the Council to review and
7 present the proposed project list for approval to the
8 Joint Legislative Committee on the Environment;
9 requiring a report for each listed proposed project;
10 listing contents of the reports; creating the Joint
11 Legislative Committee on the Environment; stating
12 duties of the Committee; providing for membership;
13 providing for designation of chair and vice-chair;
14 providing for alternation of chair; defining a
15 quorum; requiring a majority of the quorum to approve
16 a project; creating the Oklahoma Forever Trust Fund;
17 providing for source of funding; providing for
18 expenditure of funds for certain purpose; requiring
19 expenditures to be made upon warrants; directing
20 distribution by the Secretary of Environment for
21 certain purpose; amending 27A O.S. 2001, Section 2-
22 10-202, as amended by Section 1, Chapter 328, O.S.L.
23 2002 (27A O.S. Supp. 2006, Section 2-10-202), which
24 relates to solid waste management; modifying local
governmental authority to establish certain standards
for solid waste disposal sites and facilities;
amending 61 O.S. 2001, Section 130, as amended by
Section 24, Chapter 294, O.S.L. 2002 (61 O.S. Supp.
2006, Section 130), which relates to competitive
bidding; including Oklahoma Turnpike Authority in
certain emergency exception; providing for
codification; providing an effective date; and
declaring an emergency.

18
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2301 of Title 27A, unless there
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Oklahoma
24 Forever Land Trust Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2302 of Title 27A, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created the Oklahoma Forever Advisory
5 Council.

6 B. The Council shall be composed of thirteen (13) voting
7 members as follows:

8 1. Three members shall be appointed by the Speaker of the House
9 of Representatives and three members shall be appointed by the
10 President Pro Tempore of the Senate. The six appointees shall be
11 from scientific disciplines related to land, water, or environmental
12 sciences. They shall serve four-year terms, except that initially,
13 to provide for staggered terms, four of the appointees shall serve
14 two-year terms. All subsequent appointments shall be for four-year
15 terms. No appointee shall serve more than six (6) years. The
16 Speaker of the House of Representatives and the President Pro
17 Tempore of the Senate may at any time fill a vacancy for the
18 unexpired term of a member appointed under this subsection;

19 2. One member shall be appointed by the Governor who shall
20 represent a statewide health organization. The member shall serve a
21 four-year term. No appointee shall serve more than four (4) years;
22 and

23 3. The six remaining members shall be composed of the Secretary
24 of Environment, the Director of Forestry for the Oklahoma Department

1 of Agriculture, Food, and Forestry, the Director of the Department
2 of Wildlife Conservation, the Executive Director of the Oklahoma
3 Historical Society, the Executive Director of the Oklahoma
4 Conservation Commission, and the Executive Director of the Oklahoma
5 Tourism and Recreation Department, or their respective designees.

6 C. The chair and vice-chair of the Council shall be designated
7 from the membership of the Council by the Speaker of the House of
8 Representatives and the President Pro Tempore of the Senate as
9 provided for in this subsection. The Speaker of the House of
10 Representatives shall designate the initial chair who shall serve
11 until the convening of the First Regular Session of the 52nd
12 Oklahoma Legislature. The President Pro Tempore of the Senate shall
13 designate the initial vice-chair who shall serve until the convening
14 of the First Regular Session of the 52nd Oklahoma Legislature.
15 Thereafter, the chair of the Council shall alternate every two (2)
16 years between the House of Representatives and the Senate, beginning
17 with the convening of the First Regular Session of the Legislature.

18 D. The Council shall hold periodic meetings at the request of
19 the chair.

20 E. The Secretary of Environment, the Oklahoma Department of
21 Agriculture, Food, and Forestry, the Department of Wildlife
22 Conservation, the Oklahoma Historical Society, the Oklahoma
23 Conservation Commission, and the Oklahoma Tourism and Recreation
24 Department shall provide primary staff support to the Council.

1 F. The members of the Council shall receive no compensation for
2 serving on the Council but may receive travel reimbursement for
3 necessary travel expenses incurred in the performance of their
4 duties by the appointing authority or agency in accordance with the
5 State Travel Reimbursement Act.

6 G. The Council is authorized to promulgate rules pursuant to
7 the Administrative Procedures Act as necessary to carry out the
8 provisions of the Oklahoma Forever Land Trust Act.

9 H. The Council shall competitively evaluate, select, and rank
10 proposed projects eligible for acquisition with proceeds from the
11 Oklahoma Forever Trust Fund.

