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STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1943

By: Jackson

AS INTRODUCED

An Act relating to waters and water rights; amending 82 O.S. 2001, Sections 1603, as last amended by Section 2, Chapter 95, O.S.L. 2004, 1604, as last amended by Section 3, Chapter 95, O.S.L. 2004, 1607, as amended by Section 7, Chapter 46, O.S.L. 2002, 1608, as amended by Section 8, Chapter 46, O.S.L. 2002, 1610, as amended by Section 10, Chapter 46, O.S.L. 2002, 1614, as amended by Section 14, Chapter 46, O.S.L. 2002 and 1616, as amended by Section 16, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010, Section 1603, 1604, 1607, 1608, 1610, 1614 and 1616), which relate to the Oklahoma Floodplain Management Act; modifying certain definitions; modifying certain purpose of floodplain management rules and regulations; limiting certain fees; requiring county floodplain regulations to be approved by the Oklahoma Water Resources Board; limiting certain submission requirements to certain floodplain boards; clarifying language; requiring certain information and notice to be posted on the floodplain board website; requiring consideration of the business needs of a certain industry in promulgating rules and regulations; adding certain appeals options; and providing an effective date.

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

1 SECTION 1. AMENDATORY 82 O.S. 2001, Section 1603, as
2 last amended by Section 2, Chapter 95, O.S.L. 2004 (82 O.S. Supp.
3 2010, Section 1603), is amended to read as follows:

4 Section 1603. As used in the Oklahoma Floodplain Management
5 Act:

6 1. "Area of jurisdiction" means:

7 a. all of the lands within an incorporated town or city,
8 for a municipality,

9 b. ~~all of~~ floodplains in the unincorporated areas of the
10 county, for a county, or

11 c. all property owned or operated by the state, for the
12 state;

13 2. "Board" means the Oklahoma Water Resources Board;

14 3. "Dwelling unit" means a place of residence and may be a
15 single or multiple-dwelling building;

16 4. "Flood" or "flooding" means general and temporary conditions
17 of partial or complete inundation of normally dry land areas from
18 the overflow of lakes, streams, rivers or any other inland waters;

19 5. "Floodplain" means the land adjacent to a body of water
20 which has been or may be covered by flooding, including, but not
21 limited to, the one-hundred-year flood;

22 6. "Floodplain administrator" means a person accredited by the
23 Board and designated by a floodplain board, to administer and
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1 implement laws and regulations relating to the management of
2 floodplains;

3 7. "Floodplain board" means an administrative and planning
4 board, for floodplain management, of a county, a municipality or the
5 state or the planning commission of a municipality or a county if so
6 designated by the governing body of the municipality or county;

7 8. "Floodplain regulations" mean the codes, ordinances and
8 other regulations relating to the use of land and construction
9 within the channel and floodplain areas including, but not limited
10 to, permits, zoning ordinances, platting regulations, building
11 codes, housing codes, setback requirements and open area
12 regulations;

13 9. "Floodway" means the channel of a stream, watercourse or
14 body of water and those portions of floodplains which are reasonably
15 required to carry and discharge the floodwater or floodflow of any
16 river or stream;

17 10. "One-hundred-year flood" means a flood which has a one
18 percent (1%) chance of occurring each year, based upon the criteria
19 established by the Oklahoma Water Resources Board; and

20 11. "Program" means the overall national flood insurance
21 program authorized by the National Flood Insurance Act of 1968 (42
22 U.S.C. 4001-4128) as amended.

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1 SECTION 2. AMENDATORY 82 O.S. 2001, Section 1604, as
2 last amended by Section 3, Chapter 95, O.S.L. 2004 (82 O.S. Supp.
3 2010, Section 1604), is amended to read as follows:

4 Section 1604. A. To allow participation in the program, the
5 Oklahoma Water Resources Board, boards of county commissioners and
6 municipal governing bodies are authorized to establish floodplain
7 boards for their respective area of jurisdiction which may adopt,
8 administer and enforce floodplain management rules and regulations,
9 for the purpose of:

- 10 1. The delineation of floodplains and floodways;
- 11 2. The preservation of the capacity of the floodplain to carry
12 and discharge regional floods;
- 13 3. The minimization of flood hazards;
- 14 4. The establishment and charging of fair and reasonable fees
15 in an equitable manner, not to exceed Five Hundred Dollars
16 (\$500.00), for services provided by the Board, county commissioners
17 and municipalities in the administration of their responsibilities
18 pursuant to the Oklahoma Floodplain Management Act. The charging of
19 fees shall be limited to development on lands within the area of the
20 one-hundred-year flood;
- 21 5. The regulation of the use of land in the floodplain;
- 22 6. The protection of the natural and beneficial functions of
23 the floodplain, reducing damage to property from floods, reducing
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1 injury and loss of life from floods, and allowing communities to be
2 eligible for flood insurance; and

3 7. The hiring and employment of an accredited floodplain
4 administrator.

5 B. The floodplain management rules and regulations shall be
6 based on adequate technical data and competent engineering advice
7 and shall be consistent with local and regional comprehensive
8 planning.

9 C. The floodplain management rules and regulations shall be
10 approved by the Oklahoma Water Resources Board, the county or the
11 municipality, as the case may be, by appropriate order, resolution
12 or ordinance.

