

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1541
Page _____ Section 1-42 Lines _____
Of the printed Bill
Of the Engrossed Bill

By deleting Sections 1 through 42 and by inserting in lieu thereof the following language:

"(INSERT ATTACHED)"

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jason Murphey _____

Reading Clerk

1 "SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Government
4 Reduction Act of 2011".

5 SECTION 2. AMENDATORY 25 O.S. 2001, Section 1502, is
6 amended to read as follows:

7 Section 1502. A. A person claiming to be aggrieved by a
8 discriminatory practice, ~~his~~ the attorney of the person, the
9 Attorney General, or a nonprofit organization chartered for the
10 purpose of combating discrimination ~~or a member of the Commission~~,
11 may file with the ~~Commission~~ Human Rights Division of the Office of
12 the Attorney General a written sworn complaint stating that a
13 discriminatory practice has been committed, and setting forth the
14 facts upon which the complaint is based, and setting forth facts
15 sufficient to enable the ~~Commission~~ Division to identify the person
16 charged, hereinafter called the respondent. The ~~Commission or a~~
17 ~~member of the Commission or the staff~~ Division shall promptly
18 furnish the respondent with a copy of the complaint and shall
19 promptly investigate the allegations of discriminatory practice set
20 forth in the complaint. The complaint must be filed within one
21 hundred eighty (180) days after the alleged discriminatory practice
22 occurs.

23 B. If within sixty (60) days after the complaint is filed it is
24 determined by the ~~Commission or a member of the Commission or the~~

1 ~~staff~~ Division that there is no reasonable cause to believe that the
2 respondent has engaged in a discriminatory practice, the ~~Commission~~
3 Division shall issue an order dismissing the complaint and shall
4 furnish a copy of the order to the complainant, the respondent, ~~the~~
5 ~~Attorney General~~ and such other public officers and persons as the
6 ~~Commission~~ Division deems proper.

7 C. The complainant, within thirty (30) days after receiving a
8 copy of an order dismissing the complaint, may file with the
9 ~~Commission~~ Division an application for reconsideration of the order.
10 Upon such application, the ~~Commission or a designated member of the~~
11 ~~Commission~~ Division shall make a new determination whether there is
12 a reasonable cause to believe that the respondent has engaged in a
13 discriminatory practice. If it is determined within thirty (30)
14 days after the application is filed that there is no reasonable
15 cause to believe that the respondent has engaged in a discriminatory
16 practice, the ~~Commission~~ Division shall issue an order dismissing
17 the complaint and furnish a copy of the order to the complainant,
18 the respondent, ~~the Attorney General~~, and such other public officers
19 and persons as the ~~Commission~~ Division deems proper.

20 D. This section does not apply to persons claiming to be
21 aggrieved by a discriminatory housing practice to the extent that it
22 is inconsistent with specific provisions of this act relating to a
23 discriminatory housing complaint.

24

1 SECTION 3. AMENDATORY 25 O.S. 2001, Section 1502.1, is
2 amended to read as follows:

3 Section 1502.1 If, at any time after the filing of a verified
4 charge, the ~~Commission~~ Human Rights Division of the Office of the
5 Attorney General has reason to believe that a respondent has engaged
6 in any unlawful discriminatory practice, the ~~Commission~~ Division may
7 file a petition in the district court in a county in which the
8 subject of the complaint occurs, or in a county in which a
9 respondent resides or transacts business, seeking appropriate
10 temporary injunctive relief against the respondent pending final
11 determination of proceedings pursuant to this act, including an
12 order or decree restraining him from doing an act tending to render
13 ineffectual an order the ~~Commission~~ Division may enter with respect
14 to the complaint. The court shall have power to grant injunctive
15 relief or a restraining order as it deems just and proper, but no
16 relief or order shall be granted except by consent of the respondent
17 or after hearing upon notice to the respondent and a finding by the
18 court that there is reasonable cause to believe that the respondent
19 has engaged in a discriminatory practice. Except as modified by
20 this section, the Oklahoma rules of civil procedure shall apply to
21 an application, and the district court shall have authority to grant
22 or deny the relief sought on conditions as it deems just and
23 equitable. This section is subject to the provisions of Section ~~13~~
24 1502.7 of this ~~act~~ title.

1 SECTION 4. AMENDATORY 25 O.S. 2001, Section 1502.2, is
2 amended to read as follows:

3 Section 1502.2 A. The ~~Commission~~ Human Rights Division of the
4 Office of the Attorney General shall investigate alleged
5 discriminatory housing practices.

6 B. A complaint must be:

- 7 1. In writing;
- 8 2. Under oath; and
- 9 3. In the form prescribed by the ~~Commission~~ Division.

10 C. An aggrieved person may, not later than one (1) year after
11 an alleged discriminatory housing practice has occurred or
12 terminated, whichever is later, file a complaint with the ~~Commission~~
13 Division alleging the discriminatory housing practice.

14 D. Not later than one (1) year after an alleged discriminatory
15 housing practice has occurred or terminated, whichever is later, the
16 ~~Commission~~ Division may file its own complaint.

17 E. A complaint may be amended at any time.

18 F. On the filing of a complaint the ~~Commission~~ Division shall:

- 19 1. Give the aggrieved person notice that the complaint has been
20 received;

- 21 2. Advise the aggrieved person of the time limits and choice of
22 forums pursuant to this act; and

23

24

1 3. Not later than the 20th day after the filing of the
2 complaint or the identification of an additional respondent pursuant
3 to Section ~~41~~ 1502.5 of this ~~act~~ title, serve on each respondent:

4 a. a notice identifying the alleged discriminatory
5 housing practice and advising the respondent of the
6 procedural rights and obligations of a respondent
7 pursuant to this act, and

8 b. a copy of the original complaint.

9 SECTION 5. AMENDATORY 25 O.S. 2001, Section 1502.3, is
10 amended to read as follows:

11 Section 1502.3 A. Not later than the 10th day after receipt of
12 the notice and copy pursuant to paragraph 3 of subsection F of
13 Section ~~8~~ 1502.2 of this ~~act~~ title, a respondent may file an answer
14 to the complaint.

15 B. An answer must be:

16 1. In writing;

17 2. Under oath; and

18 3. In the form prescribed by the ~~Commission~~ Human Rights
19 Division of the Office of the Attorney General.

20 C. An answer may be amended at any time.

21 D. An answer does not inhibit the investigation of a complaint.

22 SECTION 6. AMENDATORY 25 O.S. 2001, Section 1502.4, is
23 amended to read as follows:

1 Section 1502.4 A. If the federal government has referred a
2 complaint to the ~~Commission~~ Human Rights Division of the Office of
3 the Attorney General or has deferred jurisdiction over the subject
4 matter of the complaint to the ~~Commission~~ Division, the ~~Commission~~
5 Division shall promptly investigate the allegations set forth in the
6 complaint.

7 B. The ~~Commission~~ Division shall investigate all complaints and
8 except as provided by subsection C of this section, shall complete
9 an investigation not later than the 100th day after the date the
10 complaint is filed, or if it is unable to complete the investigation
11 within the one-hundred-day period, shall dispose of all
12 administrative proceedings related to the investigation not later
13 than one (1) year after the date the complaint is filed.

14 C. If the ~~Commission~~ Division is unable to complete an
15 investigation within the time periods prescribed by subsection B of
16 this section, the ~~Commission~~ Division shall notify the complainant
17 and the respondent in writing of the reasons for the delay.

18 SECTION 7. AMENDATORY 25 O.S. 2001, Section 1502.5, is
19 amended to read as follows:

20 Section 1502.5 A. The ~~Commission~~ Human Rights Division of the
21 Office of the Attorney General may join a person not named in the
22 complaint as an additional or substitute respondent if in the course
23 of the investigation the ~~Commission~~ Division determines that the
24 person should be accused of a discriminatory housing practice.

1 B. In addition to the information required in the notice
2 pursuant to paragraph 3 of subsection F of Section § 1502.2 of this
3 ~~act~~ title, the ~~Commission~~ Division shall include in a notice to a
4 respondent joined pursuant to this section an explanation of the
5 basis for the determination that the person is properly joined as a
6 respondent.

7 SECTION 8. AMENDATORY 25 O.S. 2001, Section 1502.6, is
8 amended to read as follows:

9 Section 1502.6 A. The ~~Commission~~ Human Rights Division of the
10 Office of the Attorney General shall, during the period beginning
11 with the filing of a complaint and ending with the filing of a
12 charge or a dismissal by the ~~Commission~~ Division, to the extent
13 feasible, engage in conciliation with respect to the complaint.

14 B. A conciliation agreement is an agreement between a
15 respondent and the complainant and is subject to ~~Commission~~ Division
16 approval.

17 C. A conciliation agreement may provide for binding arbitration
18 or other method of dispute resolution. Dispute resolution that
19 results from a conciliation agreement may authorize appropriate
20 relief, including monetary relief.

21 D. A conciliation agreement shall be made public unless the
22 complainant and respondent agree otherwise, and the ~~Commission~~
23 Division determines that disclosure is not necessary to further the
24 purpose of this act.

1 E. Nothing said or done in the course of conciliation may be
2 made public or used as evidence in a subsequent proceeding pursuant
3 to this act without the written consent of the persons concerned.

4 F. After completion of the ~~Commission's~~ Division's
5 investigation, the ~~Commission~~ Division shall make available to the
6 aggrieved person and the respondent, at any time, information
7 derived from the investigation and the final investigation report
8 relating to that investigation.

9 SECTION 9. AMENDATORY 25 O.S. 2001, Section 1502.7, is
10 amended to read as follows:

11 Section 1502.7 A. If the ~~Commission~~ Human Rights Division of
12 the Office of the Attorney General concludes at any time following
13 the filing of a discriminatory housing complaint that prompt
14 judicial action is necessary to carry out the purposes of this act,
15 the ~~Commission~~ Division may authorize also file a civil action for
16 appropriate temporary or preliminary relief pending final
17 disposition of the complaint.

18 B. ~~On receipt of the Commission's authorization, the Attorney~~
19 ~~General shall promptly file the action.~~

20 C. A temporary restraining order or other order granting
21 preliminary or temporary relief on a discriminatory housing
22 complaint filed under this section is governed by the provisions of
23 Section 1502.1 of this title and the applicable Oklahoma rules of
24 civil procedure.

1 ~~D.~~ C. The filing of a civil action pursuant to this section
2 does not affect the initiation or continuation of administrative
3 proceeding pursuant to Section 1503 of this title.

4 SECTION 10. AMENDATORY 25 O.S. 2001, Section 1502.8, is
5 amended to read as follows:

6 Section 1502.8 A. The ~~Commission~~ Human Rights Division of the
7 Office of the Attorney General shall prepare a final investigative
8 report showing:

- 9 1. The name and dates of contact with witnesses;
- 10 2. A summary of correspondence and other contacts with the
11 aggrieved person and the respondent showing the dates of the
12 correspondence and contacts;
- 13 3. A summary description of other pertinent records;
- 14 4. A summary of witness statements; and
- 15 5. Answers to interrogatories.

16 B. A final report pursuant to this section may be amended if
17 additional evidence is discovered.

18 SECTION 11. AMENDATORY 25 O.S. 2001, Section 1502.9, is
19 amended to read as follows:

20 Section 1502.9 A. The ~~Commission~~ Human Rights Division of the
21 Office of the Attorney General shall determine based on the facts
22 whether reasonable cause exists to believe that a discriminatory
23 housing practice has occurred or is about to occur.

24

1 B. The ~~Commission~~ Division shall make the determination
2 pursuant to subsection A of this section not later than the 100th
3 day after the date a complaint is filed unless:

4 1. It is impracticable to make the determination; or

5 2. The ~~Commission~~ Division has approved a conciliation
6 agreement relating to the complaint.

7 C. If it is impracticable to make the determination within the
8 time period provided by subsection B of this section, the ~~Commission~~
9 Division shall notify the complainant and respondent in writing of
10 the reasons for the delay.

11 D. If the ~~Commission~~ Division determines that reasonable cause
12 exists to believe that a discriminatory housing practice has
13 occurred or is about to occur, the ~~Commission~~ Division shall, except
14 as provided by Section ~~17~~ 1502.11 of this ~~act~~ title, immediately
15 issue a charge on behalf of the aggrieved person.

16 SECTION 12. AMENDATORY 25 O.S. 2001, Section 1502.10, is
17 amended to read as follows:

18 Section 1502.10 A. A charge issued pursuant to Section ~~15~~
19 1502.9 of this ~~act~~ title:

20 1. Must consist of a short and plain statement of the facts on
21 which the ~~Commission~~ Human Rights Division of the Office of the
22 Attorney General has found reasonable cause to believe that a
23 discriminatory housing practice has occurred or is about to occur;

24 2. Must be based on the final investigative report; and

1 3. Need not be limited to the facts or grounds alleged in the
2 complaint.

3 B. Not later than the 20th day after the ~~Commission~~ Division
4 issues a charge, the ~~Commission~~ Division shall send a copy of a
5 charge with information concerning the election pursuant to Section
6 ~~20~~ 1502.14 of this ~~act~~ title to:

7 1. Each respondent, together with a notice of the opportunity
8 for a hearing provided by Section 1503 of this title; and

9 2. Each aggrieved person on whose behalf the complaint was
10 filed.

11 SECTION 13. AMENDATORY 25 O.S. 2001, Section 1502.11, is
12 amended to read as follows:

13 Section 1502.11 If the ~~Commission~~ Human Rights Division of the
14 Office of the Attorney General determines that the matter involves
15 the legality of a state or local zoning or other land use law or
16 ordinance, the ~~Commission may not issue a charge and~~ Division shall
17 immediately refer the matter to the Attorney General for appropriate
18 action.

19 SECTION 14. AMENDATORY 25 O.S. 2001, Section 1502.12, is
20 amended to read as follows:

21 Section 1502.12 A. If the ~~Commission~~ Human Rights Division of
22 the Office of the Attorney General determines that no reasonable
23 cause exists to believe that a discriminatory housing practice has
24

1 occurred or is about to occur, the ~~Commission~~ Division shall
2 promptly dismiss the complaint.