12 I. An affirmative vote of seven or more members of the Council
13 shall be required in order to change a project boundary or to place
14 a proposed project on an acquisition list developed pursuant to
15 Section 3 of this act. Any member of the Council who, by family or
16 a business relationship, has a connection with all or a portion of
17 any proposed project shall declare the interest before voting on its
18 inclusion on a list.

19 J. A proposed project listed pursuant to Section 3 of this act
20 may be implemented only if adopted by the Council and approved by
21 the Joint Legislative Committee on the Environment created in
22 Section 4 of this act. The Council shall consider and evaluate in
23 writing the merits and demerits of each project that is proposed for
24 funding from the Oklahoma Forever Trust Fund and shall ensure that

1 each proposed project will meet a stated public purpose for the
2 restoration, conservation, or preservation of environmentally or
3 historically sensitive lands and water areas, or for providing
4 outdoor recreational opportunities.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2303 of Title 27A, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The Legislature finds and declares that:

9 1. There is a need in urban Oklahoma for high-quality outdoor
10 recreational opportunities, greenways, trails, and open space;

11 2. Access to public lands to support a broad range of outdoor
12 recreational opportunities and the development of necessary
13 infrastructure, where compatible with the resource values of and
14 management objectives for such lands, promotes an appreciation for
15 the natural assets in Oklahoma and improves the quality of life; and

16 3. Acquisition of lands, in fee simple or in any lesser
17 interest, should be based on a comprehensive assessment of the
18 natural resources in Oklahoma and planned so as to protect the
19 integrity of ecological systems and provide multiple benefits,
20 including preservation of historical sites, fish and wildlife
21 habitat, recreation space for urban as well as rural areas, and
22 water recharge.

23 B. The Legislature recognizes that acquisition is only one way
24 to achieve the goals listed in subsection A of this section and

1 encourages the development of creative partnerships between
2 governmental agencies and private landowners. Land protection
3 agreements and similar tools shall be used, where appropriate, to
4 bring environmentally sensitive tracts under an acceptable level of
5 protection at a lower financial cost to the public, and to provide
6 private landowners with the opportunity to enjoy and benefit from
7 their property.

8 C. State agencies or other entities that receive funds under
9 this section shall take steps to better coordinate their
10 expenditures so that project acquisitions, when combined with other
11 public land acquisition programs, will form more complete patterns
12 of protection for natural areas and functioning ecosystems to better
13 accomplish the intent of this section.

14 D. A long-term financial commitment to managing public lands in
15 Oklahoma shall accompany any land acquisition program to ensure that
16 the natural resource values of the lands are protected, that the
17 public has the opportunity to enjoy the lands to their fullest
18 potential, and that the state achieves the full benefits of its
19 investment of public dollars.

20 E. With limited dollars available for restoration and
21 acquisition of land and water areas and for providing long-term
22 management and capital improvements, a competitive selection process
23 shall be used to select those projects best able to meet the goals
24

1 of the Oklahoma Forever Land Trust program and maximize the
2 efficient use of funding for the program.

3 F. Any proceeds from the Oklahoma Forever Trust Fund created in
4 Section 5 of this act shall be used to implement the goals and
5 objectives recommended by the Oklahoma Forever Advisory Council as
6 approved by the Joint Legislative Committee on the Environment
7 created in Section 4 of this act.

8 G. Proceeds from the Oklahoma Forever Trust Fund shall be
9 distributed by the Secretary of Environment in a manner as provided
10 for in this act.

11 H. Any proceeds from the Oklahoma Forever Trust Fund
12 distributed pursuant to this section shall be expended in an
13 efficient and fiscally responsible manner.

14 I. Each state agency which receives proceeds from the Oklahoma
15 Forever Trust Fund shall develop individual acquisition or
16 restoration project lists.

17 J. Projects or acquisitions funded pursuant to the Oklahoma
18 Forever Land Trust Act shall contribute to the achievement of the
19 following goals:

20 1. Enhance the coordination and completion of public land
21 acquisitions;

22 2. Increase the protection of biodiversity in Oklahoma at the
23 species, natural community, and landscape levels;

24

1 3. Protect, restore, and maintain the quality and natural
2 functions of land, water, and wetland systems of the state;

3 4. Ensure that sufficient quantities of water are available to
4 meet the current and future needs of natural systems and the
5 citizens of the state;

6 5. Increase natural-resource-based public recreational and
7 educational opportunities;

8 6. Preserve significant archaeological or historic sites;

9 7. Increase the amount of forestland available for sustainable
10 management of natural resources; and

11 8. Increase the amount of open space available in urban areas.

