

ESB 1761

THE HOUSE OF REPRESENTATIVES
Monday, April 12, 2010

ENGROSSED
Senate Bill No. 1761
As Amended

ENGROSSED SENATE BILL NO. 1761 - By: COFFEE of the Senate and BENGEE of the House.

[waters and water rights - water permit applications - emergency]

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

- 1 SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.12, as amended by
2 Section 2, Chapter 403, O.S.L. 2009 (82 O.S. Supp. 2009, Section 105.12), is amended to
3 read as follows:
- 4 Section 105.12 A. In order to protect the public welfare of the citizens of Oklahoma
5 and before the Oklahoma Water Resources Board takes final action on the application,
6 the Board shall determine from the evidence presented whether:
- 7 1. There is unappropriated water available in the amount applied for;
 - 8 2. The applicant has a present or future need for the water and the use to which
 - 9 applicant intends to put the water is a beneficial use. In making this determination, the
 - 10 Board shall consider the availability of all stream water sources and other relevant

1 matters as the Board deems appropriate, and may consider the availability of
2 groundwater as an alternative source;

3 3. The proposed use does not interfere with domestic or existing appropriative uses;

4 4. If the application is for the transportation of water for use outside the stream
5 system wherein the water originates, the proposed use must not interfere with existing
6 or proposed beneficial uses within the stream system and the needs of the water users
7 therein. In making this determination, the Board shall utilize the review conducted
8 pursuant to subsection B of this section; and

9 5. If the application is for use of water out of state, the Board shall, in addition to
10 the criteria set forth in this subsection, also evaluate whether the water that is the
11 subject of the application could feasibly be transported to alleviate water shortages in the
12 State of Oklahoma.

13 If the evidence is determined to be sufficient, and subject to subsection B of this
14 section, the Board shall approve the application by issuing a permit to appropriate water.
15 The permit shall state the time within which the water shall be applied to beneficial use.
16 In the absence of appeal as provided by the Administrative Procedures Act, the decision
17 of the Board shall be final.

18 B. 1. In the granting of water rights for the transportation of water for use outside
19 the stream system wherein water originates, pending applications to use water within
20 the stream system shall first be considered in order to assure that applicants within the
21 stream system shall have all of the water required to adequately supply their beneficial
22 uses.

1 2. The Board shall review the needs within the area of origin every five (5) years to
2 determine whether the water supply is adequate for municipal, industrial, domestic, and
3 other beneficial uses.

4 C. The review conducted pursuant to paragraph 2 of subsection B of this section
5 shall not be used to reduce the quantity of water authorized to be used pursuant to
6 permits issued prior to such review. Such permits, however, remain subject to loss, in
7 whole or in part, due to nonuse, forfeiture or abandonment, pursuant to this title.

8 D. On the filing of an application or amendment to use water outside the state, the
9 applicant shall designate an agent in the State of Oklahoma for service of process and to
10 receive other notices.

11 E. In the event of a conflict between the conditions of use required in Oklahoma
12 and conditions required in another state, the water right holder shall consent to
13 conditions imposed by the Board.

14 F. Permits and amendments that authorize the use of water outside the state shall
15 be subject to review by the Board at least every ~~ten (10)~~ five (5) years after the date of
16 issuance to determine whether there has been a substantial or material change relating
17 to any matters set forth in subsection A of this section. The Board may impose
18 additional conditions as described by Board rules to address any such substantial or
19 material change.

20 G. Notwithstanding the provisions of any other law that may be deemed
21 inconsistent with this section, the Board shall promulgate rules and apply the provisions
22 of Section ~~±~~ 105.12A of this ~~aet~~ title and subsections A, B, D, E, and F of this section to

1 applications for use of water for which no final adjudication has been made by the
2 Oklahoma Water Resources Board before ~~the effective date of this act~~ June 1, 2009.

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

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
7 dated 04-08-10 - DO PASS, As Amended.