

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1439

By: Renegar

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5  
6 AS INTRODUCED

7 An Act relating to waters and water rights; creating  
8 the Oklahoma Water Basin Protection Act; defining  
9 terms; stating purpose of water basin districts;  
10 providing for the creation of water basin districts;  
11 naming certain water drainage basins; providing for  
12 the creation of water basin districts by interlocal  
13 agreement; requiring the establishment of a board of  
14 directors; providing for membership and terms of  
15 office of the board of directors; specifying certain  
16 requirements for an interlocal agreement creating a  
17 water basin district; requiring submission of an  
18 interlocal agreement to the Attorney General;  
19 establishing the powers of a water basin district;  
20 providing for the duties of the board of directors of  
21 a water basin district; establishing a severance fee  
22 on the use of stream water which is transferred  
23 outside the water drainage basin by a certain  
24 distance; directing the Oklahoma Water Resources  
Board to require certain metering and reporting;  
exempting the use of stream water under certain  
permits from the severance fee; requiring the deposit  
of certain monies in the Oklahoma Water Basin  
Revolving Fund; directing the State Board to  
distribute all severance fees in certain manner;  
specifying certain uses of the severance fee funds by  
a board of directors of a water basin district;  
requiring a board of directors to develop and adopt a  
water basin improvement plan; requiring approval of  
projects by a majority of the board of directors;  
making each water basin district subject to certain  
laws; requiring certain water basin districts to make  
a written report; creating the Oklahoma Water Basin  
Revolving Fund; making the fund continuing; providing  
for source of funding; providing for distribution of  
funds; requiring expenditures to be made upon

1 warrants; providing for codification; providing an  
2 effective date; and declaring an emergency.

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

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1290.1 of Title 82, unless there  
7 is created a duplication in numbering, reads as follows:

8 This act shall be known and may be cited as the "Oklahoma Water  
9 Basin Protection Act".

10 SECTION 2. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1290.2 of Title 82, unless there  
12 is created a duplication in numbering, reads as follows:

13 As used in the Oklahoma Water Basin Protection Act:

14 1. "Board of directors" means a board of directors of a water  
15 basin district organized under this act;

16 2. "District" means a water basin district organized pursuant  
17 to the provisions of this act. A district is a body corporate and  
18 an instrumentality of each public agency which establishes it by  
19 interlocal agreement;

20 3. "Public agency" shall be defined in the Interlocal  
21 Cooperation Act, except public agencies of other states shall not be  
22 entitled to membership in the district;

23 4. "State Board" means the Oklahoma Water Resources Board;  
24

1       5. "Sewage" means the water-carried wastes created in and  
2 carried or to be carried away from residences, residential  
3 establishments, industrial or commercial establishments or any other  
4 private or public building or institution together with such surface  
5 or groundwater or household and industrial wastes as may be present.  
6 Sewage does not include hazardous waste;

7       6. "Sewage facilities" means and includes any plants, systems,  
8 facilities or properties used or useful or having the present  
9 capacity for future use in connection with the collection,  
10 transportation, treatment, purification, storage, processing,  
11 release, or disposal of sewage, including wastes resulting from any  
12 processes of industry, manufacture, trade or business or from the  
13 development of any natural resources, or any integral part thereof,  
14 including but not limited to treatment plants, pumping stations,  
15 intercepting sewers, trunk sewers, pressure lines, mains and all  
16 necessary appurtenances and equipment, and all property, rights,  
17 easements and franchises relating thereto and deemed necessary or  
18 convenient by the board of directors of a water basin district for  
19 the operation thereof;

20       7. "Water basin" means one of the nineteen water drainage  
21 basins located in the state, as listed in Section 3 of this act; and

22       8. "Water facilities" means and includes all facilities from  
23 the initial source to the place for utilization of water by a public  
24 agency or person as provided in this act, including but not limited

1 to, all plants, systems, facilities or properties used or useful or  
2 having the present capacity for future use in connection with the  
3 supply, treatment, distribution, transportation, or storage of  
4 water, and any integral part thereof, including but not limited to  
5 water supply systems, water distribution systems, sources of water  
6 supply including lakes, reservoirs and wells, intakes, mains,  
7 laterals, aqueducts, pumping stations, standpipes, filtration  
8 plants, purification plants, hydrants, meters, valves, and all  
9 necessary appurtenances and equipment and all properties, rights,  
10 easements and franchises relating thereto and deemed necessary or  
11 convenient by the board of directors of a water basin district for  
12 the operation thereof.

