

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 2ND COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1603

By: Fields of the Senate

and

Richardson of the House

7
8
9 2ND COMMITTEE SUBSTITUTE

10 [Regional Water Planning Councils - creating the
11 Regional Water Planning Act - Legislative intent -
codification - effective date -
12 emergency]

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1086.11 of Title 82, unless
17 there is created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Regional Water
19 Planning Act".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1086.12 of Title 82, unless
22 there is created a duplication in numbering, reads as follows:

23 The Legislature finds that:
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1 1. Development and implementation of the statewide Oklahoma
2 Comprehensive Water Plan is best served by the development and
3 incorporation of water plans developed by water users and
4 stakeholders at the local and regional level;

5 2. Continuity and regulatory certainty must be maintained
6 through the continued regulation and allocation of water at the
7 state level, yet the prioritization of issues and concerns unique to
8 each region, coupled with the development of plans to address the
9 issues and concerns, should be entrusted to the lowest possible
10 level of decision-making;

11 3. To this end, the 2012 Update to the Oklahoma Comprehensive
12 Water Plan recommended that the Legislature authorize the creation
13 of regional planning groups to involve local stakeholders in
14 planning and implementing regionally appropriate water plans
15 consisting of the identification of specific projects, studies,
16 programs, research and other evaluations designed to address the
17 unique needs and issues identified by the regional planning group
18 participants; and

19 4. The 2012 Update recommendations should be implemented as
20 provided in the Regional Water Planning Act, and that accordingly
21 regional planning groups should be established.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1086.13 of Title 82, unless
24 there is created a duplication in numbering, reads as follows:

1 A. For the purpose of this act, this state shall be divided
2 into ten (10) regions to be made up of the entire boundaries of the
3 following counties:

4 1. The Northwest Panhandle Regional Water Planning Council
5 shall include Cimarron, Texas and Beaver counties;

6 2. The Northwest Regional Water Planning Council shall include
7 Harper, Ellis, Woodward, Woods, Major, Alfalfa, Grant and Garfield
8 counties;

9 3. The North Central Regional Water Planning Council shall
10 include Kay, Noble, Payne, Osage, Pawnee, Washington, Nowata, Tulsa
11 and Creek counties;

12 4. The Grand Regional Water Planning Council shall include
13 Ottawa, Craig, Rogers, Mayes, Delaware and Wagner counties;

14 5. The Lower Arkansas Regional Water Planning Council shall
15 include Adair, Cherokee, Muskogee, Sequoyah, Haskell, Latimer, and
16 LeFlore counties;

17 6. The Southeast Regional Planning Council shall include
18 McCurtain, Pushmataha, Choctaw, Bryan, Atoka, Coal, Pontotoc,
19 Murray, Johnston, and Marshall counties;

20 7. The Eufaula Regional Planning Council shall include
21 Okmulgee, Okfuskee, Hughes, Pittsburg and McIntosh counties;

22 8. The West Central Regional Water Planning Council shall
23 include Roger Mills, Dewey, Custer, Washita, Caddo, Blaine,
24 Kingfisher, Canadian and Grady counties;

1 9. The Southwest Regional Planning Council shall include
2 Beckham, Harmon, Greer, Jackson, Kiowa, Tillman, Comanche, Cotton,
3 Stephens, Jefferson, Garvin, Carter and Love counties; and

4 10. The Central Regional Planning Council shall include Logan,
5 Oklahoma, Cleveland, McClain, Lincoln, Pottawatomie and Seminole
6 counties.

7 B. There are hereby created a total of ten (10) Regional Water
8 Planning Councils to consist of one council for each of the ten
9 regions described in subsection A of this section. The primary duty
10 and responsibility of the Councils shall be to develop regional
11 water plans, as well as to provide recommendations and other input,
12 for submission to the Oklahoma Water Resources Board and other state
13 environmental agencies as provided in this act. The role and
14 functions of the Councils shall be advisory, and they shall have no
15 authority, regulatory or otherwise, except as expressly provided in
16 this act.