3 B. The ~~Commission~~ Division shall make public disclosure of each
4 dismissal pursuant to this section.

5 SECTION 15. AMENDATORY 25 O.S. 2001, Section 1502.13, is
6 amended to read as follows:

7 Section 1502.13 The ~~Commission~~ Human Rights Division of the
8 Office of the Attorney General may not issue a charge pursuant to
9 this section regarding an alleged discriminatory housing practice
10 after the beginning of the trial of a civil action ~~commenced~~
11 commenced by the aggrieved party under federal or state law seeking
12 relief with respect to that discriminatory housing practice.

13 SECTION 16. AMENDATORY 25 O.S. 2001, Section 1502.14, is
14 amended to read as follows:

15 Section 1502.14 A. A complainant, a respondent, or an
16 aggrieved person on whose behalf the complaint was filed may elect
17 to have the claims asserted in that charge decided in a civil action
18 as provided by Section ~~21~~ 1502.15 of this ~~act~~ title.

19 B. The election ~~must~~ shall be made not later than the 20th day
20 after the date of receipt by the electing person of service pursuant
21 to subsection B of Section ~~16~~ 1502.10 of this ~~act~~ title or, in the
22 case of the ~~Commission~~ Human Rights Division of the Office of the
23 Attorney General, not later than the 20th day after the date the
24 charge was issued.

1 C. The person making the election shall give notice to the
2 ~~Commission~~ Division and to all other complainants and respondents to
3 whom the charge relates.

4 SECTION 17. AMENDATORY 25 O.S. 2001, Section 1502.15, is
5 amended to read as follows:

6 Section 1502.15 A. If a timely election is made pursuant to
7 Section ~~20~~ 1502.14 of this ~~act~~ title, the ~~Commission~~ Human Rights
8 Division of the Office of the Attorney General shall authorize, and
9 not later than the 30th day after the election is made, the Attorney
10 General shall file, a civil action on behalf of the aggrieved person
11 in a district court seeking relief pursuant to this section.

12 B. Venue for an action pursuant to this section is in the
13 county in which the alleged discriminatory housing practice
14 occurred, or in a county where the respondent resides or transacts
15 business.

16 C. An aggrieved person may intervene in the action.

17 D. If the court finds that a discriminatory housing practice
18 has occurred or is about to occur, the court may grant as relief any
19 relief that a court may grant in a civil action pursuant to Section
20 ~~26~~ 1506.3 of this ~~act~~ title.

21 E. If monetary relief is sought for the benefit of an aggrieved
22 person who does not intervene in the civil action, the court may not
23 award the monetary relief if that aggrieved person has not complied
24 with discovery orders entered by the court.

1 SECTION 18. AMENDATORY 25 O.S. 2001, Section 1503, is
2 amended to read as follows:

3 Section 1503. A. After the ~~Commission~~ Human Rights Division of
4 the Office of the Attorney General has completed its investigation
5 and exhausted efforts of settlement, conciliation, and persuasion,
6 unless the ~~Commission~~ Division has issued an order dismissing the
7 complaint or within thirty (30) days after an application for review
8 is filed under subsection C of Section 1502 of this title, the
9 ~~Commission~~ Division shall serve on the respondent by certified mail
10 a written notice, together with a copy of the complaint as it may
11 have been amended requiring the respondent to answer the allegations
12 of the complaint at a hearing before a ~~member of the Commission or~~
13 hearing examiner designated by order of the ~~Commission~~ Division to
14 decide the complaint, at a time and place specified in the notice.
15 A copy of the notice shall be furnished to the complainant ~~and the~~
16 ~~Attorney General~~. The notice shall conform to and the hearing shall
17 be conducted in accordance with the ~~Oklahoma~~ Administrative
18 Procedures Act. ~~The decision must be approved in writing by a~~
19 ~~majority of the Commission.~~

20 B. ~~A member of the Commission who investigated the complaint~~
21 ~~shall not preside at the hearing nor participate in the subsequent~~
22 ~~deliberation of the Commission in deciding the case.~~

23 C. The respondent may file an answer with the ~~Commission~~
24 Division as prescribed by the rules of the ~~Commission~~ Division. The

1 ~~Commission~~ Division shall furnish a copy of the answer to the
2 complainant and any other party to the proceeding. The ~~Commission~~
3 Division or the complainant may amend a complaint and the respondent
4 may amend an answer at any time prior to the issuance of an order
5 based on the complaint, but no order shall be issued unless the
6 respondent has had the opportunity of a hearing on the complaint or
7 amendment on which the order is based.

8 ~~D.~~ C. The case in support of the complaint shall be presented
9 at the hearing by the ~~Commission~~ Division staff.

10 ~~E.~~ D. A respondent who has filed an answer or whose default in
11 answering has been set aside for good cause shown may appear at the
12 hearing with or without representation, may examine and
13 cross-examine witnesses and the complainant, and may offer evidence.
14 The complainant or the Attorney General may intervene, examine and
15 cross-examine witnesses, and may present evidence.

16 ~~F.~~ E. If the respondent fails to answer the complaint, the
17 ~~Commission~~ Division may enter ~~his~~ the respondent's default and the
18 hearing shall proceed on the evidence in support of the complaint.
19 The default may be set aside for good cause shown upon equitable
20 terms and conditions.

21 ~~G.~~ F. Testimony taken at the hearing shall be under oath and
22 preserved by either audio tape or transcription as determined by the
23 ~~Commissioner~~ Attorney General or hearing examiner designated by
24 order to hear the complaint; provided a party shall be able to have

1 the proceedings transcribed at such party's own cost. The
2 ~~Commission~~ Division shall furnish transcripts of the hearing upon
3 payment of the costs by such party requesting the transcripts.
4 After the hearing, in its discretion, the ~~Commission~~ Division upon
5 notice to all parties affording an opportunity to be heard may take
6 further evidence or hear argument.

7 H. G. The ~~Commission~~ Division shall abide by the provisions of
8 this section in a discriminatory housing complaint only if an
9 election is not made pursuant to Section ~~20~~ 1502.14 of this ~~act~~
10 title.

11 ~~I. H.~~ H. A hearing pursuant to this section may not continue
12 regarding any alleged discriminatory housing practice after the
13 beginning of the trial of a civil action commenced by the aggrieved
14 person pursuant to federal or state law seeking relief with respect
15 to that discriminatory housing practice.

16 SECTION 19. AMENDATORY 25 O.S. 2001, Section 1504, is
17 amended to read as follows:

18 Section 1504. If the Human Rights Division of the Office of the
19 Attorney General determines that the respondent has not engaged in a
20 discriminatory practice, the ~~Commission~~ Division shall state its
21 findings of fact and conclusions of law, and shall dismiss the
22 complaint by order and furnish a copy of the order to the
23 complainant, and the respondent ~~and the Attorney General~~.

24

1 SECTION 20. AMENDATORY 25 O.S. 2001, Section 1505, is
2 amended to read as follows:

3 Section 1505. A. If the ~~Commission~~ Human Rights Division of
4 the Office of the Attorney General determines from a review of all
5 of the evidence that the respondent has engaged in a discriminatory
6 practice, the ~~Commission~~ Division shall state its findings of fact
7 and conclusions of law and ~~a member of the Commission designated by~~
8 ~~the chairman or the staff~~ Attorney General shall endeavor to
9 eliminate the discriminatory practice by conference, conciliation,
10 and persuasion. The terms of a conciliation agreement reached with
11 the respondent may require ~~him~~ the respondent to refrain in the
12 future from committing discriminatory practices of the type stated
13 in the agreement and to take such affirmative action as in the
14 judgment of the ~~Commission~~ Division will carry out the purposes of
15 this act. If a conciliation agreement is entered into, the
16 ~~Commission~~ Division shall issue an order stating its terms and
17 furnish a copy of the order to the complainant, and the respondent,
18 ~~and the Attorney General~~. Except for the fact of the consummation
19 of a conciliation agreement, neither the ~~Commission~~ Division nor any
20 officer or employee thereof shall make public, without the written
21 consent of the complainant and the respondent, information
22 concerning the agreement or efforts in a particular case to
23 eliminate a discriminatory practice by conference, conciliation, or
24 persuasion. At any time in its discretion but not later than one

1 (1) year from the date of a conciliation agreement, the ~~Commission~~
2 Division shall investigate whether the terms of the agreement are
3 being complied with by the respondent, the ~~Commission~~ Division shall
4 take appropriate action as authorized by this act to assure
5 compliance.

6 B. If the ~~Commission~~ Division is unable to eliminate the
7 discriminatory practice by conference, conciliation, or persuasion,
8 it shall issue an order requiring the respondent to cease and desist
9 from the discriminatory practice and to take such affirmative action
10 as in the judgment of the ~~Commission~~ Division will carry out the
11 purposes of this act. A copy of the order shall be delivered to the
12 respondent, and the complainant ~~and the Attorney General~~.

13 C. Affirmative action ordered under subsection B of this
14 section may include but is not limited to:

15 1. Hiring or reinstatement of employees with or without back
16 pay (less amount earned or earnable with reasonable diligence by
17 such employees);

18 2. Admission or restoration of individuals to union membership,
19 admission to or participation in a guidance program, apprenticeship
20 training or retraining program, on-the-job training program, or
21 other occupational training or retraining program, with the
22 utilization of objective criteria in the admission of individuals to
23 such program;

24 3. Admission of individuals to a public accommodation;

1 4. Reporting as to the manner of compliance;

2 5. Posting notices in conspicuous places in respondent's place
3 of business in form prescribed by the ~~Commission~~ Division and
4 inclusion of such notices in advertising material;

5 6. Awarding costs, including attorneys fees, to:

6 a. a prevailing complaining party, or

7 b. the party complained against, if the ~~Commission~~
8 Division determines that the complaint is clearly
9 frivolous, or

10 c. the party complained against, if the district court
11 determines that the complaint is frivolous and that
12 the ~~Commission~~ Division dealt with the party
13 complained against in a willful, wanton and oppressive
14 manner, in which case, the ~~Commission~~ Division shall
15 be ordered to pay such costs and attorneys fees; and

16 7. Ordering a person to rehire, reinstate, and provide back pay
17 to any employee or agent discriminated against because of obedience
18 to the laws prohibiting discriminatory practices in housing.

19 D. In the case of a respondent who is found by the ~~Commission~~
20 Division to have engaged in a discriminatory practice in the course
21 of performing under a contract or subcontract with the state or any
22 governmental entity, or agency thereof, if the discriminatory
23 practice was authorized, requested, commanded, performed or
24 recklessly tolerated by the board of directors of the respondent or

1 by a high managerial agent acting within the scope of his
2 employment, the ~~Commission~~ Division shall so certify to the
3 contracting agency. Unless the ~~Commission's~~ Division's finding of a
4 discriminatory practice is upheld in the course of judicial review
5 under Section 1506 of this title, the finding of discrimination is
6 not binding on the contracting agency.

7 E. If the ~~Commission~~ Division determines that a respondent has
8 engaged in or is about to engage in a discriminatory housing
9 practice, the ~~Commission~~ Division may order the appropriate relief,
10 including actual damages, reasonable attorneys fees, court costs,
11 and other injunctive or equitable relief.

12 1. To vindicate the public interest, the ~~Commission~~ Division
13 may assess a civil penalty against the respondent in an amount that
14 does not exceed:

15 a. Ten Thousand Dollars (\$10,000.00), if the respondent
16 has been adjudged by order of the ~~Commission~~ Division
17 or a court to have committed a prior discriminatory
18 housing practice,

19 b. except as provided by paragraph 2 of this subsection,
20 Twenty-five Thousand Dollars (\$25,000.00), if the
21 respondent has been adjudged by order of the
22 ~~Commission~~ Division or a court to have committed one
23 other discriminatory housing practice during the five-

24

1 year period ending on the date of the filing of the
2 charge, and

3 c. except as provided by paragraph 2 of this subsection,
4 Fifty Thousand Dollars (\$50,000.00), if the respondent
5 has been adjudged by order of the ~~Commission~~ Division
6 or a court to have committed two or more
7 discriminatory housing practices during the seven-year
8 period ending on the date of the filing of the charge.

9 2. If the acts constituting the discriminatory housing practice
10 that is the object of the charge are committed by the same
11 individual who has been previously adjudged to have committed acts
12 constituting a discriminatory housing practice, the civil penalties
13 in subparagraph b and c of paragraph 1 of this subsection may be
14 imposed without regard to the period of time within which any other
15 discriminatory housing practice occurred.

16 3. ~~At the request of the Commission, the~~ The Attorney General
17 shall sue to recover a civil penalty due pursuant to this section.
18 Funds collected pursuant to this section shall be paid to the State
19 Treasurer for deposit in the State Treasury to the credit of the
20 Fair Housing Fund.

21 4. A ~~Commission~~ Division order pursuant to this subsection ~~E of~~
22 ~~this section~~ does not affect a contract, sale, encumbrance, or lease
23 that:
24

1 a. was consummated before the ~~Commission~~ Division issued
2 the order, and

3 b. involved a bona fide purchaser, encumbrancer, or
4 tenant who did not have actual notice of the charge
5 filed pursuant to this act.

6 5. If the ~~Commission~~ Division issues an order with respect to a
7 discriminatory housing practice that occurred in the course of a
8 business subject to a licensing or regulation by a governmental
9 agency, the ~~Commission~~ Division shall, not later than the 30th day
10 after the date of the issuance of the order:

11 a. send copies of the findings and the order to the
12 governmental agency, and

13 b. recommend to the governmental agency appropriate
14 disciplinary action.

15 6. If the ~~Commission~~ Division issues an order against a
16 respondent against whom another order was issued within the
17 preceding five (5) years pursuant to this subsection ~~E of this~~
18 ~~section~~, the ~~Commission~~ Division shall ~~send~~ retain a copy of each
19 order issued pursuant to ~~that~~ this subsection ~~to the Attorney~~
20 ~~General~~.

21 7. No order issued pursuant to this section shall have any
22 legal effect, unless and until and to the extent that a district
23 court may issue a corresponding order pursuant to Section 1506 of
24 this title.

1 SECTION 21. AMENDATORY 25 O.S. 2001, Section 1505.1, is
2 amended to read as follows:

3 Section 1505.1 If the ~~Commission~~ Human Rights Division of the
4 Office of the Attorney General upon final determination finds that
5 an act of housing discrimination pursuant to Section ~~2~~ 1452 of this
6 ~~act~~ title has been committed by a person holding a real estate
7 license pursuant to state law, the ~~Commission will~~ Division shall
8 certify its determination to the licensing agency. Unless such
9 determination of discriminatory practice is reversed in the course
10 of judicial review, a final determination is binding on the
11 licensing agency. Such agency shall take appropriate administrative
12 action, including suspension or revocation of the license of the
13 respondent.