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 1290.3 of Title 82, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. Water basin districts may be organized under the Oklahoma  
17 Water Basin Protection Act for the purpose of:

18 1. Advising the Oklahoma Water Resources Board on the approval  
19 of applications for the use of stream water to be transferred  
20 outside the boundaries of the water drainage basin from which it  
21 originates by more than twenty (20) miles outside the boundaries of  
22 the water basin; and

23 2. Distributing funds collected by the State Board and  
24 transferred to the water basin district from the levy of a severance

1 fee on stream water transferred out of the water basin made pursuant  
2 to Section 7 of this act for purposes and projects listed in Section  
3 9 of this act.

4 B. A water basin district may be created for each of the  
5 nineteen water drainage basins in the state. The nineteen water  
6 drainage basins in the state as defined by the State Board are named  
7 as follows:

- 8 1. Red River and tributaries;
- 9 2. North Fork of the Red River;
- 10 3. Cache Creek;
- 11 4. Beaver Creek;
- 12 5. Washita River;
- 13 6. Blue River;
- 14 7. Muddy Boggy Creek;
- 15 8. Kiamichi River;
- 16 9. Little River;
- 17 10. Mountain Fork River;
- 18 11. Arkansas River and tributaries;
- 19 12. Salt Fork of the Arkansas River;
- 20 13. Cimarron River;
- 21 14. Beaver/North Canadian River;
- 22 15. Canadian River;
- 23 16. Poteau River;
- 24 17. Deep Fork of the North Canadian River;

1 18. Grand/Neosho River; and

2 19. Illinois River.

3 SECTION 4. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1290.4 of Title 82, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Two or more public agencies, by interlocal agreement made  
7 pursuant to the provisions of the Interlocal Cooperation Act and in  
8 accordance with the provisions of the Oklahoma Water Basin  
9 Protection Act, may establish a water basin district to carry out  
10 activities and projects authorized by this act. The agreement under  
11 which the district is formed shall provide for the establishment of  
12 a board of directors to govern the affairs of the district. Each  
13 public agency which is a member of the district shall have one  
14 member on the board appointed by the board of county commissioners  
15 of the county where the public agency has its principal office.  
16 Each member appointed shall be a member of the governing body of the  
17 participating public agency. The agreement shall further provide  
18 for staggered terms for board members not to exceed three (3) years.

19 B. In addition to the requirements of subsection C of Section  
20 1004 of Title 74 of the Oklahoma Statutes, an interlocal agreement  
21 establishing a water basin district shall also contain the  
22 following:

23 1. An accurate description of the water drainage basin which it  
24 is proposed shall be embraced within the district, and a map of the

1 water drainage basin shall be attached to the agreement as an  
2 exhibit thereto;

3 2. A brief and concise statement describing the purpose of the  
4 district and its proposed activities or projects, in general terms;

5 3. A brief and concise statement showing the necessity for  
6 forming and operating the proposed district, describing the benefits  
7 to be received therefrom by the persons and public agencies in the  
8 territory proposed to be embraced in the district;

9 4. The proposed name for the district;

10 5. The proposed location of the principal office of the  
11 district;

12 6. Any other and additional information as may be appropriate  
13 and useful in the agreement;

14 7. The terms and conditions of eligibility for initial  
15 membership in the district, for new members seeking to join the  
16 district, and for withdrawal by a signatory public agency from the  
17 district; and

18 8. A statement providing that water rights cannot be acquired  
19 by eminent domain.