17 C. Each Regional Water Planning Council shall consist of at
18 least nine (9) members, but no more than fifteen (15) members. The
19 Governor, President Pro Tempore of the Senate and the Speaker of the
20 House of Representatives shall each appoint three members to each
21 council. The initial appointments shall be made on or before
22 December 31, 2012. The Governor shall appoint three members to each
23 council that shall be well versed in recreation, industrial and
24 irrigation water uses. The President Pro Tempore of the Senate

1 shall appoint three members to each council that shall be well
2 versed in municipal, rural residential and agricultural water uses.
3 The Speaker of the House of Representatives shall appoint three
4 members of each council that shall be well versed in soil
5 conservation, small business and environmental water interests.
6 Provided, any region that has at least a portion of an irrigation
7 district, conservancy district, regional water district or rural
8 water district organized pursuant to Title 82 of the Oklahoma
9 Statutes included within the region shall have at least one member
10 appointed from among all the directors of the special purpose
11 district who reside in that council's region. If applicable, the
12 Governor shall appoint the member to represent irrigation water uses
13 from among the irrigation district directors residing in the region.
14 The Speaker of the House shall appoint the member to represent soil
15 conservation from among the conservancy district directors residing
16 in the region. The President Pro Tempore of the Senate shall
17 appoint the member to represent rural residential water uses from
18 among the rural water district or regional water district directors
19 residing in the region. The initial group of nine (9) appointees
20 may designate additional representatives to serve on the Regional
21 Water Planning Council if necessary to ensure adequate
22 representation from the interests comprising that region, including
23 the public, counties, municipalities, industries, agriculture,
24 environment, tourism, recreation, small business, electrical

1 generation, oil and gas, water districts and water utilities. Other
2 state, federal and tribal agencies may be invited to participate as
3 advisors or ex officio members as deemed appropriate and necessary
4 by the Council.

5 D. Each Council shall select a chair, vice-chair and other
6 officers as it deems necessary from among its members. Meetings of
7 the Councils shall be held at the call of the chairs of the
8 Councils.

9 E. Each Council shall develop within one (1) year of the
10 effective date of this act, bylaws or other organizational documents
11 as it deems necessary to carry out its duties and functions
12 prescribed in this act.

13 F. The members of each Council shall serve at the pleasure of
14 their respective appointing authority. Any member failing to attend
15 at least seventy percent (70%) of the meetings held by the Council
16 in any given calendar year shall be replaced by the appointing
17 authority for that member.

18 G. The chairs of the Councils shall comprise a Regional Water
19 Planning Council Coordinating Committee which shall meet at least
20 three (3) times per year at the call of the Executive Director of
21 the Oklahoma Water Resources Board. The Coordinating Committee
22 shall have the opportunity to report to and receive input from the
23 Oklahoma Water Resources Board at regular meetings of the Oklahoma
24 Water Resources Board, and from time to time may make

1 recommendations on water law and policy to the Oklahoma Water
2 Resources Board and other relevant state environmental agencies.

3 H. The Councils shall act in accordance with the provisions of
4 the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

5 I. The Councils shall submit a report to the Governor, the
6 President Pro Tempore of the Senate, and the Speaker of the House of
7 Representatives by December 31 each year.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1086.14 of Title 82, unless
10 there is created a duplication in numbering, reads as follows:

11 A. Each of the Regional Water Planning Councils created in
12 Section 3 of this act shall develop a water plan which satisfies the
13 provisions of the Regional Water Planning Act for its respective
14 region.

