

# SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

## FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No.1908, Page 6, Line 12 1/2, as follows:

By inserting new SECTIONS 3 and 4 to read as follows;

and by amending the title to conform.

Submitted by:

\_\_\_\_\_  
Senator Josh Brecheen

Brecheen-CD-FA-SB1908

2/29/2012 1:34 PM

1 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-2-101,

2 is amended to read as follows:

3 Section 2-2-101.

4 A. There is hereby created the Environmental Quality Board to  
5 represent the interests of the State of Oklahoma which shall  
6 consist of thirteen (13) members appointed by the Governor with the  
7 advice and consent of the Senate.

8 B. To be eligible for appointment to the Board a person shall:

- 9 1. Be a citizen of the United States;  
10 2. Be a resident of this state;  
11 3. Be a qualified elector of this state; and

1 4. Not have been convicted of a felony pursuant to the laws of  
2 this state, the laws of any other state or the laws of the United  
3 States.

4 C. The Board shall be composed of:

5 1. One member who shall be a certified or registered  
6 environmental professional. Such member shall be an environmental  
7 professional experienced in matters of pollution control, who shall  
8 not be an employee of any unit of government;

9 2. One member who shall be selected from industry in general.  
10 Such member shall be employed as a manufacturing executive carrying  
11 on a manufacturing business within the state;

12 3. One member who shall be selected from the hazardous waste  
13 industry within the state;

14 4. One member who shall be selected from the solid waste  
15 industry within this state;

16 5. One member who shall be well versed in recreational,  
17 irrigational, municipal or residential water usage;

18 6. One member who shall be selected from the petroleum  
19 industries being regulated by the Department of Environmental  
20 Quality;

21 7. One member who shall be selected from the agriculture  
22 industries regulated by the Department of Environmental Quality;

23 8. One member who shall be selected from the conservation  
24 districts of the state;

25 9. Three members who shall be citizen members of any statewide  
26 nonprofit environmental organization;

27 10. One member who shall be a member of the local governing  
28 body of a city or town; and

29 11. One member who shall be from a rural water district  
30 organized pursuant to the laws of this state.

31 D. The term of office of a member of the Board shall be for  
32 five (5) years and until a successor is appointed and qualified.

33 E. 1. An appointment shall be made by the Governor within  
34 ninety (90) days after a vacancy has occurred due to resignation,  
35 death, or any cause resulting in an unexpired term. In the event  
36 of a vacancy on the Board due to resignation, death, or for any  
37 cause resulting in an unexpired term, if not filled within ninety  
38 (90) days following such vacancy, the Board may appoint a  
39 provisional member to serve in the interim until the Governor acts.

40 2. A member may be reappointed.

41 3. In making appointments to the Environmental Quality Board,  
42 the Governor shall recognize the geographic diversity of the state  
43 and endeavor to appoint members representing each quadrant of the  
44 state.

45 F. 1. The Board shall hold meetings as necessary at a place  
46 and time to be fixed by the Board. The Board shall select, at its  
47 first meeting, one of its members to serve as chair and another of  
48 its members to serve as vice-chair. At the first meeting in each  
49 calendar year thereafter, the chair and vice-chair for the ensuing  
50 year shall be elected. Special meetings may be called by the chair  
51 or by five members of the Board by delivery of written notice to

1 each member of the Board. A majority of the Board present at the  
2 meeting shall constitute a quorum of the Board.

3 2. Members of the Board shall receive necessary travel  
4 expenses according to the provisions of the State Travel  
5 Reimbursement Act.

6 G. The Board shall:

7 1. ~~Appoint and fix~~ Fix the compensation of the Executive  
8 Director of the Department of Environmental Quality;

9 2. Be the rulemaking body for the Department of Environmental  
10 Quality;

11 3. Review and approve the budget request of the Department to  
12 the Governor;

13 4. Assist the Department in conducting periodic reviews and  
14 planning activities related to the goals, objectives, priorities  
15 and policies of the Department;

16 5. In conjunction with each regular meeting of the Board  
17 pursuant to subsection F and at such other times as the Board may  
18 determine to be necessary and appropriate, provide a public forum  
19 for receiving comments and disseminating information to the public  
20 and the regulated community regarding goals, objectives,  
21 priorities, and policies of the Department. The Board shall have  
22 the authority to adopt nonbinding resolutions requesting action by  
23 the Department in response to comments received or upon the Board's  
24 own initiative; and

25 6. Review and evaluate the need for amendments or additions to  
26 the Oklahoma Statutes regarding the programs and functions of the  
27 Department and make legislative recommendations to the Legislature.