20 C. The interlocal agreement, after being executed by  
21 appropriate resolution of the governing bodies of the member public  
22 agencies, and the materials required by subsection B of this section  
23 shall be submitted to the Attorney General as required by the  
24 Interlocal Cooperation Act. Approval of the agreement shall also

1 constitute certification by the State of Oklahoma of the district as  
2 a water basin district.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1290.5 of Title 82, unless there  
5 is created a duplication in numbering, reads as follows:

6 Each water basin district organized pursuant to the Oklahoma  
7 Water Basin Protection Act shall have power to:

8 1. Sue and be sued, complain and defend, in its corporate name;

9 2. Adopt a seal which may be altered at pleasure, and to use  
10 it, or a facsimile thereof, as required by law;

11 3. Accept gifts, loans, or grants of money, services,  
12 franchises, rights, privileges, licenses, rights-of-way, easements  
13 or other property, real or personal, or provisions for nonpayment as  
14 may be authorized or available to the district pursuant to federal,  
15 state or local regulations, or programs;

16 4. Make any and all contracts necessary or convenient for the  
17 exercise of the powers of the district on such terms and for such  
18 period of time as its board of directors shall determine;

19 5. Conduct its affairs within this state subject to the  
20 provisions of this act;

21 6. Invest funds in the same manner as generally authorized for  
22 counties and municipalities and for the purpose of defraying  
23 interest expenses related to facility construction debt service;

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1           7. Individually or jointly with other persons or public  
2 agencies acquire, own, hire, use, operate, lease as lessor or  
3 lessee, and dispose of personal property and real property and any  
4 interest therein, including projects existing, proposed or under  
5 construction, and make improvements thereon;

6           8. Adopt regulations as it deems necessary, not inconsistent  
7 with state law or the powers of any existing public agency to adopt  
8 or enforce regulations; and

9           9. Do and perform all acts and things, and to have and exercise  
10 any and all powers as may be necessary, convenient or appropriate to  
11 effectuate the purpose for which the district is organized, and  
12 exercise all other powers not inconsistent with the Articles of  
13 Association forming the district pursuant to the Interlocal  
14 Cooperation Act, the Constitution of the State of Oklahoma or the  
15 United States Constitution which may be reasonably necessary or  
16 appropriate or incidental to the exercise of any of the powers  
17 enumerated in this act. The district may perform any act authorized  
18 by this act through, or by means of, its officers, agents or  
19 employees or by contract with any person.

20           SECTION 6.           NEW LAW           A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1290.6 of Title 82, unless there  
22 is created a duplication in numbering, reads as follows:

23           The board of directors of a water basin district organized  
24 pursuant to the Oklahoma Water Basin Protection Act shall have the

1 following duties relating to the approval of permits for the  
2 transfer of water for use outside the water drainage basin:

3 1. To review applications submitted to the Oklahoma Water  
4 Resources Board for transfer of stream water more than twenty (20)  
5 miles from the boundary of the water basin and to advise the State  
6 Board on the issuance of a regular, temporary, or provisional  
7 permit. The board of directors may file a protest on an application  
8 if the board finds that the amount of water requested will interfere  
9 with the amount needed for use within the water drainage basin or  
10 that the proposed beneficial use will interfere with existing or  
11 proposed beneficial uses within the water drainage basin;

12 2. Coordinate the completion of an environmental impact  
13 statement for the transfer of stream water out of the water basin of  
14 origin which shall be required prior to issuance of a regular permit  
15 by the State Board; and

16 3. Review and approve any works proposed by the applicant for  
17 the storage, diversion, or carriage of water to be transferred  
18 outside the boundaries of the water basin and shall monitor the  
19 completion of the works. The board of directors shall not be  
20 responsible for any costs associated with the construction or  
21 maintenance of the proposed works.

22 SECTION 7. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1290.7 of Title 82, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. For new permits approved after the effective date of this  
2 act by the Oklahoma Water Resources Board for the use of stream  
3 water to be transferred outside the boundaries of the water drainage  
4 basin in which it originates by more than twenty (20) miles, there  
5 is hereby levied upon the use of the stream water a severance fee  
6 based on the acre-foot volume of water transferred. The amount of  
7 severance fee shall be set by the State Board using a least-cost-  
8 alternative formula. The State Board shall require permit holders  
9 to meter and report the volume of water used annually and to submit  
10 the severance fee by June 30 of each year.

11       B. Any modification or renewal of a permit issued prior to the  
12 effective date of this act for the use of stream water which  
13 transfers the water outside the boundaries of the water drainage  
14 basin in which it originates by more than twenty (20) miles shall be  
15 exempt from the severance fee authorized pursuant to this section.