14 SECTION 22. AMENDATORY 25 O.S. 2001, Section 1506, is
15 amended to read as follows:

16 Section 1506. ~~(a)~~ A. The ~~Commission~~ Human Rights Division of
17 the Office of the Attorney General may petition for an order of the
18 district court for enforcement of an order issued by the ~~Commission~~
19 Division under Section 1505 of this title, in a proceeding brought
20 in the district court of the county in which the alleged
21 discriminatory practice which is the subject of the order occurs or
22 in which a respondent resides or transacts business.

23 ~~(b)~~ B. The proceeding for an enforcement order shall be a
24 review on the record without a jury and shall follow the procedures

1 of the Administrative Procedures Act unless the ~~Commission~~ Division,
2 complainant, or respondent requests the proceedings to be de novo.
3 If so requested, the proceeding for an enforcement order shall be a
4 de novo proceeding and shall follow the procedures of the courts of
5 this state applicable to a civil action. If the party requesting
6 the de novo proceeding is not the prevailing party in such
7 proceeding, the court shall award reasonable attorney fees and costs
8 of court to the prevailing party. The evidence in support of the
9 complaint may be presented by the complainant, ~~his~~ the complainant's
10 attorney, the ~~Commission or its attorney~~ Division, or the Attorney
11 General. The court shall have power to grant such temporary relief
12 or restraining order as it deems just, and to enter an order
13 enforcing the order of the ~~Commission~~ Division or restraining its
14 violation if the court finds that the preponderance of the evidence
15 supports such order of the ~~Commission~~ Division. All such
16 proceedings shall be heard and determined by the court, and any
17 appellate court, as expeditiously as possible.

18 ~~(e)~~ C. A proceeding under this section must be initiated within
19 thirty (30) days after the order of the ~~Commission~~ Division is
20 issued.

21 SECTION 23. AMENDATORY 25 O.S. 2001, Section 1506.1, is
22 amended to read as follows:

23 Section 1506.1 A. An aggrieved person may file a civil action
24 in district court not later than the second year after the

1 occurrence of the termination of an alleged discriminatory housing
2 practice, or the breach of a conciliation agreement entered into
3 pursuant to this act, whichever occurs last, to obtain appropriate
4 relief with respect to the discriminatory housing practice or
5 breach.

6 B. The two-year period does not include any time during which
7 an administrative hearing pursuant to this act is pending with
8 respect to a complaint or charge pursuant to this act based on the
9 discriminatory housing practice. This subsection does not apply to
10 actions arising from a breach of a conciliation agreement.

11 C. An aggrieved person may file an action pursuant to this
12 section whether or not a complaint has been filed pursuant to
13 Section § 1502.2 of this ~~act~~ title and without regard to the status
14 of any complaint filed pursuant to this section.

15 D. If the ~~Commission~~ Human Rights Division of the Office of the
16 Attorney General has obtained a conciliation agreement with the
17 consent of an aggrieved person, the aggrieved person may not file an
18 action pursuant to this section with respect to the alleged
19 discriminatory housing practice that forms the basis for the
20 complaint except to enforce the terms of the agreement.

21 E. An aggrieved person may not file an action pursuant to this
22 section with respect to an alleged discriminatory housing practice
23 that forms the basis of a charge issued by the ~~Commission~~ Division

24

1 if the ~~Commission~~ Division has begun a hearing on the record
2 pursuant to this act with respect to the charge.

3 SECTION 24. AMENDATORY 25 O.S. 2001, Section 1506.5, is
4 amended to read as follows:

5 Section 1506.5 A. ~~On request of the Commission, the~~ The
6 Attorney General may intervene in an action pursuant to Section ~~24~~
7 1506.1 of this ~~act~~ title if the ~~Commission~~ Human Rights Division of
8 the Office of the Attorney General certifies that the case is of
9 general public importance.

10 B. The Attorney General may obtain the same relief available to
11 the Attorney General under Section ~~29~~ 1506.6 of this ~~act~~ title.

12 SECTION 25. AMENDATORY 25 O.S. 2001, Section 1506.6, is
13 amended to read as follows:

14 Section 1506.6 A. On request of the ~~Commission~~ Human Rights
15 Division of the Office of the Attorney General, the Attorney General
16 may file a civil action in district court for appropriate relief if
17 the ~~Commission~~ Division has reasonable cause to believe that:

18 1. A person is engaged in pattern or practice of resistance to
19 the full enjoyment of any right granted by this act; or

20 2. A person has been denied any right granted by this act and
21 that denial raises an issue of general public importance.

22 B. In an action pursuant to this section the court may:

23 1. Award preventive relief, including a permanent or temporary
24 injunctive, restraining order, or other order against the person

1 responsible for a violation of this act as necessary to assure the
2 full enjoyment of the rights granted by this act;

3 2. Award other appropriate relief, including monetary damages,
4 reasonable ~~attorneys~~ attorney fees, and court costs; and

5 3. To vindicate the public interest, assess a civil penalty
6 against the respondent in an amount that does not exceed:

7 a. Fifty Thousand Dollars (\$50,000.00), for a first
8 violation, and

9 b. One Hundred Thousand Dollars (\$100,000.00), for a
10 second or subsequent violation.

11 C. A person may intervene in an action pursuant to this section
12 if the person is:

13 1. An aggrieved person to the discriminatory housing practice;
14 or

15 2. A party to a conciliation agreement concerning the
16 discriminatory housing practice.

17 SECTION 26. AMENDATORY 25 O.S. 2001, Section 1506.7, is
18 amended to read as follows:

19 Section 1506.7 The Attorney General on behalf of the ~~Commission~~
20 ~~or~~ other party at whose request a subpoena is issued pursuant to
21 this act, may enforce the subpoena in appropriate proceedings in
22 district court.

23 SECTION 27. AMENDATORY 25 O.S. 2001, Section 1506.8, is
24 amended to read as follows:

1 Section 1506.8 A court in a civil action brought pursuant to
2 this act or the ~~Commission~~ Human Rights Division of the Office of
3 the Attorney General in an administrative hearing pursuant to
4 Section 1503 of this title may award reasonable ~~attorneys~~ attorney
5 fees to the prevailing party and assess court costs against the
6 nonprevailing party.

7 SECTION 28. AMENDATORY 25 O.S. 2001, Section 1507, is
8 amended to read as follows:

9 Section 1507. ~~(a)~~ A. In connection with an investigation of a
10 complaint filed under this act, the ~~Commission~~ Human Rights Division
11 of the Office of the Attorney General or its designated
12 representative shall have access at any reasonable time to premises,
13 records and documents relevant to the complaint and the right to
14 examine, photograph and copy evidence, in accordance with the
15 ~~Oklahoma~~ Administrative Procedures Act.

16 ~~(b)~~ B. The ~~Commission~~ Division, by regulation, shall require
17 each person subject to this act which controls an apprenticeship or
18 other training program to keep all records reasonably necessary to
19 carry out the purposes of this act, including, but not limited to, a
20 list of applicants who wish to participate in such program,
21 including the chronological order in which applications were
22 received, and shall furnish to the ~~Commission~~ Division, upon
23 request, a detailed description of the manner in which persons are
24

1 selected to participate in the apprenticeship or other training
2 programs.

3 ~~(c)~~ C. A person who believes that the application ~~to him~~ of a
4 regulation or order issued under this section would result in undue
5 hardship may:

6 ~~(1)~~ 1. Apply to the ~~Commission~~ Division for an exemption from
7 the application of the regulation or order; or

8 ~~(2)~~ 2. Bring an action for a declaratory judgment under ~~75~~
9 ~~Oklahoma Statutes,~~ Section 306 of Title 75 of the Oklahoma Statutes,
10 if appropriate, or may resist an enforcement application brought
11 ~~under 75 Oklahoma Statutes,~~ pursuant to subsection C of Section
12 ~~315(3)~~ of Title 75 of the Oklahoma Statutes.

13 ~~(d)~~ D. So as to avoid undue burden on persons subject to the
14 act, records and reports required by the ~~Commission~~ Division under
15 this section shall conform as near as may be to similar records and
16 reports required by federal law.

17 ~~(e)~~ E. It is unlawful for an officer or employee of the
18 ~~Commission~~ Division to make public with respect to a particular
19 person without his consent information obtained by the ~~Commission~~
20 Division pursuant to its authority under this section.

21 SECTION 29. AMENDATORY 25 O.S. 2001, Section 1508, is
22 amended to read as follows:

23 Section 1508. ~~(a)~~ A. Subpoenas shall issue in proceedings
24 under this act, as provided in the ~~Oklahoma~~ Administrative

1 Procedures Act. A subpoena so issued shall show on its face the
2 name and address of the party at whose request the subpoena was
3 issued. On petition of the individual to whom the subpoena is
4 directed and notice to the requesting party, the ~~Commission~~ Human
5 Rights Division of the Office of the Attorney General or an
6 individual designated pursuant to its rules may vacate or modify the
7 subpoena.

8 ~~(b)~~ B. Witnesses whose depositions are taken or who are
9 summoned before the ~~Commission~~ Division or its agents shall be
10 entitled to the same witness and mileage fees as are paid to
11 witnesses in the courts of the state.

12 SECTION 30. AMENDATORY 25 O.S. 2001, Section 1601, is
13 amended to read as follows:

14 Section 1601. It is a discriminatory practice for a person, or
15 for two or more persons to conspire~~7~~:

16 ~~(1)~~ 1. To retaliate or discriminate against a person because he
17 has opposed a discriminatory practice, or because he has made a
18 charge, filed a complaint, testified, assisted, or participated in
19 an investigation, proceeding, or hearing under this act;

20 ~~(2)~~ 2. To aid, abet, incite, or coerce a person to engage in a
21 discriminatory practice;

22 ~~(3)~~ 3. Willfully to interfere with the performance of a duty or
23 the exercise of a power by the ~~Commission~~ Human Rights Division of
24

1 the Office of the Attorney General or one of its ~~members or~~
2 representatives; or

3 ~~(4)~~ 4. Willfully to obstruct or prevent a person from complying
4 with the provisions of this act or an order issued thereunder.

5 SECTION 31. AMENDATORY 25 O.S. 2001, Section 1604, is
6 amended to read as follows:

7 Section 1604. Upon receiving a certification made under Section
8 ~~505(e)~~ 1505 of this title, a contracting agency may take appropriate
9 action to:

10 ~~(1)~~ 1. Terminate a contract or portion thereof previously
11 entered into with the respondent, either absolutely or on condition
12 that the respondent carry out a program of compliance with the
13 provisions of this act; and

14 ~~(2)~~ 2. Assist the state and all governmental entities and
15 agencies thereof to refrain from entering into further contracts, or
16 extensions or other modifications of existing contracts, with the
17 respondent until the ~~Commission~~ Human Rights Division of the Office
18 of the Attorney General is satisfied that the respondent will carry
19 out policies in compliance with the provisions of this act.

20 SECTION 32. AMENDATORY 25 O.S. 2001, Section 1704, is
21 amended to read as follows:

22 Section 1704. A local commission may have the following powers
23 in addition to powers authorized by other laws:

24

- 1 1. To employ an executive director and other employees and
2 agents and fix their compensation;
- 3 2. To cooperate with individuals and state, local, and other
4 agencies, both public and private, including agencies of the federal
5 government and other states and municipalities;
- 6 3. To accept gifts, bequests, grants, or other payments, public
7 or private, to help finance its activities;
- 8 4. To receive, initiate, investigate, and seek to conciliate
9 complaints alleging violations of this act or of an ordinance
10 prohibiting discrimination because of race, color, religion, sex,
11 national origin, age, or handicap or legislation establishing the
12 commission;
- 13 5. To make studies appropriate to effectuate its purposes and
14 policies and to make the results thereof available to the public;
15 and
- 16 6. To render at least annually a report, a copy of which shall
17 be furnished to the ~~State Commission~~ Human Rights Division of the
18 Office of the Attorney General.

19 SECTION 33. AMENDATORY 25 O.S. 2001, Section 1705, is
20 amended to read as follows:

21 Section 1705. A. The ~~State Commission~~ Human Rights Division of
22 the Office of the Attorney General:

- 23 1. Whether or not a complaint has been filed under the
24 provisions of ~~Sections~~ Section 1502 or 1704 of this title, may refer

1 a matter involving discrimination because of race, color, religion,
2 sex, national origin, age, or handicap to a local commission for
3 investigation, study, and report; and

4 2. May refer a complaint alleging a violation of this act to a
5 local commission for:

6 a. investigation,

7 b. determination whether there is reasonable cause to
8 believe that the respondent has engaged in a
9 discriminatory practice, or

10 c. assistance in eliminating a discriminatory practice by
11 conference, conciliation, or persuasion.

12 B. Upon referral by the ~~State-Commission~~ Division, the local
13 commission shall make a report and may make recommendations to the
14 ~~State-Commission~~ Division and take other appropriate action within
15 the scope of its powers.

16 SECTION 34. AMENDATORY 25 O.S. 2001, Section 1706, is
17 amended to read as follows:

18 Section 1706. ~~(a)~~ A. A local commission may refer a matter
19 under its jurisdiction to the ~~State-Commission~~ Human Rights Division
20 of the Office of the Attorney General.

21 ~~(b)~~ B. At any time after a complaint under this act is filed,
22 the ~~State-Commission~~ Division may require a local commission to
23 transfer any related proceeding to the ~~State-Commission~~ Division.
24 After the local commission is requested to transfer a proceeding,

1 the local commission has no further jurisdiction over the proceeding
2 except to take appropriate action to implement the transfer to the
3 ~~State Commission~~ Division.

4 SECTION 35. AMENDATORY 25 O.S. 2001, Section 1901, is
5 amended to read as follows:

6 Section 1901. A. If a charge for discrimination in employment
7 on the basis of handicap is filed under the provisions of Sections
8 1101 through 1801 of ~~Title 25 of the Oklahoma Statutes~~ this title
9 and is not resolved to the satisfaction of the charging party within
10 one hundred eighty (180) days from the filing of such charge, the
11 charging party may commence an action for redress against any person
12 who is alleged to have discriminated against the charging party and
13 against any person named as respondent in the charge, such action to
14 be commenced in the district court of this state for the county in
15 which the unlawful employment practice is alleged to have been
16 committed.