12 K. All lands acquired pursuant to this section shall be managed
13 for multiple-use purposes, where compatible with the resources and
14 management objectives for the lands. As used in this section,
15 "multiple-use" may include outdoor recreational activities, water
16 resource development projects, and sustainable forestry management.

17 L. Upon a decision by the state agency or other governmental
18 entity in which title to lands acquired pursuant to this section
19 vests, the lands may be designated as single-use.

20 M. Beginning no later than July 1, 2007, and every year
21 thereafter, the Oklahoma Forever Advisory Council shall accept
22 applications from state agencies, local governments, nonprofit and
23 for-profit organizations, private land trusts, and individuals for
24 project proposals eligible for funding pursuant to this section.

1 The Council shall evaluate the proposals received pursuant to this
2 subsection to ensure that they meet at least one of the criteria
3 listed under subsection J of this section.

4 N. Proposed project applications shall contain, at a minimum,
5 the following:

6 1. A minimum of two numeric performance measures that directly
7 relate to the overall goals adopted by the Council; and

8 2. Proof that property owners within any proposed acquisition
9 area have been notified of their inclusion in the proposed project.

10 Any property owner may request removal of the property from
11 further consideration by submitting a request to the project sponsor
12 or the Oklahoma Forever Advisory Council by certified mail. Upon
13 receiving this request, the Council shall delete the property from
14 the proposed project list.

15 O. The title to lands acquired pursuant to the Oklahoma Forever
16 Land Trust Act shall vest in the State of Oklahoma.

17 P. The Oklahoma Forever Advisory Council shall develop a
18 proposed project list that shall represent those projects submitted
19 pursuant to subsection M of this section.

20 Q. The Oklahoma Forever Advisory Council shall competitively
21 evaluate, select, and rank proposed projects. The Council shall
22 give weight to the following criteria for each project:

23 1. Meets multiple goals described in subsection J of this
24 section;

- 1 2. Is part of an ongoing governmental effort to restore,
2 protect, or develop land areas or water resources;
- 3 3. Enhances or facilitates management of properties already
4 under public ownership;
- 5 4. Has significant archaeological or historical value;
- 6 5. Has funding sources for the management of the project that
7 is identified and assured through at least the first two (2) years
8 of the project;
- 9 6. Contributes to the solution of water resource problems on a
10 regional basis;
- 11 7. Has a significant portion of its land area in imminent
12 danger of development, in imminent danger of losing its significant
13 natural, historical, or recreational-open-space attributes, or in
14 imminent danger of subdivision which would result in multiple
15 ownership and make acquisition of the project costly or less likely
16 to be accomplished;
- 17 8. May be purchased at eighty percent (80%) of appraised value;
- 18 9. May be acquired, in whole or in part, using alternatives to
19 fee simple including, but not limited to, purchase of development
20 rights, hunting rights, agricultural or silvicultural rights,
21 mineral rights, or obtaining conservation or flowage easements; and
- 22 10. Is a joint acquisition, either among public agencies,
23 nonprofit organizations, or private entities, or by a public-private
24 partnership.

1 R. The Oklahoma Forever Advisory Council shall give priority to
2 those projects for which matching funds are available and to
3 projects previously identified on an acquisition list pursuant to
4 this section that can be acquired at eighty percent (80%) or less of
5 the appraised value.

6 S. An affirmative vote of seven or more members of the Oklahoma
7 Forever Advisory Council shall be required in order to place a
8 proposed project on the acquisition list developed pursuant to this
9 section.

10 T. Each year the Oklahoma Forever Advisory Council shall review
11 the most current proposed project list and shall, by the first
12 Council meeting in May, present to the Joint Legislative Committee
13 on the Environment for approval, a listing of proposed projects
14 developed pursuant to this section. The Joint Legislative Committee
15 on the Environment may remove projects from the list, but may not
16 add projects or rearrange project rankings.