16       C. All monies collected by the State Board from the stream  
17 water severance fee levied pursuant to this section shall be  
18 deposited in the Oklahoma Water Basin Revolving Fund created in  
19 Section 10 of this act.

20       SECTION 8.       NEW LAW       A new section of law to be codified  
21 in the Oklahoma Statutes as Section 1290.8 of Title 82, unless there  
22 is created a duplication in numbering, reads as follows:

23       The Oklahoma Water Resources Board shall distribute all  
24 severance fees from the transfer of stream water collected pursuant

1 to Section 7 of this act and deposited in the Oklahoma Water Basin  
2 Revolving Fund as follows:

3 1. To the board of directors of the water basin district from  
4 which the water originated;

5 2. To the tribal government of any federally recognized Indian  
6 tribe whose jurisdictional boundaries are within the boundaries of  
7 the water drainage basin. The amount distributed to tribal  
8 governments shall be established through compact agreements  
9 negotiated and entered into by the Governor on behalf of the state  
10 as set forth in Section 1221 of Title 74 of the Oklahoma Statutes;  
11 and

12 3. To any board of directors of a water basin district in  
13 another area of the state which has made application to the State  
14 Board and has a demonstrated need for the development of water  
15 infrastructure or has a need for water based on an emergency as  
16 defined by the State Board.

17 SECTION 9. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1290.9 of Title 82, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. All funds distributed by the Oklahoma Water Resources Board  
21 to a board of directors of a water basin district as provided for in  
22 Section 8 of this act shall be used by the board of directors for  
23 the following purposes:

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1           1. The development of water infrastructure facilities within  
2 the water drainage basin, including but not limited to water  
3 facilities and sewage facilities;

4           2. Economic development incentives for projects located within  
5 the water drainage basin;

6           3. Assistance for any project which is receiving an incentive  
7 payment pursuant to the Oklahoma Quality Jobs Program Act and which  
8 is located within the water drainage basin;

9           4. Tourism and recreation projects located within the water  
10 drainage basin; and

11           5. Any other public assistance project which will improve the  
12 quality of life of persons living within the water drainage basin.

13           B. Each board of directors of a water basin district shall  
14 develop and adopt a water basin improvement plan which shall  
15 establish a priority for the implementation of projects using funds  
16 distributed to the water basin district pursuant to the Oklahoma  
17 Water Basin Protection Act.

18           C. Any project using funds distributed to the water basin  
19 district pursuant to the Oklahoma Water Basin Protection Act shall  
20 be approved by a majority of the board of directors of the water  
21 basin district.

22           D. Except for contracts for employment for the water basin  
23 district, members of the board of directors and employees of the  
24

1 water basin district shall not have a financial interest, directly  
2 or indirectly, in any project funded by the water basin district.

3 E. Each water basin district shall be subject to the Oklahoma  
4 Open Records Act and the Oklahoma Open Meeting Act.

5 F. Each water basin district which receives funds as provided  
6 for in Section 8 of this act during the preceding fiscal year shall  
7 make a written report to the Oklahoma Water Resources Board  
8 outlining the expenditure of the funds and any other information the  
9 State Board may require.

10 SECTION 10. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1290.10 of Title 82, unless  
12 there is created a duplication in numbering, reads as follows:

13 There is hereby created in the State Treasury a revolving fund  
14 for the Oklahoma Water Resources Board to be designated the  
15 "Oklahoma Water Basin Revolving Fund". The fund shall be a  
16 continuing fund, not subject to fiscal year limitations, and shall  
17 consist of all monies received by the Oklahoma Water Resources Board  
18 from the stream water severance fee levied pursuant to Section 7 of  
19 this act. All monies accruing to the credit of said fund are hereby  
20 appropriated and may be budgeted and distributed by the Oklahoma  
21 Water Resources Board as provided for in Section 8 of this act.  
22 Expenditures from said fund shall be made upon warrants issued by  
23 the State Treasurer against claims filed as prescribed by law with  
24 the Director of State Finance for approval and payment.

1 SECTION 11. This act shall become effective July 1, 2009.

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

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