17 B. Either party in any such action shall be entitled to a jury
18 trial of any facts in dispute in the action.

19 C. If it is determined in such action that the defendant or
20 defendants in such action have discriminated against the charging
21 party on the basis of handicap as charged in the petition, the
22 aggrieved party shall be entitled to nominal or actual damages.
23 Actual damages shall include, but are not limited to, reinstatement
24 or hiring, with or without backpay, or any other legal or equitable

1 relief as the court deems appropriate. Backpay liability shall not
2 accrue from a date more than two (2) years prior to the filing of
3 the charge with the ~~Oklahoma Human Rights Commission~~ Human Rights
4 Division of the Office of the Attorney General. Interim earnings or
5 amounts earnable with reasonable diligence by the person
6 discriminated against shall operate to reduce the backpay otherwise
7 allowable. No order of the court shall require the hiring or
8 reinstatement or promotion of an individual as an employee, or the
9 payment to ~~him~~ the individual of any backpay, if such individual was
10 refused employment or advancement or was suspended or discharged for
11 legitimate reasons other than discrimination on account of handicap.

12 D. In any action or proceeding under this section the court
13 shall allow a prevailing party a reasonable ~~attorneys fee~~ attorney
14 fees.

15 E. No action shall be maintainable in district court as herein
16 provided more than two (2) years after a timely filing of a charge
17 with the ~~Oklahoma Human Rights Commission~~ Division.

18 SECTION 36. AMENDATORY 74 O.S. 2001, Section 952, is
19 amended to read as follows:

20 Section 952. ~~There is hereby created~~ A. Effective July 1,
21 2011, the Oklahoma Human Rights Commission. ~~Said Commission shall~~
22 ~~consist of nine (9) members appointed by the Governor by and with~~
23 ~~the advice and consent of the Senate. Initially, three of such~~
24 ~~members shall be appointed for a term of one (1) year, three for~~

1 ~~terms of two (2) years, and three for terms of three (3) years, and~~
2 ~~until their successors are appointed and confirmed. Thereafter all~~
3 ~~appointments to the Commission shall be for terms of three (3) years~~
4 ~~and until their successors are appointed and confirmed.~~

5 ~~In making such appointments to said Commission, consideration~~
6 ~~shall be given to making the membership broadly representative of~~
7 ~~the geographic areas of the state, the two major political parties~~
8 ~~in the state, and the several racial, religious, and ethnic groups~~
9 ~~residing in the state.~~

10 ~~The Office of Public Affairs shall provide a suitable office for~~
11 ~~said Commission for which the Commission shall pay an appropriate~~
12 ~~rental charge.~~

13 ~~The Commission shall meet regularly at least once per month and~~
14 ~~at such other times as may be set by the Chairman. Members of the~~
15 ~~Commission shall receive no salary, but shall be entitled to travel~~
16 ~~reimbursement as provided by the State Travel Reimbursement Act~~
17 ~~shall be placed under the authority of the Office of the Attorney~~
18 ~~General. Except as otherwise provided for in this section, the~~
19 ~~transfer shall include all real property, buildings, furniture,~~
20 ~~equipment, supplies, records, personnel, assets, current and future~~
21 ~~liabilities, fund balances, encumbrances, obligations, and~~
22 ~~indebtedness associated with the Oklahoma Human Rights Commission.~~

23 ~~B. All employees of the Oklahoma Human Rights Commission on the~~
24 ~~effective date of this act, including related liabilities for sick~~

1 leave, annual leave, holidays, unemployment benefits, and workers'
2 compensation benefits accruing prior to July 1, 2011, to such
3 personnel shall be transferred to the Office of the Attorney General
4 as of July 1, 2011. It is the intent of the Legislature that, to
5 the extent possible, the Office of the Attorney General ensure that
6 the employees retain pay and benefits, as much as possible,
7 including longevity, dependent insurance benefits, seniority,
8 rights, and other privileges or benefits.

9 C. Appropriate conveyances and other documents shall be
10 executed by January 1, 2012, to effectuate the transfer of property
11 owned by the Oklahoma Human Rights Commission to the Office of the
12 Attorney General.

13 D. Any monies donated or accruing to or in the name of the
14 Oklahoma Human Rights Commission after July 1, 2011, shall be
15 transferred to the Office of the Attorney General. Any other monies
16 from appropriations, fees, licenses, fines, penalties, or other
17 similar types of monies that accrue in any funds or accounts after
18 July 1, 2011, in the name of the Oklahoma Human Rights Commission or
19 maintained for the benefit of the Oklahoma Human Rights Commission
20 are transferred to the Office of the Attorney General.

21 E. The Office of the Attorney General shall succeed to any
22 contractual rights and responsibilities incurred by the Oklahoma
23 Human Rights Commission.

24

1 F. The rules of the Oklahoma Human Rights Commission that are
2 in effect on July 1, 2011, shall be enforceable by the Office of the
3 Attorney General until the Office establishes rules.

4 G. Each entity the functions and duties of which are
5 transferred pursuant to the provisions of this section shall take
6 such actions as are required to achieve a budgetary savings for the
7 fiscal year ending June 30, 2012, as a result of the efficiencies
8 resulting from such transfers and for each fiscal year thereafter.

9 SECTION 37. AMENDATORY 74 O.S. 2001, Section 953, is
10 amended to read as follows:

11 Section 953. It shall be the purpose of the ~~Oklahoma Human~~
12 ~~Rights Commission~~ Division of the Office of the Attorney General to
13 work toward removing friction, eliminating discrimination, and
14 promoting unity and understanding among all the people of Oklahoma.
15 In furtherance of such purpose, the ~~Commission~~ Division shall:

16 ~~(a) annually choose from among its number a Chairman, who shall~~
17 ~~be the presiding officer at all meetings of the Commission and from~~
18 ~~time to time employ and fix the salaries of a Director, who shall~~
19 ~~attend and serve as secretary of all meetings of the Commission and~~
20 ~~shall be responsible for the execution and administration of the~~
21 ~~program and projects of the Commission authorized by law and adopted~~
22 ~~by the Commission in furtherance thereof, and who shall appoint~~
23 ~~other necessary part-time and full-time personnel; provided, the~~
24 ~~salaries of the Director and other personnel of the Commission shall~~

1 ~~not be more than, but may be less than, the amounts set forth in the~~
2 ~~appropriation to the agency.~~

3 ~~(b)~~ 1. Appoint an advisory committee or committees as it may
4 deem advisable in furtherance of its purpose; provided, members of
5 any such advisory committee, as such, shall receive no
6 compensation-;_

7 ~~(c)~~ 2. Alone and in cooperation with other organizations and
8 agencies, public and private, discourage discrimination and
9 encourage fair treatment of all persons regardless of race, color,
10 creed, national origin, age, handicap, or ancestry-;_

11 ~~(d)~~ 3. Foster, conduct, and contract for research projects and
12 make studies into, and public reports on, discrimination in
13 Oklahoma; and serve in a consultative capacity to communities,
14 organizations, and businesses which desire the services of the
15 ~~Commission~~ Division; prepare and disseminate to private businesses
16 and industry its reports, findings and other pertinent facts and
17 information that may assist business and industry in promoting full
18 and open opportunity for all citizens-;_

19 ~~(e)~~ 4. Receive and investigate complaints of discrimination and
20 recommend ways of eliminating any injustices occasioned thereby and
21 serve as a conciliator in regard thereto, and, in particular, shall
22 receive and investigate complaints of violations of Section 954 of
23 this title, relating to discrimination in state employment, and file
24 its findings with the Oklahoma Merit Protection Commission and the

1 Governor and serve in an advisory capacity in regard to
2 discrimination in state employment to the Governor and to said
3 ~~Commission~~ Division with the right to appear before said ~~Commission~~
4 Division in regard thereto-;

5 ~~(f)~~ 5. Have the power to hold hearings and request the
6 appearance of witnesses; the Attorney General shall advise and
7 represent the ~~Commission~~ Division in all legal matters and serve as
8 the attorney therefor-; and

9 ~~(g)~~ 6. Make a biennial report to the Governor and to the
10 Legislature of its activities under this act and may make
11 recommendations concerning needed additional legislation in the
12 field of human rights.

13 SECTION 38. AMENDATORY 74 O.S. 2001, Section 954, is
14 amended to read as follows:

15 Section 954. It is hereby prohibited for any department or
16 agency of the State of Oklahoma, or any official or employee of the
17 same for and on behalf of the State of Oklahoma: to refuse to
18 employ or to discharge any person, otherwise qualified, on account
19 of race, color, creed, national origin, age, handicap, or ancestry;
20 to discriminate for the same reasons in regard to tenure, terms, or
21 conditions of employment; to deny promotion or increase in
22 compensation solely for these reasons; to publish an offer of
23 employment based on such discrimination; to adopt or enforce any
24 rule or employment policy which so discriminates as to any employee;

1 or to seek such information as to any applicant or employee or to
2 discriminate in the selection of personnel for training solely on
3 such basis. These provisions shall be cumulative and in addition to
4 existing laws relating to discrimination in the classified service.

5 It shall be the duty of the Oklahoma Merit Protection Commission
6 to investigate, upon its own initiative, upon complaint filed by any
7 aggrieved person, or upon complaint filed by the Human Rights
8 ~~Commission~~ Division of the Office of the Attorney General, any
9 violation of this section and to enforce compliance with the same,
10 both in the classified and the nonclassified service. The ~~Human~~
11 ~~Rights Commission~~ Division shall investigate, upon its own
12 initiative or on complaint filed with it, any such violation and may
13 file a formal complaint with the Oklahoma Merit Protection
14 Commission. When any complaint is filed by the ~~Human Rights~~
15 ~~Commission~~ Division with the Oklahoma Merit Protection Commission,
16 the Oklahoma Merit Protection Commission shall set a hearing on the
17 same, at which hearing the ~~Director of the Human Rights Commission~~
18 Attorney General, or ~~his~~ a representative of the Office of the
19 Attorney General, may appear and present the finding of the
20 ~~Commission~~ Division in regard to such violation. In the enforcement
21 of this section, the Oklahoma Merit Protection Commission shall
22 follow the provisions of existing laws relating to hearings,
23 procedures, and notices, and shall have power to enforce its orders

24

1 pertaining to violations of this section as is provided by law in
2 regard to the classified service.

3 SECTION 39. AMENDATORY 27A O.S. 2001, Section 2-3-101,
4 as amended by Section 1, Chapter 139, O.S.L. 2002 (27A O.S. Supp.
5 2010, Section 2-3-101), is amended to read as follows:

6 Section 2-3-101. A. There is hereby created the Department of
7 Environmental Quality.

8 B. Within its jurisdictional areas of environmental
9 responsibility, the Department of Environmental Quality, through its
10 duly designated employees or representatives, shall have the power
11 and duty to:

- 12 1. Perform such duties as required by law; and
- 13 2. Be the official agency of the State of Oklahoma, as
14 designated by law, to cooperate with federal agencies for point
15 source pollution, solid waste, hazardous materials, pollution,
16 Superfund, water quality, hazardous waste, radioactive waste, air
17 quality, drinking water supplies, wastewater treatment and any other
18 program authorized by law or executive order.

19 C. Any employee of the Department in a technical, supervisory
20 or administrative position relating to the review, issuance or
21 enforcement of permits pursuant to this Code who is an owner,
22 stockholder, employee or officer of, or who receives compensation
23 from, any corporation, partnership, or other business or entity
24 which is subject to regulation by the Department of Environmental

1 Quality shall disclose such interest to the Executive Director.
2 Such disclosure shall be submitted for Board review and shall be
3 made a part of the Board minutes available to the public. This
4 subsection shall not apply to financial interests occurring by
5 reason of an employee's participation in the Oklahoma State
6 Employees Deferred Compensation Plan or publicly traded mutual
7 funds.

8 D. The Executive Director, Deputy Director, and all other
9 positions and employees of the Department at the Division Director
10 level or higher shall be in the unclassified service.

11 E. The following programs are hereby established within the
12 Department of Environmental Quality:

13 1. An air quality program which shall be responsible for air
14 quality;

15 2. Water programs which shall be responsible for water quality,
16 including, but not limited to point source and nonpoint source
17 pollution within the jurisdiction of the Department, public and
18 private water supplies, public and private wastewater treatment,
19 water protection and discharges to waters of the state;

20 3. Land protection programs which shall be responsible for
21 hazardous waste, solid waste, radiation, and municipal, industrial,
22 commercial and other waste within its jurisdictional areas of
23 environmental responsibility pursuant to Section 1-3-101 of this
24 title; and

1 4. Special projects and services programs which shall be
2 responsible for duties related to planning, interagency
3 coordination, technical assistance programs, laboratory services and
4 laboratory certification, recycling, education and dissemination of
5 information; and

6 5. A mining department pursuant to the provisions of Section 25
7 of Article VI of the Oklahoma Constitution.

8 F. Within the Department there are hereby created:

9 1. The complaints program which shall be responsible for intake
10 processing, investigation, mediation and conciliation of inquiries
11 and complaints received by the Department and which shall provide
12 for the expedient resolution of complaints within the jurisdiction
13 of the Department; and

14 2. The customer assistance program which shall be responsible
15 for advising and providing to licensees, permittees and those
16 persons representing businesses or those persons associated with and
17 representing local political subdivisions desiring a license or
18 permit, the necessary forms and the information necessary to comply
19 with the Oklahoma Environmental Quality Code. The customer
20 assistance program shall coordinate with other programs of the
21 Department to assist businesses and municipalities in complying with
22 state statutes and rules governing environmental areas.

23 The customer assistance program shall also be responsible for
24 advising and providing assistance to persons desiring information

1 concerning the Department's rules, laws, procedures, licenses or
2 permits, and forms used to comply with the Oklahoma Environmental
3 Quality Code.

4 G. The Department shall be responsible for holding
5 administrative hearings as defined in Section 2-1-102 of this title
6 and shall provide support services related to them, including, but
7 not limited to, giving required notices, maintaining the docket,
8 scheduling hearings, and maintaining legal records.