15 B. Using the most recent update of the Oklahoma Comprehensive
16 Water Plan as a guide, and taking into consideration other resources
17 including but not limited to any water plans developed and submitted
18 to the Council by municipalities or special purpose districts in the
19 region, each regional water plan shall, at a minimum:

20 1. Provide for the orderly development, use and conservation of
21 water resources in the region;

22 2. Identify sources of water in or feasibly available to users
23 in the region;

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1 3. Enhance economic development and protect the agricultural
2 and natural resources of the particular region;

3 4. Consider the relative merits for that region of the types of
4 projects, studies and programs listed in subsection C of this
5 section; and

6 5. Prescribe a specific strategy for preparing for and
7 responding to drought conditions and water shortages caused thereby.

8 C. The Councils shall have the following advisory and research
9 duties:

10 1. Act as a water science and research advisory council to the
11 Oklahoma Water Resources Board in implementing the Oklahoma
12 Comprehensive Water Plan;

13 2. Review state and federal assistance opportunities for
14 coordinated research, planning, design, and construction for water-
15 related environmental infrastructure and resource protection and
16 development projects, including projects for water supply, storage,
17 treatment, and related facilities, water quality protection,
18 wastewater treatment, and related facilities, environmental
19 restoration, and surface water resource protection, flood control,
20 recreation and development, as identified in the Oklahoma
21 Comprehensive Water Plan;

22 3. Recommend a set of water management tools customized to each
23 regional water planning district in the state;

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1 4. Recommend specific actions to implement the provisions of
2 the Oklahoma Comprehensive Water Plan which will:

- 3 a. promote stewardship of the water resources of the
4 state,
- 5 b. protect and maintain water rights and the priority
6 status of all legally authorized entities, including
7 federally recognized tribal governments,
- 8 c. protect the diverse customs, culture, environment and
9 economic stability of the state,
- 10 d. protect both the water supply and water quality of
11 water in the state,
- 12 e. promote cooperative strategies, based on concern for
13 meeting the basic needs of all Oklahomans,
- 14 f. meet the interstate compact obligations of the state,
- 15 g. provide a basis for prioritizing infrastructure
16 investment, and
- 17 h. provide statewide continuity of policy and management
18 relative to water resources of the state; and

19 5. Perform other duties as may be identified in the Oklahoma
20 Comprehensive Water Plan.

21 D. The Councils shall make recommendations for inclusion in the
22 Oklahoma Comprehensive Water Plan addressing the following issues:
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- 1 1. Identifying water conservation strategies and policies that
2 will maximize the beneficial use of water, including reuse and
3 recycling to promote nonforfeiture of water rights;
- 4 2. Recognizing the relationship between water availability and
5 land-use decisions;
- 6 3. Promoting river riparian and watershed restoration projects
7 that focus on protecting water supplies, improving water quality and
8 complying with federal Endangered Species Act of 1973 mandates;
- 9 4. Implementing strategies and mechanisms for achieving
10 coordination with all levels of local, state, federal and tribal
11 governments;
- 12 5. Integrating water plans of water supply purveyors, including
13 those of local governments, privately owned public utilities,
14 associations, cooperatives and irrigation districts with state water
15 plan policies and strategies, as appropriate and consistent;
- 16 6. Identifying water-related infrastructure and management
17 investment needs and opportunities to leverage federal and other
18 funding; and
- 19 7. Collaborating with the research institutions and entities in
20 the state to address the water challenges of the state and to
21 promote demonstration projects in desalination, conservation,
22 watershed restoration, weather modification and other technological
23 approaches to enhance water supply and management.

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1 E. 1. Phase 1 of each regional water planning process shall be
2 the creation of a prioritization of projects, studies and programs
3 pertinent to that region that build upon the most recent update of
4 the Oklahoma Comprehensive Water Plan and the collective desire of
5 that Council. The types of projects, studies and programs that may
6 be included in the prioritization should include, but not be limited
7 to:

- 8 a. water quality improvement,
- 9 b. wastewater reuse,
- 10 c. identification of alternative supplies such as
11 marginal quality water and artificial recharge,
- 12 d. development of regional or consolidated supply systems
13 such as reservoirs, well fields and infrastructure
14 that would improve service within the region and take
15 advantage of economies of scale while reducing the
16 infrastructure financing needs,
- 17 e. education programs regarding conservation and water
18 quality protection,
- 19 f. out-of-region supplies,
- 20 g. irrigation needs and efficiency considerations, and
21 h. stream segments, springs, reservoirs, or other
22 identified water resources having unique value that
23 may warrant special protection or treatment.