28 H. As the rulemaking body for the Department of Environmental  
29 Quality, the Board is specifically charged with the duty of  
30 promulgating rules which will implement the duties and  
31 responsibilities of the Department pursuant to this Code. Except  
32 as provided in this subsection, rules within the jurisdiction of a  
33 Council provided for by this act shall be promulgated with the  
34 advice of such Council. Proposed permanent rules within the  
35 jurisdiction of a Council shall not be considered by the Board for  
36 promulgation until receipt of the appropriate Council's  
37 recommendation on such promulgation; however, the Board may  
38 promulgate emergency rules without the advice of the appropriate  
39 Council when the time constraints of the emergency, as determined  
40 by the Board, do not permit the timely development of  
41 recommendations by the Council. All actions of the Councils with  
42 regard to rulemaking shall be deemed actions of the Board for the  
43 purposes of complying with the Administrative Procedures Act.

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45 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-3-201,

46 is amended to read as follows:

47 Section 2-3-201.

1 A. The ~~Environmental Quality Board~~ Governor shall appoint the  
2 Executive Director of the Department of Environmental Quality. The  
3 Executive Director shall serve at the pleasure of the ~~Board~~  
4 Governor.

5 B. The Executive Director shall have experience in industry,  
6 conservation, environmental sciences or such other areas as may be  
7 required by the Environmental Quality Board.

8 C. The Executive Director shall provide for the administration  
9 of the Department and shall:

10 1. Be the executive officer and supervise the activities of  
11 the Department of Environmental Quality;

12 2. Employ, discharge, appoint or contract with, and fix the  
13 duties and compensation of such assistants, attorneys, chemists,  
14 geologists, environmental professionals, medical professionals,  
15 engineers, sanitarians, administrative, clerical and technical,  
16 investigators, aides and such other personnel, either on a  
17 full-time, part-time, fee or contractual basis, as in his judgment  
18 and discretion shall be deemed necessary, expedient, convenient or  
19 appropriate to the performance or carrying out of any of the  
20 purposes, objectives, responsibilities or statutory provisions  
21 relating to the Department of Environmental Quality, or to assist  
22 the Executive Director in the performance of his official duties  
23 and functions;

24 3. Establish internal policies and procedures for the proper  
25 and efficient administration of the Department; and

26 4. Exercise all incidental powers which are necessary and  
27 proper to implement the purposes of the Department pursuant to this  
28 Code.

29 D. The Executive Director shall not be an owner, stockholder,  
30 employee or officer of, nor have any other business relationship  
31 with or receive compensation from, any corporation, partnership, or  
32 other business or entity which is subject to regulation by the  
33 Department of Environmental Quality and, with regard to the  
34 exercise of powers and duties associated with the Oklahoma  
35 Pollutant Discharge Elimination System Act, shall meet all  
36 requirements of Section 304 of the Clean Water Act and applicable  
37 federal regulations promulgated thereunder by the United States  
38 Environmental Protection Agency regarding conflict of interest.

39 E. 1. In addition to the powers and duties specified in  
40 subsection D of this section, the Executive Director shall have the  
41 power and duty to:

42 a. issue, deny, modify, amend, renew, refuse to renew,  
43 suspend, reinstate or revoke licenses or permits  
44 pursuant to the provisions of this Code, and rules  
45 promulgated by the Board, and

46 b. issue final orders and assess administrative  
47 penalties according to the Administrative Procedures  
48 Act, this Code and rules promulgated by the Board.

49 2. The powers and duties specified in paragraph 1 of this  
50 subsection shall be exercised exclusively by the Executive Director

1 and may not be delegated to other employees of the Department  
2 except as specifically provided in this Code.

3 3. In the event of the Executive Director's temporary absence,  
4 the Executive Director may delegate the exercise of such powers and  
5 duties to an acting director during the Executive Director's  
6 absence subject to an organizational structure approved by the  
7 Board. In the event of a vacancy in the position of Executive  
8 Director, the Board may designate an interim or acting Executive  
9 Director who is authorized to exercise such powers and duties until  
10 a permanent Executive Director is employed.

11 4. Any designee exercising such powers and duties of the  
12 Executive Director as authorized or on a temporary, acting or  
13 interim basis shall meet the requirements of subsection D of this  
14 section for the Executive Director.

15 5. All references in this Code to the Department with respect  
16 to the exercise of the powers and duties specified in paragraph 1  
17 of this subsection shall mean the exercise of such powers and  
18 duties by the Executive Director or his authorized designee.  
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