9 H. 1. The Department shall prepare and submit an annual report
10 assessing the status of the Department's programs to the Board, the
11 Governor, the President Pro Tempore of the State Senate, and the
12 Speaker of the Oklahoma House of Representatives by January 1 of
13 each year. The annual status report shall include: the number of
14 environmental inspections made within the various regulatory areas
15 under the Department's jurisdiction; the number of permit
16 applications submitted within the various regulatory areas under the
17 Department's jurisdiction; the number of permits issued within the
18 various regulatory areas under the Department's jurisdiction; the
19 number and type of complaints filed with the Department; the number
20 of resolved and unresolved Department complaints; a list of any
21 permits and complaints which failed to be either completed or
22 resolved within the Department's established time frames and an
23 explanation of why the Department was unable to meet said time
24 frames; the number and kinds of services provided corporations,

1 businesses, cities, towns, schools, citizen groups and individuals
2 by the customer assistance programs; a summary of the Department's
3 environmental education efforts; the number and type of
4 administrative hearings held and their outcomes; a detailed
5 description of any promulgated and pending emergency or permanent
6 rules requested by the Department and the current status of pending
7 rules within the rulemaking process; the number of notices of
8 violations issued by the Department within the various regulatory
9 areas under its jurisdiction; the amount of penalties collected by
10 the Department within the various regulatory areas under its
11 jurisdiction; and any other information which the Department
12 believes is pertinent.

13 2. Beginning January 1, 1995, and on or before January 1 of
14 every year thereafter, the Department shall prepare an Oklahoma
15 Environmental Quality Report which outlines the Department's annual
16 needs for providing environmental services within its jurisdictional
17 areas. The report shall reflect any new federal mandates and any
18 state statutory or constitutional changes recommended by the
19 Department within its jurisdictional areas. The Oklahoma
20 Environmental Quality Report shall be reviewed, amended, and
21 approved by the Board. The Department shall transmit an approved
22 copy of the Oklahoma Environmental Quality Report to the Governor,
23 President Pro Tempore of the State Senate, and Speaker of the House
24 of Representatives.

1 3. The Executive Director shall establish such divisions and
2 such other programs and offices as the Executive Director may
3 determine necessary to implement and administer programs and
4 functions within the jurisdiction of the Department pursuant to the
5 Oklahoma Environmental Quality Code.

6 I. 1. The Department may contract with other governmental
7 entities to provide environmental services. Such contracts may
8 include duties related to providing information to the public
9 regarding state environmental services, resources, permitting
10 requirements and procedures based upon the ability, education and
11 training of state environmental agency employees.

12 2. The Department, in conjunction with the state environmental
13 agencies, may develop a program for the purpose of training
14 government employees to provide any needed environmental services;
15 provided, that the investigation of complaints regarding, or
16 inspections of, permitted sites or facilities shall not be performed
17 by employees of other agencies, unless otherwise authorized by law.

18 SECTION 40. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1.1A-1 of Title 45, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Oklahoma Mining Commission and the position of Chief
22 Mine Inspector and Director of the Department of Mines are
23 abolished. Whenever in the Oklahoma Statutes reference is made to
24 powers or duties of the Oklahoma Mining Commission, Chief Mine

1 Inspector or Director of the Department of Mines, such powers or
2 duties shall be vested in the Executive Director of the Oklahoma
3 Department of Environmental Quality and Director of the Mining
4 Department of the Department of Environmental Quality.

5 B. Effective July 1, 2011, the Oklahoma Department of Mines
6 shall become a division of the Oklahoma Department of Environmental
7 Quality. All powers, duties, functions and responsibilities of the
8 Department of Mines shall be transferred to the Department of
9 Environmental Quality. Except as otherwise provided for in this
10 section, the transfer shall include all real property, buildings,
11 furniture, equipment, supplies, records, personnel, assets, current
12 and future liabilities, fund balances, encumbrances, obligations,
13 appropriate conveyances, other documents, revolving funds,
14 contractual rights, and indebtedness associated with the Department
15 of Mines.

16 C. The rules of the Department of Mines that are in effect on
17 July 1, 2011, shall be enforced by the Department of Environmental
18 Quality until the Environmental Quality Board promulgates rules and
19 the rules become effective.

20 D. The position of the Director of the Department of Mines and
21 any other positions in the Department of Mines that are currently in
22 the unclassified service shall remain in the unclassified service.
23 The Executive Director of the Department of Environmental Quality
24 shall have the discretion to reduce the salaries of unclassified

1 employees obtaining employment with the Department of Environmental
2 Quality pursuant to this act to not less than the base rate of pay
3 they were receiving from the Department of Mines on January 1, 2011.

4 SECTION 41. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 5060.44 of Title 74, unless
6 there is created a duplication in numbering, reads as follows:

7 A. Effective July 1, 2011, the Oklahoma Center for the
8 Advancement of Science and Technology shall be placed under the
9 authority of the Department of Commerce. Except as otherwise
10 provided for in this section, the transfer shall include all real
11 property, buildings, furniture, equipment, supplies, records,
12 personnel, assets, current and future liabilities, fund balances,
13 encumbrances, obligations, and indebtedness associated with the
14 Oklahoma Center for the Advancement of Science and Technology.

15 B. All employees of the Oklahoma Center for the Advancement of
16 Science and Technology on the effective date of this act, including
17 related liabilities for sick leave, annual leave, holidays,
18 unemployment benefits, and workers' compensation benefits accruing
19 prior to July 1, 2011, to such personnel shall be transferred to the
20 Department of Commerce as of July 1, 2011. It is the intent of the
21 Legislature that, to the extent possible, the Department of Commerce
22 ensure that the employees retain pay and benefits, as much as
23 possible, including longevity, dependent insurance benefits,
24 seniority, rights, and other privileges or benefits.

1 C. Appropriate conveyances and other documents shall be
2 executed by January 1, 2012, to effectuate the transfer of property
3 owned by the Oklahoma Center for the Advancement of Science and
4 Technology to the Department of Commerce.

5 D. Any monies donated or accruing to or in the name of the
6 Oklahoma Center for the Advancement of Science and Technology after
7 July 1, 2011, shall be transferred to the Department of Commerce.
8 Any other monies from appropriations, fees, licenses, fines,
9 penalties, or other similar types of monies that accrue in any funds
10 or accounts after July 1, 2011, in the name of the Oklahoma Center
11 for the Advancement of Science and Technology or maintained for the
12 benefit of the Oklahoma Center for the Advancement of Science and
13 Technology are transferred to the Department of Commerce.

14 E. The Department of Commerce shall succeed to any contractual
15 rights and responsibilities incurred by the Oklahoma Center for the
16 Advancement of Science and Technology.

17 F. The rules of the Oklahoma Center for the Advancement of
18 Science and Technology that are in effect on July 1, 2011, shall be
19 enforceable by the Department of Commerce until the Department
20 establishes rules.

21 G. Each entity the functions and duties of which are
22 transferred pursuant to the provisions of this section shall take
23 such actions as are required to achieve a budgetary savings for the
24

1 fiscal year ending June 30, 2012, as a result of the efficiencies
2 resulting from such transfers and for each fiscal year thereafter.

3 SECTION 42. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-2-111 of Title 27A, unless
5 there is created a duplication in numbering, reads as follows:

6 A. Effective July 1, 2011, all powers, duties, functions, and
7 responsibilities of the Scenic Rivers Commission relating to the
8 public use and enjoyment, ownership and control of public access
9 points to the scenic river areas, issuance of use permits and
10 licenses, law enforcement on and around the scenic rivers,
11 activities which impact the proper protection of the aesthetic,
12 scenic, historic, archeological and scientific features of the
13 scenic river areas, land use, and other standards and management
14 matters that are within the jurisdiction of the Oklahoma Tourism and
15 Recreation Commission shall be transferred to the Oklahoma
16 Conservation Commission, including the transfer of all real
17 property, buildings, furniture, equipment, vehicles, supplies,
18 records, personnel, assets, current and future liabilities, fund
19 balances, encumbrances, obligations, and indebtedness associated
20 with the Scenic Rivers Commission.

21 B. Effective July 1, 2011, all powers, duties, functions, and
22 responsibilities of the Scenic Rivers Commission relating to the
23 water quality, public and private water supplies from scenic rivers,
24 public and private wastewater treatment matters impacting scenic

1 rivers, water protection and discharges to scenic rivers, activities
2 which impact the proper protection of the environmental features of
3 the scenic river areas, and any other environmental standards and
4 management matters that are within the jurisdiction of the Oklahoma
5 Conservation Commission shall be transferred to the Oklahoma
6 Conservation Commission, including the transfer of all real
7 property, buildings, furniture, equipment, vehicles, supplies,
8 records, personnel, assets, current and future liabilities, fund
9 balances, encumbrances, and obligations associated with the Scenic
10 Rivers Commission.

11 C. For purposes of this section, the Scenic Rivers Commission
12 shall mean the Scenic Rivers Commission as created in Section 1461
13 of Title 82 of the Oklahoma Statutes which has an operating area for
14 the Illinois and Flint Creeks within Adair, Cherokee and Delaware
15 Counties and for the Barren Fork Creek within Cherokee County.

16 D. All employees of the Scenic Rivers Commission on the
17 effective date of this act, including related liabilities for sick
18 leave, annual leave, holidays, unemployment benefits, and workers'
19 compensation benefits accruing prior to July 1, 2011, to these
20 personnel shall be transferred to the Oklahoma Conservation
21 Commission as of July 1, 2011. It is the intent of the Legislature
22 that, to the extent possible, the Oklahoma Conservation Commission
23 ensures that the employees retain pay and benefits, as much as
24

1 possible, including longevity, dependent insurance benefits,
2 seniority, rights, and other privileges or benefits.

3 E. Appropriate conveyances and other documents shall be
4 executed by January 1, 2012, to effectuate the transfer of property
5 owned by the Scenic Rivers Commission to the Oklahoma Conservation
6 Commission.

7 F. Any monies donated or accruing to or in the name of the
8 Scenic Rivers Commission after July 1, 2011, for the purpose of
9 pollution control, protection, and conservation within the Illinois
10 River basin or other designated scenic river shall be transferred to
11 the Oklahoma Conservation Commission.

12 G. Any other monies from appropriations, fees, licenses, fines,
13 penalties, or other similar types of monies that accrue in any funds
14 or accounts after July 1, 2011, in the name of the Scenic Rivers
15 Commission or maintained for the benefit of the Scenic Rivers
16 Commission are also transferred to the Oklahoma Conservation
17 Commission.

18 H. The Oklahoma Conservation Commission shall succeed to any
19 contractual rights, easement rights, lease rights, and
20 responsibilities incurred by the Scenic Rivers Commission.

21 I. All rules of the Scenic Rivers Commission that are in effect
22 on July 1, 2011, shall be enforceable by the Oklahoma Conservation
23 Commission until the Commission establishes rules.

24

1 J. All fee amounts established in Section 1470 of Title 82 of
2 the Oklahoma Statutes shall remain in effect until the Oklahoma
3 Conservation Commission establishes and promulgates rules.

4 K. Each entity the functions and duties of which are
5 transferred pursuant to the provisions of this section shall take
6 such actions as are required to achieve a budgetary savings for the
7 fiscal year ending June 30, 2012, as a result of the efficiencies
8 resulting from such transfers and for each fiscal year thereafter.

9 SECTION 43. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3-2-112 of Title 27A, unless
11 there is created a duplication in numbering, reads as follows:

12 A. The records, files, and books of the Oklahoma Conservation
13 Commission shall be receivable as evidence.

14 B. Duly certified copies of any book, record, file, or
15 proceeding, or any part, shall be competent as a matter of evidence
16 in court when certified as a copy by the officer in charge of the
17 book, file, record, proceeding or part thereof or by the Executive
18 Director of the Commission.

19 SECTION 44. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3-2-113 of Title 27A, unless
21 there is created a duplication in numbering, reads as follows:

22 A. For the purposes and needs of the Oklahoma Conservation
23 Commission, seasonal employees shall be unclassified employees
24

1 employed by the Commission who work less than one thousand two
2 hundred ninety-nine (1,299) hours in any twelve-month period.

3 B. The Commission may employ seasonal employees throughout the
4 calendar year and these employees shall be in the unclassified
5 service of the state as provided by the Oklahoma Personnel Act of
6 the Oklahoma Statutes. These seasonal employees shall not be
7 entitled to paid leave, paid holidays, retirement, health, dental or
8 life insurance, and shall be exempt from any laws, rules, or
9 practices providing for such benefits.

10 C. The Commission, in its annual budget request, shall include
11 a summary of the use of seasonal employees, which shall include the
12 number of workers employed under the provisions of this section and
13 the total wages paid to these employees.

14 SECTION 45. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3-2-114 of Title 27A, unless
16 there is created a duplication in numbering, reads as follows:

17 In addition to other penalties as may be imposed by law, it is a
18 violation of the Conservation District Act including the Scenic
19 Rivers Act and the Oklahoma Carbon Sequestration Enhancement Act for
20 any person to knowingly make or provide any false statement,
21 representation, or certification to the Oklahoma Conservation
22 Commission or to knowingly render inaccurate any monitoring or
23 measuring device or information thereof.

24

1 SECTION 46. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-2-411 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. After notice and opportunity for a hearing in accordance
5 with the Administrative Procedures Act, if the Oklahoma Conservation
6 Commission finds any person in violation of the Scenic Rivers Act or
7 any rule promulgated or order issued pursuant thereto, the
8 Commission shall have the authority to assess an administrative
9 penalty of not less than Fifty Dollars (\$50.00) and not more than
10 Five Hundred Dollars (\$500.00) for each violation. Each action or
11 each day a violation continues may constitute a separate and
12 distinct violation.

13 B. The Commission may appoint administrative law judges or
14 hearing officers to conduct the hearings. Hearings shall be held at
15 a location within the region in which the alleged violator resides
16 or the violation occurred, or the central offices of the Oklahoma
17 Conservation Commission in Oklahoma City, Oklahoma.

18 C. Any person who fails to comply with the provisions of the
19 Scenic Rivers Act or rules promulgated by the Commission shall be
20 deemed guilty of a misdemeanor unless a violation is specifically
21 identified with a penalty or as a felony.

