

THE STATE SENATE
Tuesday, February 16, 2010

Committee Substitute for
Senate Bill No. 1761

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1761 - By: Coffee of the Senate and Bengel of the House.

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

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

SECTION 1. AMENDATORY 82 O.S. 2001, Section 105.12, as amended by Section 2, Chapter 403, O.S.L. 2009 (82 O.S. Supp. 2009, Section 105.12), is amended to read as follows:

Section 105.12 A. In order to protect the public welfare of the citizens of Oklahoma and before the Oklahoma Water Resources Board takes final action on the application, the Board shall determine from the evidence presented whether:

- 1. There is unappropriated water available in the amount applied for;
- 2. The applicant has a present or future need for the water and the use to which applicant intends to put the water is a beneficial use. In making this determination, the Board shall consider the availability of all stream water sources and other relevant matters as the Board deems appropriate, and may consider the availability of groundwater as an alternative source;

1 3. The proposed use does not interfere with domestic or
2 existing appropriate uses;

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

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

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

21 B. 1. In the granting of water rights for the transportation
22 of water for use outside the stream system wherein water originates,
23 pending applications to use water within the stream system shall

1 first be considered in order to assure that applicants within the
2 stream system shall have all of the water required to adequately
3 supply their beneficial uses.

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

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

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

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

21 F. Permits and amendments that authorize the use of water
22 outside the state shall be subject to review by the Board at least
23 every ~~ten (10)~~ five (5) years after the date of issuance to

1 determine whether there has been a substantial or material change
2 relating to any matters set forth in subsection A of this section.
3 The Board may impose additional conditions as described by Board
4 rules to address any such substantial or material change.

5 G. Notwithstanding the provisions of any other law that may be
6 deemed inconsistent with this section, the Board shall promulgate
7 rules and apply the provisions of Section ~~±~~ 105.12 of this ~~act~~ title
8 and subsections A, B, D, E, and F of this section to applications
9 for use of water for which no final adjudication has been made by
10 the Oklahoma Water Resources Board before ~~the effective date of this~~
11 ~~act~~ June 1, 2009.

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

16 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated
17 2-11-10 - DO PASS, As Amended and Coauthored.