1 The prioritization shall include specifics about each item
2 identified, the need proposed to be met, time frames for completion,
3 and cost. Phase 1 shall also incorporate, to the greatest extent
4 practicable, any water plans developed by municipalities, irrigation
5 districts, conservancy districts, regional water districts and rural
6 water districts within the region that are submitted by the local
7 entities to the Council. Prior to the preparation of the
8 prioritization, the Council shall, after notice, hold at least one
9 public meeting within the region to gather suggestions and
10 recommendations from the public as to issues that should be
11 addressed in the plan or provisions that should be considered for
12 inclusion in the plan. Thereafter, the Council shall provide an
13 ongoing opportunity for public input until the prioritization is
14 completed. Phase 1 shall be completed no later than two (2) years
15 following the effective date of this act.

16 2. Phase 2 of the process shall be the implementation of the
17 projects and items identified according to Phase 1, as available
18 funding allows. Phase 2 shall be completed no later than eight (8)
19 years following the effective date of this act.

20 3. Phase 3 shall be the completion of a comprehensive regional
21 water plan which shall include:

22 a. an evaluation of the accomplishments of the preceding
23 eight (8) years,
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- 1 b. an incorporation of those results into a plan for the
- 2 next fifty (50) years,
- 3 c. an updated analysis of the supply and demand forecasts
- 4 for the region, and
- 5 d. specific recommendations regarding the needs and
- 6 priorities for the region for the next fifty (50)
- 7 years.

8 After the comprehensive regional plan is drafted but before it
9 is finalized, the Council shall, after notice, hold at least one
10 public meeting within the region to gather input on the draft plan.
11 Thereafter, the Council shall finalize the comprehensive regional
12 water plan, and Phase 3 shall be completed, no later than ten (10)
13 years following the effective date of this act.

14 F. Notice of each public meeting required by subsection E of
15 this section shall be submitted at least forty-five (45) days prior
16 to the date of the meeting in the form of a press release to at
17 least one newspaper of general circulation in each county located in
18 whole or in part in the region for publication as a public service
19 announcement at the discretion of the editor of the newspaper.

20 G. Each Council shall submit its regional water plan to the
21 Oklahoma Water Resources Board for review. The Board shall
22 determine if the plan satisfies the provisions of the Regional Water
23 Planning Act. If the Oklahoma Water Resources Board finds the
24 regional water plan satisfies the provisions of the act and any

1 rules that may be promulgated pursuant to the act, the Board shall
2 approve the plan and incorporate it into the next decennial update
3 of the Oklahoma Comprehensive Water Plan to be completed by the
4 Board. In doing so, the Oklahoma Water Resources Board shall be
5 authorized to reconcile any conflicts or substantial differences
6 that may exist in the plans among or between regions, special
7 districts and local entities.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1086.15 of Title 82, unless
10 there is created a duplication in numbering, reads as follows:

11 Funding to complete the Phase 1 and Phase 3 work of the Regional
12 Water Planning Councils as set forth in Section 4 of this act shall
13 be divided equally among the Councils from appropriations by the
14 Legislature to the Oklahoma Water Resources Board. The Legislature
15 may make additional funding available to the Oklahoma Water
16 Resources Board for award of competitive grants to the Councils.
17 The competitive grants shall be used to complete the Phase 2 work,
18 including but not limited to costs of detailed reconnaissance,
19 feasibility studies or actual project construction within the
20 regions. Priority for grant awards shall be given to Councils who
21 contribute a share of the costs of the underlying study or
22 construction.

23 SECTION 6. This act shall become effective July 1, 2012.
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1 SECTION 7. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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