22 D. Nothing in the Scenic Rivers Act shall preclude the
23 Commission from seeking penalties in district court in the maximum
24 amount allowed by law. The assessment of penalties in an

1 administrative enforcement proceeding shall not prevent the
2 subsequent assessment by a court of the maximum civil or criminal
3 penalties for violations of the Scenic Rivers Act and rules
4 promulgated pursuant thereto.

5 E. Any person assessed an administrative or civil penalty may be
6 required to pay, in addition to the penalty amount and interest
7 thereon, attorney fees and costs associated with the collection of
8 the penalties.

9 F. All penalties, fees, fines, and monies collected shall be
10 paid to the Commission.

11 G. Whenever the Commission finds that an emergency exists
12 requiring immediate action to protect the public health, welfare, or
13 the environment, the Executive Director of the Commission may
14 without notice or hearing issue an order, effective upon issuance,
15 reciting the existence of an emergency and requiring that action be
16 taken as specified in the order to meet the emergency. Any person
17 to whom an order is directed shall comply immediately but may
18 request an administrative enforcement hearing within fifteen (15)
19 days after the order is served. The hearing shall be held by the
20 Commission within ten (10) days after receipt of the request. On
21 the basis of the hearing record, the Chairman of the Commission
22 shall sustain or modify the original order.

23

24

1 H. The Commission shall have the authority to issue notices of
2 violation, citations, compliance orders, conditional orders, or any
3 other order authorized pursuant to the Scenic Rivers Act.

4 SECTION 47. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3-2-412 of Title 27A, unless
6 there is created a duplication in numbering, reads as follows:

7 A. In addition to other powers and duties specified by law and
8 except as otherwise provided by law, the Oklahoma Conservation
9 Commission shall have the authority, powers and duty to:

10 1. Prepare and establish minimum standards for planning and
11 other ordinances and rules for the implementation of the Scenic
12 Rivers Act by counties, municipalities, or any other local
13 authorities in the scenic river area. These standards shall:

14 a. be developed and executed in a manner as to protect
15 and enhance the values which caused the area to be
16 named a scenic river area without, insofar as is
17 consistent with the protection and enhancement,
18 limiting other uses that do not substantially
19 interfere with the protection, public use, and
20 enjoyment of these values,

21 b. emphasize protecting the aesthetic, scenic, historic,
22 archeological, and scientific features of the scenic
23 river area with due consideration being given to the
24

1 orderly development of the lands adjacent and
2 contiguous to the scenic river area, and

3 c. not be less rigid or exacting than those established
4 by any other federal or state agency having
5 jurisdiction in respect to the subject covered by the
6 particular standard;

7 2. Promulgate rules for the collection and administration of
8 the fees and fines imposed pursuant to the provisions of the Scenic
9 Rivers Act;

10 3. Promulgate rules and issue orders as necessary to protect
11 the public interest and to achieve the purposes of the Scenic Rivers
12 Act;

13 4. Establish fees for use of camping sites located in public
14 use and access areas controlled by the Commission. The fees charged
15 by the Commission shall not exceed the rate charged by the Oklahoma
16 Tourism and Recreation Department for camping sites. The Commission
17 is authorized to promulgate rules to implement the fees;

18 5. Establish fees for the licensing of both private and
19 commercial flotation devices on Oklahoma designated scenic rivers;

20 6. Engage in or supervise the conduct of studies, make a plan
21 or plans, receive, disburse, and allocate monies granted or
22 appropriated to it, and do all things, whether expressly enumerated
23 in the Scenic Rivers Act or not, which may be lawful and necessary
24

1 and proper for the accomplishment of the purposes of the Scenic
2 Rivers Act;

3 7. Act in cooperation with all federal, state, and local
4 governments and agencies thereof to implement the purposes of the
5 Scenic Rivers Act;

6 8. Prepare and adopt a management plan or plans to guide and
7 control private activities and public programs and to include
8 varying degrees of protection and development based on the special
9 attributes of the area;

10 9. Provide, where appropriate in the discretion of the
11 Commission, for the review and consideration by the Commission of
12 the impact on the natural and aesthetic environment within the
13 Commission's operating area related to any existing or proposed
14 action by public agencies, private individuals or any other
15 activity;

16 10. Accept real and personal property that is granted,
17 bequeathed, devised, or conveyed to the Commission to implement the
18 purposes of the Scenic Rivers Act, upon such trusts and conditions
19 as may be prescribed by the grantors or divisors, upon approval of
20 the Commission;

21 11. Enter into contracts to implement the purposes of the
22 Scenic Rivers Act and may accept gifts and grants, whether the
23 grants be of federal or other funds or real or personal property;

24

1 12. Identify public and private nuisances which are adverse to
2 the purposes of the Scenic Rivers Act and take such action as
3 permitted by law to remove the public nuisances;

4 13. Own and control public access points to the scenic river
5 area, issue use permits, and purchase easements and fee title to
6 land within the Commission's operating area. Legal title to
7 property shall be held in the name of the Oklahoma Conservation
8 Commission as an agency of the State of Oklahoma;

9 14. Review any action taken by any local, municipal, or county
10 authority within the operating area of the Commission in an
11 administrative adjudicatory proceeding brought upon the petition of
12 any officer or agency of this state or of any person acting in
13 behalf of the public interest, to determine whether such action
14 conforms to the standards promulgated by the Commission or has an
15 adverse effect upon the proper achievement of the purposes of the
16 Scenic Rivers Act. Upon a finding that such action does not so
17 conform or does have such adverse effect, the Commission may order
18 that the action be nullified, superseded, or amended to the extent
19 necessary to produce such conformity or eliminate such adverse
20 effect. The Commission may issue such orders as may be necessary
21 and proper to effectuate its primary order;

22 15. Bring an action in the district court of any county of the
23 state where service can be obtained on one or more of the
24 defendants, to enjoin the acts or practices which appear to

1 constitute a violation of any provision of the Scenic Rivers Act or
2 any rule or order promulgated and to enforce compliance with the
3 provisions of the Scenic Rivers Act or any rule or order. Upon a
4 proper showing, a restraining order, permanent or temporary
5 injunction, writ of mandamus, or other appropriate remedies
6 including damages shall be granted. The court may not require the
7 Commission to post a bond; and

8 16. Suspend the effectiveness of any action taken by a
9 municipality or county within the designated operating area of such
10 Commission when, in the exercise of alleged local functions, it
11 appears the action has or may have an adverse effect upon the proper
12 achievement of the purposes of the Scenic Rivers Act, whereupon all
13 proceedings thereunder shall be held in abeyance upon receipt of
14 written notice from the Executive Director pending a final
15 determination of the Commission in regard to such action. If it is
16 determined that such adverse effects exist, the Commission may
17 nullify, supersede, or amend said action only to the extent
18 necessary to achieve the purposes of the Scenic Rivers Act.

19 B. The Legislature finds that the protection and development of
20 the state's scenic river areas and adjacent and contiguous lands and
21 quality of outstanding resource waters included within the
22 Commission's jurisdiction should be provided for by properly planned
23 and executed rules promulgated by the Commission that respect public
24 services, land use, occupancy, structures, lot and plot sizes,

1 density of population and other activities as required for the
2 proper protection of the aesthetic, scenic, historic, archeological
3 and scientific features of the affected areas, or deemed necessary
4 for the protection of the ecosystem and the environment from
5 pollution, despoliation and destruction or waste of natural
6 resources and all other factors adversely affecting the public
7 health, safety and the general welfare so long as the rules comply
8 with the exempt provisions of the Scenic Rivers Act pertaining to
9 farming, ranching, forestry, silviculture and other agricultural
10 uses.

11 SECTION 48. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3-2-413 of Title 27A, unless
13 there is created a duplication in numbering, reads as follows:

14 A. The Oklahoma Conservation Commission may appoint
15 commissioned peace officers certified by the Council on Law
16 Enforcement Education and Training to secure scenic river areas,
17 including all roadways and adjacent areas, and any other related
18 areas as determined by the Commission.

19 B. All persons appointed by the Commission as peace officers
20 shall be and have the full powers and authority of peace officers of
21 the State of Oklahoma in securing scenic river areas, including all
22 roadways and adjacent areas to the rivers, and any other related
23 areas as determined by the Commission.

24

1 C. All peace officers appointed by the Commission shall be in
2 the unclassified service.

3 D. Any peace officer who has completed twenty (20) years of
4 service or retires from the Commission may maintain possession of
5 their badge and assigned firearm. In addition, the Commission can
6 approve at its discretion the ability of a peace officer to retain
7 possession of their badge and assigned firearm in other
8 circumstances.

9 E. The Commission through its Executive Director is authorized
10 to employ seasonal personnel, including commissioned peace officers
11 certified by the Council on Law Enforcement Education and Training
12 throughout the calendar year to secure scenic river areas, including
13 all roadways and adjacent areas to the rivers. Project labor
14 employed by the Commission for a period of time necessary to
15 complete a project shall be in the unclassified service of the state
16 as provided by the Oklahoma Personnel Act. These employees shall
17 not be entitled to paid leave, paid holidays, retirement, health,
18 dental or life insurance, and shall be exempt from any laws, rules,
19 or practices providing these benefits.

20 F. The Commission may contract with the Oklahoma Tourism and
21 Recreation Department, the local sheriff's office, Oklahoma Highway
22 Patrol, or other law enforcement agencies for the ranger personnel
23 necessary to secure scenic river areas.

24

1 SECTION 49. AMENDATORY 27A O.S. 2001, Section 3-1-103,

2 is amended to read as follows:

3 Section 3-1-103. As used in the Conservation District Act:

4 1. ~~"District" or "conservation district" means a governmental~~
5 ~~subdivision of this state, and a public body corporate and politic,~~
6 ~~organized in accordance with the provisions of the Conservation~~
7 ~~District Act, for the purposes, with the powers, and subject to the~~
8 ~~restrictions hereinafter set forth~~ "Administrative hearing",

9 "administrative permit hearing", "enforcement hearing" and
10 "administrative enforcement hearing" mean a quasi-judicial
11 individual proceeding, held by the Oklahoma Conservation Commission,
12 when authorized by the provisions of the Conservation District Act,
13 and conducted pursuant to:

14 a. the Administrative Procedures Act, and

15 b. rules promulgated thereunder;

16 2. ~~"Director" means a member of the governing body of a~~
17 ~~conservation district, elected or appointed in accordance with the~~
18 ~~provisions of the Conservation District Act~~ "Administrative

19 Procedures Act" means the Oklahoma Administrative Procedures Act;

20 3. ~~"Commission" means the Oklahoma Conservation Commission~~
21 "Agency of this state" includes the government of this state and any
22 subdivision, agency or instrumentality, corporate or otherwise, of
23 the government of this state;

1 4. ~~"State" means the State of Oklahoma~~ "Best management
2 practices" means a control method or combination of control methods
3 that is determined to be the most effective and practicable means of
4 preventing soil loss from erosion or reducing the amount of nonpoint
5 source pollution from a given land use;

6 5. ~~"Agency of this state" includes the government of this state~~
7 ~~and any subdivision, agency or instrumentality, corporate or~~
8 ~~otherwise, of the government of this state~~ "Blue Thumb Program"
9 means a nonpoint source educational program emphasizing water
10 quality education, including volunteer monitoring;

11 6. ~~"United States" or "agencies of the United States" includes~~
12 ~~the United States of America, and any department, agency or~~
13 ~~instrumentality of the federal government~~ "Commercial flotation
14 device" means a canoe, boat, kayak, inner tube, raft or other
15 similar device suitable for the transportation of a person or
16 persons on waterways that is available for hire by the public for
17 use on waterways within the jurisdiction of the Oklahoma
18 Conservation Commission;

19 7. ~~"Government" or "governmental" includes the government of~~
20 ~~this state, the government of the United States, and any~~
21 ~~subdivision, agency or instrumentality, corporate or otherwise, of~~
22 ~~either of them~~ "Commission" means the Oklahoma Conservation
23 Commission;

24

1 8. ~~"Due notice" which shall be in conformance with the~~
2 ~~Administrative Procedures Act means notice published at least twice,~~
3 ~~with an interval of at least seven (7) days between the two~~
4 ~~publication dates, in a newspaper or other publication of general~~
5 ~~circulation within the district, or, if no such publication of~~
6 ~~general circulation is available, by posting at five conspicuous~~
7 ~~places within the district, such posting to include, where possible,~~
8 ~~posting at public places where it may be customary to post notices~~
9 ~~concerning county or municipal affairs generally. At any hearing~~
10 ~~held pursuant to such notice, at the time and place designated in~~
11 ~~such notice, adjournment may be made from time to time without the~~
12 ~~necessity of renewing such notice for such adjourned dates~~

13 "Conservation" includes conservation, development, improvement,
14 maintenance, preservation, protection and wise use of land, water
15 and related natural resources; the control and prevention of
16 floodwater and sediment damages; and the disposal of excess surface
17 waters;

18 9. ~~"District cooperator" means any person that has entered into~~
19 ~~a cooperative agreement with a conservation district for the purpose~~
20 ~~of protecting, conserving and practicing wise use of the renewable~~
21 ~~natural resources under his or her control "Cost-Share program"~~
22 ~~means the assumption by the state of a proportional share of the~~
23 ~~cost of installing conservation structures, conservation practices~~

24

1 or best management practices on lands for public and environmental
2 benefits;

3 10. ~~"Renewable natural resources", "natural resources" or~~
4 ~~"resources" include land, soil, water, vegetation, trees, natural~~
5 ~~beauty, scenery and open space~~ "Director" means a member of the
6 governing body of a conservation district, elected or appointed in
7 accordance with the provisions of the Conservation District Act;

8 11. ~~"Conservation" includes conservation, development,~~
9 ~~improvement, maintenance, preservation, protection and wise use of~~
10 ~~land, water and related natural resources; the control and~~
11 ~~prevention of floodwater and sediment damages; and the disposal of~~
12 ~~excess surface waters~~ "District" or "conservation district" means a
13 governmental subdivision of this state, and a public body corporate
14 and politic, organized in accordance with the provisions of the
15 Conservation District Act, for the purposes, with the powers, and
16 subject to the restrictions hereinafter set forth;

17 12. ~~"Cost Share program" means the assumption by the state of a~~
18 ~~proportional share of the cost of installing conservation~~
19 ~~structures, conservation practices or best management practices on~~
20 ~~lands for public and environmental benefits~~ "District cooperator"
21 means any person that has entered into a cooperative agreement with
22 a conservation district for the purpose of protecting, conserving
23 and practicing wise use of the renewable natural resources under his
24 or her control;

