

1 ENGROSSED HOUSE
2 BILL NO. 2238

By: Schwartz of the House

3 and

4 Johnson (Mike) of the
5 Senate

6
7 An Act relating to waters and water rights; amending
8 82 O.S. 2001, Section 105.10, which relates to stream
9 water use; prohibiting changes to identity of an
10 applicant without approval; providing an exception;
11 modifying date for pending applications; modifying
12 review process of pending applications; and declaring
13 an emergency.

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

15 SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.10, is
16 amended to read as follows:

17 Section 105.10 A. 1. The date of receipt of an application
18 for use of stream water in the office of the Oklahoma Water
19 Resources Board shall be endorsed and shall be noted in the records
20 of the Board.

21 2. If the application is defective as to form or unsatisfactory
22 as to feasibility or safety of the plan, or as to the showing of the
23 ability of the applicant to carry the construction to completion,
24 the Board shall advise the applicant of the correction, amendments
or changes required. The applicant shall have not more than sixty

1 (60) days from the date the Board so advises to refile ~~such~~ the
2 application. If refiled, corrected as required, within the
3 specified time limit, the application shall, upon being accepted by
4 the Board, take priority as of date of its original filing, subject
5 to compliance with the further provisions of the law and the rules
6 promulgated thereto. Any corrected application filed after the time
7 allowed shall be treated in all respects as an original application
8 received on the date of its refiling.

9 3. The plans of construction may be amended, with the approval
10 of the Board, at any time, provided that no change shall authorize
11 an extension of time for construction or placing the water to
12 beneficial use beyond that authorized in the permit, except as
13 provided in Section 105.15 of this title. A change in the proposed
14 point of diversion of water from a stream shall be subject to the
15 approval of the Board and shall not be allowed to the detriment of
16 the rights of others having valid claims to the use of water from
17 the stream.

18 4. Other than to reflect a corporate name change, no amendment
19 shall be made to the identity of the applicant without the express,
20 written approval of the Board.

21 B. 1. For applications that have been pending for more than
22 three (3) years prior to ~~the effective date of this section~~ June 5,
23 2000, the Board shall provide written notice to the applicant at the
24 ~~applicant's~~ last-known address of the applicant that the application

1 shall be deemed withdrawn and the priority date based on the
2 original filing date shall be lost unless the applicant provides
3 notice of the application as instructed by the Board. The Board
4 shall provide an opportunity for a hearing if requested in order for
5 the applicant to show cause why:

- 6 a. notice should not be published, and
- 7 b. the application should not be deemed withdrawn and the
8 priority date lost.

9 2. Cause for not publishing notice may be shown by substantial
10 competent evidence that:

- 11 a. the applicant has been diligently pursuing plans for
12 the project for which the water is proposed to be
13 used,
- 14 b. construction of the project is still practical, and
- 15 c. the applicant is still able to complete the project.

16 3. If the Board receives no response to the notice or cause is
17 not shown, the application shall be deemed withdrawn and priority
18 date lost.

19 C. 1. After ~~the effective date of this section~~ June 5, 2000,
20 applications may remain pending for more than three (3) years and
21 retain the priority date based on the original filing date if the
22 applicant files a request to extend pending status of the
23 application before the end of the first three-year period and each
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1 successive three-year period thereafter and as required by rules
2 promulgated by the Board.

3 2. If a request to extend pending status is not filed in time
4 and as required by Board rules, the application ~~will~~ may be deemed
5 withdrawn, unless the applicant can show good cause for the failure
6 to timely file the request.

7 SECTION 2. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

11 Passed the House of Representatives the 10th day of March, 2008.

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14 _____
Presiding Officer of the House of
15 Representatives

16 Passed the Senate the ____ day of _____, 2008.

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Presiding Officer of the Senate

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