17 U. The Oklahoma Forever Advisory Council shall submit with the
18 list of proposed projects, a report that includes, but shall not be
19 limited to, the following information for each project listed:

- 20 1. The stated purpose for inclusion;
- 21 2. Projected costs to achieve the project goals;
- 22 3. An interim management budget;
- 23 4. Specific performance measures;
- 24 5. Plans for public access;

1 6. An identification of the essential parcel or parcels within
2 the project without which the project cannot be properly managed;

3 7. Where applicable, an identification of those projects or
4 parcels within projects which should be acquired in fee simple or in
5 less than fee simple;

6 8. An identification of those lands being purchased for
7 conservation purposes;

8 9. An estimate of land value based on county tax-assessed
9 values;

10 10. A map delineating project boundaries;

11 11. An assessment of the ecological value, outdoor recreational
12 value, historical value, forest resources, wildlife resources,
13 ownership pattern, utilization, and location of the project;

14 12. A discussion of whether alternative uses are proposed for
15 the property and what those uses are; and

16 13. A designation of the management agency or agencies.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2304 of Title 27A, unless there
19 is created a duplication in numbering, reads as follows:

20 A. There is hereby created the Joint Legislative Committee on
21 the Environment. The Committee shall be responsible for approving
22 projects submitted by the Oklahoma Forever Advisory Council as
23 provided for in Sections 2 and 3 of this act. The Committee shall
24 be composed of the following voting members:

1 1. Two members of the House of Representatives appointed by the
2 Speaker of the House of Representatives;

3 2. The chair of the Natural Resources Committee or a successor
4 committee for the House of Representatives;

5 3. Two members of the Oklahoma State Senate appointed by the
6 President Pro Tempore of the Senate; and

7 4. The chair of the Energy and Environment Committee or a
8 successor committee for the Oklahoma State Senate.

9 B. The chair and vice-chair of the Committee shall be
10 designated from the membership of the Committee by the Speaker of
11 the House of Representatives and the President Pro Tempore of the
12 Senate as provided for in this subsection. The Speaker of the House
13 of Representatives shall designate the initial chair who shall serve
14 until the convening of the First Regular Session of the 52nd
15 Oklahoma Legislature. The President Pro Tempore of the Senate shall
16 designate the initial vice-chair who shall serve until the convening
17 of the First Regular Session of the 52nd Oklahoma Legislature.

18 Thereafter, the chair of the Committee shall alternate every two (2)
19 years between the House of Representatives and the Senate, beginning
20 with the convening of the First Regular Session of the Legislature.

21 C. All members of the Committee shall serve at the pleasure of
22 the appointing authority.

23 D. All actions of the Committee shall require a quorum which
24 shall be defined as a majority of the members appointed. Approval

1 of any project as provided for in Sections 3 and 4 of this act by
2 the Committee shall be determined by a majority of the quorum
3 present.

4 SECTION 5. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2305 of Title 27A, unless there
6 is created a duplication in numbering, reads as follows:

7 A. There is hereby created in the State Treasury a revolving
8 fund to be designated the "Oklahoma Forever Trust Fund". The fund
9 shall be a continuing fund, not subject to fiscal year limitations,
10 and shall consist of all monies received by the Secretary of
11 Environment from appropriations or donations. All monies accruing
12 to the credit of said fund are hereby appropriated and may be
13 budgeted and expended by the Secretary of Environment for the
14 purpose of funding projects as provided for in the Oklahoma Forever
15 Land Trust Act. Expenditures from said fund shall be made upon
16 warrants issued by the State Treasurer against claims filed as
17 prescribed by law with the Director of State Finance for approval
18 and payment.

19 B. The Secretary of Environment shall distribute monies from
20 the Oklahoma Forever Trust Fund to state agencies or other
21 governmental entities for the purpose of acquiring land for projects
22 or programs as set forth in Section 2 of this act.

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1 SECTION 6. AMENDATORY 27A O.S. 2001, Section 2-10-202,
2 as amended by Section 1, Chapter 328, O.S.L. 2002 (27A O.S. Supp.
3 2006, Section 2-10-202), is amended to read as follows:

4 Section 2-10-202. A. The Department of Environmental Quality
5 shall have the power and duty to:

6 1. Advise, consult and cooperate with other agencies and
7 instrumentalities of the state, other states and the federal
8 government and with affected groups and industries in the
9 formulation of plans and the implementation of the solid waste
10 disposal program;

11 2. Administer and make available such loans and grants from the
12 federal government and from other sources as may be available to the
13 Department for the planning, construction, and operation of solid
14 waste disposal sites;

15 3. Develop a statewide integrated solid waste management plan
16 with input from the public, municipal and county governments and
17 regional solid waste planning and management entities;

18 4. Review and act upon applications for solid waste disposal
19 site permits, inspect construction, operation, closure and
20 maintenance of solid waste disposal sites and establish standards
21 for and oversee the remediation of contaminated soils resulting from
22 releases or spills associated with transit or other activities not
23 subject to permitting requirements and not subject to the
24 jurisdiction of another state environmental agency;