1 13. ~~"Best management practices" means a control method or~~
2 ~~combination of control methods that is determined to be the most~~
3 ~~effective and practicable means of preventing soil loss from erosion~~
4 ~~or reducing the amount of nonpoint source pollution from a given~~
5 ~~land use~~ "Due notice" which shall be in conformance with the
6 Administrative Procedures Act means notice published at least twice,
7 with an interval of at least seven (7) days between the two
8 publication dates, in a newspaper or other publication of general
9 circulation within the district, or, if no such publication of
10 general circulation is available, by posting at five conspicuous
11 places within the district, such posting to include, where possible,
12 posting at public places where it may be customary to post notices
13 concerning county or municipal affairs generally. At any hearing
14 held pursuant to such notice, at the time and place designated in
15 such notice, adjournment may be made from time to time without the
16 necessity of renewing such notice for such adjourned dates;

17 14. ~~"Nonpoint source" shall have the same meaning as such word~~
18 ~~is defined by the Oklahoma Environmental Quality Act~~ "Government" or
19 "governmental" includes the government of this state, the government
20 of the United States, and any subdivision, agency or
21 instrumentality, corporate or otherwise, of either of them;

22 15. ~~"Pollution"~~ "Nonpoint source" shall have the same meaning
23 as such word is defined by the Oklahoma Environmental Quality Act;
24

1 16. "Nonpoint source working group" means an advisory group
2 established by the Conservation Commission to provide input into the
3 state's nonpoint source management and assessment program and is
4 open to federal, state and local environmental agencies and natural
5 resource agencies and other interested groups;

6 17. ~~"Watershed" means an area of land that drains to a given~~
7 ~~point~~ "Person" means the state, any municipality, political
8 subdivision, institution, individual, public or private corporation,
9 partnership, association, firm, company, public trust, joint-stock
10 company, trust, estate, state or federal agency, other governmental
11 entity, or any other legal entity or an agent, employee,
12 representative, assignee or successor thereof;

13 18. ~~"Blue Thumb Program" means a nonpoint source educational~~
14 ~~program emphasizing water quality education, including volunteer~~
15 ~~monitoring~~ "Pollution" shall have the same meaning as such word is
16 defined by the Oklahoma Environmental Quality Act;

17 19. ~~"Soil science" means the science which:~~
18 a. ~~is the study of physical, chemical, and biological~~
19 ~~processes taking place in both naturally occurring and~~
20 ~~reconstructed unconsolidated material formed by the~~
21 ~~alteration of parent rock due to exposure at the~~
22 ~~earth's surface, and~~
23 b. ~~includes sampling, measuring, identification,~~
24 ~~characterization, classification, and mapping of soil~~

1 ~~materials and migration of water solute, air and other~~
2 ~~gaseous components in the unsaturated portion of the~~
3 ~~earth, and "Renewable natural resources", "natural~~
4 ~~resources" or "resources" includes land, soil, water,~~
5 ~~vegetation, trees, natural beauty, scenery and open~~
6 ~~space;~~

7 20. ~~"Soil scientist" means a person who:~~

- 8 a. ~~has earned a baccalaureate or higher degree in a field~~
9 ~~of soil science from an institution of higher~~
10 ~~education which is accredited by a regional or~~
11 ~~national accrediting agency, with a minimum of thirty~~
12 ~~(30) semester hours or forty five (45) quarter hours~~
13 ~~of undergraduate work in a field of biological,~~
14 ~~physical, or earth science with a minimum of fifteen~~
15 ~~(15) semester hours of core soil science courses, and~~
16 b. ~~has a specific and continuous record of related and~~
17 ~~verifiable soil science work experience for two (2)~~
18 ~~years. Publications in a soil science publication or~~
19 ~~prior qualifications as an expert witness in~~
20 ~~administrative or judicial proceeding, hearing or~~
21 ~~trial shall be prima facie verification of experience~~
22 ~~related to soil science~~ "Scenic river area" means the
23 stream or river and the public use and access areas

1 located within the area designated, as used in the
2 Scenic Rivers Act;

3 21. "Soil science" means the science which:

4 a. is the study of physical, chemical, and biological
5 processes taking place in both naturally occurring and
6 reconstructed unconsolidated material formed by the
7 alteration of parent rock due to exposure at the
8 earth's surface, and

9 b. includes sampling, measuring, identification,
10 characterization, classification, and mapping of soil
11 materials and migration of water solute, air and other
12 gaseous components in the unsaturated portion of the
13 earth;

14 22. "Soil scientist" means a person who:

15 a. has earned a baccalaureate or higher degree in a field
16 of soil science from an institution of higher
17 education which is accredited by a regional or
18 national accrediting agency, with a minimum of thirty
19 (30) semester hours or forty-five (45) quarter hours
20 of undergraduate work in a field of biological,
21 physical, or earth science with a minimum of fifteen
22 (15) semester hours of core soil science courses, and
23 b. has a specific and continuous record of related and
24 verifiable soil science work experience for two (2)

1 years. Publications in a soil science publication or
2 prior qualifications as an expert witness in
3 administrative or judicial proceeding, hearing or
4 trial shall be prima facie verification of experience
5 related to soil science;

6 23. "State" means the State of Oklahoma;

7 24. "United States" or "agencies of the United States" includes
8 the United States of America, and any department, agency or
9 instrumentality of the federal government; and

10 25. "Watershed" means an area of land that drains to a given
11 point.

12 SECTION 50. AMENDATORY 27A O.S. 2001, Section 3-2-106,
13 as amended by Section 1, Chapter 110, O.S.L. 2008 (27A O.S. Supp.
14 2010, Section 3-2-106), is amended to read as follows:

15 Section 3-2-106. A. In addition to other powers and duties
16 specified by law and except as otherwise provided by law, the
17 Oklahoma Conservation Commission shall have the power and duty to:

18 1. Offer the assistance as may be appropriate to the directors
19 of conservation districts in the carrying out of any of their powers
20 and programs and to:

21 a. assist and guide districts in the preparation and
22 carrying out of programs for resource conservation
23 authorized under the Conservation District Act,

24 b. review district programs,

- 1 c. coordinate the programs of the several districts and
2 resolve any conflicts in such programs, and
3 d. facilitate, promote, assist, harmonize, coordinate and
4 guide the resource conservation programs and
5 activities of districts as they relate to other
6 special purpose districts, counties and other public
7 agencies;

8 2. Keep the directors of each of the several districts informed
9 of the activities and experience of all other districts, and to
10 facilitate an interchange of advice and experience between the
11 districts and cooperation between them;

12 3. ~~Review~~ Advise, consult, cooperate, and enter into agreements
13 or contracts with persons as defined in the Conservation District
14 Act and review agreements, or forms of agreements, proposed to be
15 entered into by districts with other districts or with any state,
16 federal, or interstate, or other public or private agency,
17 organization or individual, and advise the districts concerning the
18 agreements or forms of agreements;

19 4. ~~Secure~~ Accept upon behalf of the Commission any gift or
20 donation of property, including but not limited to monetary gifts
21 and shall also:

- 22 a. secure the cooperation and assistance of the United
23 States and any of its agencies, and of agencies of
24 this state, in the work of the districts and to accept

1 donations, grants, gifts and contributions in money,
2 services or otherwise from the United States or any of
3 its agencies or from the state or any of its agencies
4 in order to carry out the purposes of the Conservation
5 District Act, and

6 b. sell, exchange, or dispose of property;

7 5. Disseminate information throughout the state concerning the
8 activities and programs of the conservation districts and to make
9 available information concerning the needs and the work of the
10 conservation districts and Commission to the Governor, the
11 Legislature, executive agencies of the government of this state,
12 political subdivisions of this state, cooperating federal agencies
13 and the general public;

14 6. Serve along with conservation districts as the official
15 state agencies for cooperating with the Natural Resources
16 Conservation Service of the United States Department of Agriculture
17 and carrying on conservation operations within the boundaries of
18 conservation districts;

19 7. Cooperate with and give such assistance as it deems
20 necessary and proper to conservancy districts, watershed
21 associations and other special purpose districts in the State of
22 Oklahoma for the purpose of cooperating with the United States
23 through the Secretary of Agriculture in the furtherance of
24

1 conservation pursuant to the provisions of the Federal Watershed
2 Protection and Flood Prevention Act, as amended;

3 8. Recommend the inclusion in annual and longer term budgets
4 and appropriation legislation of the State of Oklahoma of funds
5 necessary for appropriation by the Legislature to finance the
6 activities of the Commission and the conservation districts and to:

7 a. administer the provisions of the Conservation District
8 Act hereafter enacted by the Legislature appropriating
9 funds for expenditure in connection with the
10 activities of conservation districts,

11 b. distribute to conservation districts funds, equipment,
12 supplies and services received by the Commission for
13 that purpose from any source, subject to such
14 conditions as shall be made applicable thereto in any
15 state or federal statute or local ordinance making
16 available such funds, property or services,

17 c. issue rules establishing guidelines and suitable
18 controls to govern the use by conservation districts
19 of funds, property and services, and

20 d. review all budgets, administrative procedures and
21 operations of such districts and advise the districts
22 concerning their conformance with applicable laws and
23 regulations;

24

1 9. Enlist the cooperation and collaboration of state, federal,
2 regional, interstate, local, public and private agencies with the
3 conservation districts and to facilitate arrangements under which
4 the conservation districts may serve county governing bodies and
5 other agencies as their local operating agencies in the
6 administration of any activity concerned with the conservation of
7 renewable natural resources;

8 10. Pursuant to procedures developed mutually by the Commission
9 and federal, state and local agencies that are authorized to plan or
10 administer activities significantly affecting the conservation of
11 renewable natural resources, receive from these agencies for review
12 and comment suitable descriptions of their plans, programs and
13 activities for purposes of coordination with district conservation
14 programs and to arrange for and participate in conferences necessary
15 to avoid conflict among plans and programs, to call attention to
16 omissions and to avoid duplication of effort;

17 11. Compile information and make studies, summaries, and
18 analyses of district programs in relation to each other and to other
19 resource conservation programs on a statewide basis;

20 12. Except as otherwise assigned by law, carry out the policies
21 of this state in programs at the state level for the conservation of
22 the renewable natural resources of this state and represent the
23 state in matters affecting such resources;

24

1 13. Assist conservation districts in obtaining legal services
2 from state and local legal officers;

3 14. Require annual reports from conservation districts, the
4 form and content of which shall be developed by the Commission in
5 consultation with the district directors;

6 15. Establish by rules, with the assistance and advice of the
7 State Auditor and Inspector, adequate and reasonably uniform
8 accounting and auditing procedures which shall be used by
9 conservation districts;

10 16. Conduct workshops for district directors to instruct them
11 on the subjects of district finances, the Conservation District Law
12 and related laws, and their duties and responsibilities as
13 directors;

14 17. Assist and supervise districts in carrying out their
15 responsibilities in accordance with the Oklahoma laws;

16 18. Have power, by administrative order, upon the written
17 request of the board of directors of the conservation district or
18 districts involved, with a showing that such request has been
19 approved by a majority vote of the members of each of the boards
20 involved, to:

21 a. transfer lands from one district established under the
22 provisions of the Conservation District Act to
23 another,

24

1 b. divide a single district into two or more districts,
2 each of which shall thereafter operate as a separate
3 district under the provisions of the Conservation
4 District Act, and

5 c. consolidate two or more districts established under
6 the provisions of the Conservation District Act, which
7 consolidated area shall operate thereafter as a single
8 district under the provisions of the Conservation
9 District Act;

10 19. Except as otherwise provided by law, act as the management
11 agency having jurisdiction over and responsibility for directing
12 nonpoint source pollution prevention programs outside the
13 jurisdiction or control of cities or towns in Oklahoma. The
14 Commission, otherwise, shall be responsible for all identified
15 nonpoint source categories except silviculture, urban storm water
16 runoff and industrial runoff;

17 20. Establish and maintain an Equipment Revolving Fund for the
18 purpose of loaning conservation districts funds to purchase
19 equipment to be used for the installation of conservation practices.
20 The fund shall consist of all monies appropriated to, deposited in
21 or credited to the fund;

22 21. Establish and maintain a Conservation District
23 Consolidation Fund for the purpose of providing financial assistance
24 to conservation districts who choose to consolidate as outlined in

1 subparagraph c of paragraph 18 of this subsection. The fund shall
2 consist of all monies appropriated to, deposited in or credited to
3 the fund;

4 22. Administer cost-share programs for the purpose of carrying
5 out conservation or best management practices on the land to benefit
6 the public through the prevention or reduction of soil erosion and
7 nonpoint source pollution and through general resource management.
8 The Commission is not authorized to implement mandatory compliance
9 with management practices, except as otherwise provided by law, to
10 abate agricultural nonpoint source pollution;

11 23. Plan watershed-based nonpoint source pollution control
12 activities, including the development and implementation of
13 conservation plans for the improvement and protection of the
14 resources of the state;

15 24. Provide assistance to the Oklahoma Water Resources Board on
16 lake projects through stream and river monitoring, assessing
17 watershed activities impacting lake water quality and assisting in
18 the development of a watershed management plan;

19 25. Maintain the activities of the state's nonpoint source
20 working group;

21 26. Prepare, revise and review Oklahoma's nonpoint source
22 management program and nonpoint source assessment report in
23 coordination with other state environmental agencies and compile a
24 comprehensive assessment for the state every five (5) years. The

1 management program and assessment report shall be distributed to the
2 Governor, Secretary of Environment, the President Pro Tempore of the
3 Senate and the Speaker of the House of Representatives;

4 27. Under the direction of the Office of the Secretary of the
5 Environment, develop and implement the state's nonpoint source water
6 quality monitoring strategy in coordination with other environmental
7 agencies;

8 28. Monitor, evaluate and assess waters of the state to
9 determine the condition of streams and rivers impacted by nonpoint
10 source pollution. In carrying out this area of responsibility, the
11 Conservation Commission shall serve as the technical lead agency for
12 nonpoint source pollution categories as defined in Section 319 of
13 the Federal Clean Water Act or other subsequent federal or state
14 nonpoint source programs;

15 29. Administer the Blue Thumb Program;

16 30. Enter into agreements or contracts for services with any of
17 the substate planning districts recognized by the Oklahoma
18 Department of Commerce;

19 31. Cooperate with the federal government, or any agency
20 thereof, to participate in and coordinate with federal programs that
21 will yield additional federal funds to the state for programs within
22 the jurisdiction of the Conservation Commission. This participation
23 shall be subject to the availability of state funds;

24

1 32. Implement pilot projects and programs, subject to the
2 availability of funds, that will demonstrate the latest technologies
3 and applications in conservation programs that may provide direct or
4 residual benefits to conservation practices in the state; and

5 33. Promulgate rules necessary, expedient, or appropriate to
6 ~~carry~~ the performance, enforcement, or carrying out of any of the
7 purposes, objectives, or provisions or appropriate to the
8 performance of the Conservation District Act and the Oklahoma Carbon
9 Sequestration Enhancement Act and:

10 a. may establish and collect fees for licenses, permits,
11 certifications, verifications, registrations, and
12 ~~services provided pursuant to the Conservation~~
13 ~~District Act and the Oklahoma Carbon Sequestration~~
14 ~~Enhancement Act~~, including any services for the
15 certification or verification of sustainable
16 agricultural production practices including but not
17 limited to the Natural Resources Conservation Service
18 Soil Condition Index, and

19 b. shall promulgate all rules establishing fees in
20 accordance with the Administrative Procedures Act,
21 which fees shall be fair and equitable to all parties
22 concerned;

23 34. Initiate and prosecute administrative, civil, or criminal
24 actions and proceedings necessary under the Scenic Rivers Act;

1 35. Prescribe forms of application, certification, licenses,
2 permits, and other forms and blanks as may be necessary to carry out
3 the provisions of the Conservation District Act, Scenic Rivers Act,
4 and the Oklahoma Carbon Sequestration Enhancement Act; and

5 36. Exercise all incidental powers that are necessary and
6 proper to implement and administer the purposes of the Conservation
7 District Act, Scenic Rivers Act, and the Oklahoma Carbon
8 Sequestration Enhancement Act.

9 B. Nothing in this act shall take away any of the present
10 duties or responsibilities delegated by law or constitution to other
11 environmental agencies.

12 SECTION 51. AMENDATORY 82 O.S. 2001, Section 1451, as
13 amended by Section 1, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2010,
14 Section 1451), is amended to read as follows:

15 Section 1451. Sections ~~1452~~ 3-2-401 through ~~1471~~ 3-2-416 of
16 this title shall be known and may be cited as the "Scenic Rivers
17 Act". The Scenic Rivers Act is a part of the Conservation District
18 Act.

19 SECTION 52. AMENDATORY 82 O.S. 2001, Section 1452, as
20 amended by Section 2, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2010,
21 Section 1452), is amended to read as follows:

22 Section 1452. A. The Oklahoma Legislature finds that some of
23 the free-flowing streams and rivers of Oklahoma possess such unique
24 natural scenic beauty, water conservation, fish, wildlife and

1 outdoor recreational values of present and future benefit to the
2 people of the state that it is the policy of the Legislature to
3 preserve these areas for the benefit of the people of Oklahoma. For
4 this purpose there are hereby designated certain "scenic river
5 areas" to be preserved as a part of Oklahoma's diminishing resource
6 of free-flowing rivers and streams.

7 B. The areas of the state designated as "scenic river areas"
8 shall include:

9 1. The Flint Creek and the Illinois River above the confluence
10 of the Barren Fork Creek in Cherokee, Adair and Delaware Counties;

11 2. The Barren Fork Creek in Adair and Cherokee Counties from
12 the present alignment of Highway 59 West to the Illinois River;

13 3. The Upper Mountain Fork River above the 600-foot elevation
14 level of Broken Bow Reservoir in McCurtain and LeFlore Counties;

15 4. Big Lee's Creek, sometimes referred to as Lee Creek, located
16 in Sequoyah County, above the 420-foot MSL elevation, excluding that
17 portion necessary for a dam to be built in the State of Arkansas
18 with a crest elevation of no more than the 420-foot MSL elevation.

19 The Oklahoma Water Resources Board shall make such classifications,
20 designations or adjustments to Oklahoma's water quality standards as
21 required to allow the impoundment of water by said dam; and

22 5. Little Lee's Creek, sometimes referred to as Little Lee
23 Creek, located in Adair and Sequoyah Counties, beginning
24 approximately four (4) miles east-southeast of Stilwell, Oklahoma,

1 and ending at its conjunction with Big Lee's Creek approximately two
2 (2) miles southwest of Short, Oklahoma.

3 ~~C. The term "scenic river area" as used in the Scenic Rivers~~
4 ~~Act is defined as the stream or river and the public use and access~~
5 ~~areas located within the area designated.~~

6 SECTION 53. AMENDATORY 82 O.S. 2001, Section 1455, as
7 amended by Section 1, Chapter 6, O.S.L. 2009 (82 O.S. Supp. 2010,
8 Section 1455), is amended to read as follows:

9 Section 1455. A. It is recognized by the Legislature that
10 littering by people using the "scenic river areas" is one of the
11 most immediate threats to the scenic beauty of our free-flowing
12 streams and surrounding areas.

13 B. It is a violation of the Scenic Rivers Act for any person
14 to:

15 1. Deliberately place, throw, drop, deposit or discard any
16 garbage, trash, waste, rubbish, refuse, debris or other deleterious
17 substance on or near a scenic river area; or

18 2. Use a glass container for any purpose in any boat, canoe,
19 raft or inflatable watercraft in a scenic river area or on the Lower
20 Mountain Fork River, south of the Broken Bow Lake Reregulation Dam
21 to United States Highway 70.

22 C. The Oklahoma Conservation Commission shall require all
23 entities using scenic rivers for recreational activities, which are
24 licensed by the Commission, to implement a program to control the

1 amount of pollution entering an impaired scenic river watershed from
2 recreational activities.

3 D. Any law enforcement, police or peace officer, game wardens,
4 ~~or any other personnel of the Wildlife Conservation Commission, and~~
5 ~~the personnel of the Oklahoma Tourism and Recreation Department, any~~
6 ~~landowner in the area, or any other interested party may file a~~
7 ~~complaint to enforce the provisions of the Scenic Rivers Act. Any~~
8 landowner in the area, or any other interested party may file a
9 complaint with the Oklahoma Conservation Commission to enforce the
10 provisions of the Scenic Rivers Act.

11 E. Any person found in violation of this section may be subject
12 to administrative fines as well as the provisions of Section 1761.1
13 of Title 21 of the Oklahoma Statutes.

14 ~~C.~~ ~~Any person who deliberately places, throws, drops, deposits~~
15 ~~or discards any garbage, trash, waste, rubbish, refuse, debris or~~
16 ~~other deleterious substance on or near a scenic river area shall be~~
17 ~~subject to the provisions of Section 1761.1 of Title 21 of the~~
18 ~~Oklahoma Statutes.~~

19 ~~D.~~ ~~The use of glass containers for any purpose shall be~~
20 ~~prohibited in any boat, canoe, raft or inflatable watercraft in a~~
21 ~~scenic river area or on the Lower Mountain Fork River, south of the~~
22 ~~Broken Bow Lake Reregulation Dam to United States Highway 70. Any~~
23 ~~person found in violation of this subsection shall be subject to the~~
24 ~~provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes.~~

1 SECTION 54. AMENDATORY 82 O.S. 2001, Section 1462B, as
2 amended by Section 3, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2010,
3 Section 1462B), is amended to read as follows:

4 Section 1462B. A. The Director of the Office of State Finance
5 is hereby authorized to establish a Petty Cash Fund for ~~each Scenic~~
6 ~~Rivers~~ the Oklahoma Conservation Commission in an amount not to
7 exceed Five Hundred Dollars (\$500.00).

8 B. The fund shall be established and replenished from any
9 monies available to a ~~Scenic Rivers~~ the Commission for operating
10 expenses.

11 C. The Director of the Office of State Finance shall prescribe
12 all forms, systems and procedures for administering a Petty Cash
13 Fund so established.

14 SECTION 55. AMENDATORY 82 O.S. 2001, Section 1462C, as
15 amended by Section 4, Chapter 192, O.S.L. 2003 (82 O.S. Supp. 2010,
16 Section 1462C), is amended to read as follows:

17 Section 1462C. A. The fees collected pursuant to the
18 ~~provisions of subsection B of Section 1470 of this title shall~~
19 Scenic Rivers Act may be used ~~to purchase additional public access~~
20 ~~areas along the Flint Creek and Illinois River Scenic River Areas~~
21 ~~within Adair, Cherokee and Delaware Counties and those portions of~~
22 ~~Barren Fork Creek within Cherokee County or for the general~~
23 ~~operations of the~~ for scenic river area functions including the
24

1 purchasing of additional public access areas for the general
2 operations of the Oklahoma Conservation Commission.

3 B. 1. For these purposes, there is hereby created in the State
4 Treasury a revolving fund for the ~~Seenie Rivers~~ Commission, to be
5 designated the "Scenic Rivers ~~Commission~~ Revolving Fund".

6 2. The fund shall be a continuing fund, not subject to fiscal
7 year limitations, and shall consist of all monies received by the
8 ~~Seenie Rivers~~ Commission from all fees and fines collected pursuant
9 to the Scenic Rivers Act. All monies accruing to the credit of ~~said~~
10 this fund are hereby appropriated and may be budgeted and expended
11 by the ~~Seenie Rivers~~ Commission for the purpose of performing the
12 duties imposed by law upon the ~~Seenie Rivers~~ Commission.

13 3. Expenditures from ~~said~~ this fund shall be made upon warrants
14 issued by the State Treasurer against claims filed as prescribed by
15 law with the Director of the Office of State Finance for approval
16 and payment.

17 SECTION 56. AMENDATORY 82 O.S. 2001, Section 1464, as
18 amended by Section 3, Chapter 305, O.S.L. 2003 (82 O.S. Supp. 2010,
19 Section 1464), is amended to read as follows:

20 Section 1464. A. Nothing in the Scenic Rivers Act shall be
21 construed to unduly restrict or adversely affect the use of property
22 within the jurisdiction of ~~any Seenie Rivers~~ the Oklahoma
23 Conservation Commission for farming, ranching, forestry,
24

1 silviculture and other agricultural uses so long as they are not
2 inconsistent with the purposes of the Scenic Rivers Act.

3 B. Present farming, ranching, forestry, silviculture and other
4 agricultural uses and practices, including existing building and
5 replacement structures, are hereby exempt from the provisions of ~~any~~
6 ~~Scenic Rivers~~ the Commission.

7 C. The Scenic Rivers Act shall not be construed in any way to
8 affect existing rights between a landowner and utility or pipeline
9 companies.

10 SECTION 57. AMENDATORY 82 O.S. 2001, Section 1465, is
11 amended to read as follows:

12 Section 1465. A. All cities and incorporated towns and
13 counties that make up a part of a jurisdiction of a ~~certified Scenic~~
14 ~~Rivers Commission~~ state designated scenic river area are hereby
15 invested with full power to plan, zone and enact all ordinances and
16 regulations that are necessary and proper to carry out the purposes
17 of the Scenic Rivers Act.

18 B. The cities, incorporated towns and counties shall follow
19 their respective general procedures in the conduct of legislative
20 functions.

21 C. In exercising planning and zoning functions, ~~said~~ the
22 cities, incorporated towns and counties shall utilize the
23 organization and procedures available to cities and incorporated
24 towns under the general planning and zoning laws of the state.

1 Provided that, when a county exercises the powers provided by the
2 Scenic Rivers Act, the board of county commissioners of that county
3 shall perform the obligations and exercise the powers in the same
4 manner as a local legislative body or mayor of a city, incorporated
5 town or municipality.

6 SECTION 58. AMENDATORY 82 O.S. 2001, Section 1466, is
7 amended to read as follows:

8 Section 1466. Each county, city, incorporated town or other
9 governmental entity that makes up a part of ~~the operating area of a~~
10 ~~Scenic Rivers Commission~~ scenic river area is hereby authorized to
11 grant or ~~otherwise~~ provide funds for the operation of the Oklahoma
12 Conservation Commission.

13 SECTION 59. AMENDATORY 82 O.S. 2001, Section 1467, is
14 amended to read as follows:

15 Section 1467. Any person who willfully violates any rule or
16 order issued pursuant to the Scenic Rivers Act, ~~except such rules or~~
17 ~~orders as relate solely to procedural matters,~~ upon conviction
18 thereof, shall be guilty of a misdemeanor.

19 SECTION 60. RECODIFICATION 82 O.S. 2001, Sections 1451
20 and 1452, as last amended by Sections 51 and 52 of this act, 1453,
21 1455, as last amended by Section 53 of this act, 1462B, 1462C and
22 1464, as last amended by Sections 54, 55 and 56 of this act, 1465,
23 1466 and 1467, as amended by Sections 57, 58 and 59 of this act,
24 shall be recodified as Sections 3-2-401, 3-2-402, 3-2-403, 3-2-404,

1 3-2-405, 3-2-406, 3-2-407, 3-2-408, 3-2-409 and 3-2-410 of Title 27A
2 of the Oklahoma Statutes, unless there is created a duplication in
3 numbering.

4 SECTION 61. REPEALER 82 O.S. 2001, Sections 1457, as
5 amended by Section 1, Chapter 148, O.S.L. 2002, 1458, 1460, 1461, as
6 last amended by Section 1, Chapter 20, O.S.L. 2009, 1462, 1462A, as
7 last amended by Section 1, Chapter 390, O.S.L. 2009, 1463, as
8 amended by Section 5, Chapter 192, O.S.L. 2003, 1468, 1469, as
9 amended by Section 6, Chapter 192, O.S.L. 2003, 1470, as last
10 amended by Section 1, Chapter 391, O.S.L. 2010 and 1471 (82 O.S.
11 Supp. 2010, Sections 1457, 1461, 1462A, 1463, 1469 and 1470), are
12 hereby repealed.

13 SECTION 62. REPEALER 45 O.S. 2001, Sections 1, 1.2, 1.3,
14 1.5, 1a, 43, 44, 46 and 47, are hereby repealed.

15 SECTION 63. This act shall become effective July 1, 2011.

16 SECTION 64. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval."
20

21 53-1-7152 MAH 03/09/11
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24