1 5. Perform investigations and inspections which it deems
2 necessary to ensure compliance with the Oklahoma Environmental
3 Quality Code, the Oklahoma Solid Waste Management Act and rules
4 promulgated thereunder and orders, permits and licenses issued
5 pursuant thereto;

6 6. Provide technical assistance to solid waste planning units,
7 public solid waste management service entities, political
8 subdivisions, business and industry, and the general public to
9 promote development and implementation of recycling activities to
10 meet the goals of the Oklahoma Solid Waste Management Act;

11 7. Establish and maintain, or cause to be established and
12 maintained, in cooperation with the Department of Commerce, a
13 database for tracking markets for materials which are being or could
14 be recovered from the municipal solid waste stream in Oklahoma. The
15 database shall contain information including but not limited to the
16 names and addresses of buyers and sellers of secondary materials
17 relevant to Oklahoma, market prices, and specifications required by
18 buyers;

19 8. Establish an office for local solid waste systems
20 development and coordination; and

21 9. Establish a certification program for control officers
22 employed by regional solid waste management districts within this
23 state or governments or county government instrumentalities within
24 this state who are responsible for the investigation and enforcement

1 of the laws of this state relating to illegal dumps. Such certified
2 control officers shall have the authority to investigate and report
3 violations to the proper authority pursuant to the provisions of
4 Section 1761.1 of Title 21 of the Oklahoma Statutes.

5 B. ~~Any local~~ The governing body of an incorporated city or town
6 may by ordinance or resolution adopt standards for the location,
7 design, construction, and maintenance of solid waste disposal sites
8 and facilities more restrictive than those promulgated by the Board
9 under the provisions of the Oklahoma Solid Waste Management Act.

10 SECTION 7. AMENDATORY 61 O.S. 2001, Section 130, as
11 amended by Section 24, Chapter 294, O.S.L. 2002 (61 O.S. Supp. 2006,
12 Section 130), is amended to read as follows:

13 Section 130. A. The provisions of the Public Competitive
14 Bidding Act of 1974 with reference to notice and bids shall not
15 apply to an emergency if:

16 1. The governing body of a public agency declares by a two-
17 thirds (2/3) majority vote of all of the members of the governing
18 body that an emergency exists;

19 2. The Transportation Commission and the Oklahoma Tourism and
20 Recreation Commission, by majority vote of all the members of each
21 Commission, declare that an emergency exists; or

22 3. The chief administrative officer of a public agency without
23 a governing body declares that an emergency exists.

24

1 B. The governing body of a public agency may, upon approval of
2 two-thirds (2/3) majority of all of the members of the governing
3 body, delegate to the chief administrative officer of a public
4 agency the authority to declare an emergency whereby the provisions
5 of the Public Competitive Bidding Act of 1974 with reference to
6 notice and bids shall not apply to contracts less than Thirty-five
7 Thousand Dollars (\$35,000.00) in amount; provided, such authority of
8 the Department of Transportation and the Oklahoma Turnpike Authority
9 shall not extend to any contract exceeding Five Hundred Thousand
10 Dollars (\$500,000.00) in amount.

11 C. An emergency declared by the Board of Corrections pursuant
12 to subsection C of Section 65 of this title shall exempt the
13 Department of Corrections from the limits which would otherwise be
14 imposed pursuant to subsection B of this section for the contracting
15 and construction of new or expanded correctional facilities.

16 D. The chief administrative officer of a public agency with a
17 governing body shall notify the governing body within ten (10) days
18 of the declaration of an emergency if the governing body did not
19 approve the emergency. The notification shall contain a statement
20 of the reasons for the action, and shall be recorded in the official
21 minutes of the governing body.

22 E. Emergency as used in this section shall be limited to
23 conditions resulting from a sudden unexpected happening or
24

1 unforeseen occurrence or condition whereby the public health or
2 safety is endangered.

3 F. The chief administrative officer of a public agency shall
4 report an emergency within ten (10) days of the emergency
5 declaration and include the official minutes of the governing body
6 of the public agency, if applicable, to the State Construction
7 Administrator of the Department of Central Services who shall
8 compile an annual report detailing all emergencies declared pursuant
9 to this section during the previous calendar year. The report shall
10 be submitted to the Governor, the President Pro Tempore of the
11 Senate and the Speaker of the House of Representatives.

12 SECTION 8. This act shall become effective July 1, 2007.

13 SECTION 9. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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