13 D. The floodplain management rules and regulations enacted by a
14 county shall be reviewed and approved by the Oklahoma Water
15 Resources Board prior to adoption by the county to ensure that the
16 requirements are fair and equitable.

17 SECTION 3. AMENDATORY 82 O.S. 2001, Section 1607, as
18 amended by Section 7, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
19 Section 1607), is amended to read as follows:

20 Section 1607. The county and municipal floodplain boards shall
21 delineate and submit to the Oklahoma Water Resources Board all
22 floodplain definitions and one-hundred-year flood elevations within
23 their respective area of jurisdiction, using methods consistent with
24 the criteria and rules developed by the Board.

1 SECTION 4. AMENDATORY 82 O.S. 2001, Section 1608, as
2 amended by Section 8, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
3 Section 1608), is amended to read as follows:

4 Section 1608. All floodplain boards that choose to participate
5 in the program shall adopt floodplain regulations, which shall
6 conform with the requirements necessary to establish eligibility and
7 to maintain participation in the program and shall include the
8 following:

9 1. ~~Regulations for any~~ The platting of land in floodplains,
10 construction of dwelling units and commercial or industrial
11 structures in floodplains, and all other construction in the
12 floodplains, which may divert, retard or obstruct floodwater and
13 threaten public health, safety or welfare;

14 2. ~~Regulations which establish~~ Establishing minimum flood
15 protection elevations and flood damage prevention requirements for
16 use of structures and facilities which are located in a floodplain
17 or are vulnerable to flood damage. Regulations adopted under this
18 section are to be in accordance with any applicable state and local
19 laws, regulations and ordinances;

20 3. ~~Regulations which provide~~ Provide for coordination by the
21 floodplain board with all other interested and affected political
22 subdivisions and state agencies. The regulations of a floodplain
23 board shall not apply to the use of the usual farm buildings for
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1 agricultural purposes, the planting of agricultural crops or the
2 construction of farm ponds; and

3 4. Counties and municipalities that choose to participate in
4 the program and utilize a floodplain manager are encouraged to
5 attend the floodplain development management classes offered by the
6 National Flood Insurance Program and any additional annual
7 continuing education classes offered by the Oklahoma Water Resources
8 Board.

9 SECTION 5. AMENDATORY 82 O.S. 2001, Section 1610, as
10 amended by Section 10, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
11 Section 1610), is amended to read as follows:

12 Section 1610. A. Floodplain rules enacted pursuant to the
13 Oklahoma Floodplain Management Act shall only be promulgated by the
14 Oklahoma Water Resources Board in accordance with the Administrative
15 Procedures Act.

16 B. Floodplain regulations enacted pursuant to the Oklahoma
17 Floodplain Management Act shall only be adopted by the county or
18 municipal floodplain boards after a public hearing at which time
19 parties ~~in~~ and citizens with an interest and other citizens have an
20 opportunity to be heard. At least thirty (30) days prior to the
21 hearing, the proposed rules and any associated requirements and a
22 notice of the time and place of hearing shall be published on the
23 website of the board, and a notice of the time and place of the
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1 hearing shall be published in a newspaper of general circulation
2 regularly published nearest the area of jurisdiction.

3 C. At least thirty (30) days prior to the date of any hearing
4 required by subsection B of this section, written notice shall be
5 furnished to the Oklahoma Water Resources Board, accompanied by a
6 copy of each proposed rule and any associated requirement to be
7 acted upon. A copy of any regulation adopted by a floodplain board
8 pursuant to the Oklahoma Floodplain Management Act shall be filed
9 with the Board within fifteen (15) days of its adoption.

10 D. The floodplain regulations enacted by a county shall be
11 reviewed and approved by the Oklahoma Water Resources Board prior to
12 adoption by the county to ensure that the requirements are fair and
13 equitable.

14 SECTION 6. AMENDATORY 82 O.S. 2001, Section 1614, as
15 amended by Section 14, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
16 Section 1614), is amended to read as follows:

17 Section 1614. The Oklahoma Water Resources Board and county and
18 municipal floodplain boards in promulgating rules pursuant to
19 Section 1606 of this title and floodplain boards in preparing
20 floodplain management regulations shall give due consideration to
21 the needs of an industry, including agriculture and the oil and gas
22 industry, whose business requires that it be located within a
23 floodplain.

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1 SECTION 7. AMENDATORY 82 O.S. 2001, Section 1616, as
2 amended by Section 16, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
3 Section 1616), is amended to read as follows:

4 Section 1616. A. Appeals of any decision of the Oklahoma Water
5 Resources Board shall be in accordance with the Administrative
6 Procedures Act.

7 B. Appeals of the decision of a county or municipal floodplain
8 board shall be taken to the board of adjustment for the area of
9 jurisdiction involved in the appeal ~~or~~, to the governing body of the
10 county or municipality where no board of adjustment exists, or to
11 the Oklahoma Water Resources Board. Appeals may be taken by any
12 person aggrieved or by a public officer, department, board or bureau
13 affected by any decision of the floodplain board in administering
14 the floodplain board's regulations. The appeal shall be taken
15 within a period of not more than ten (10) days, by filing written
16 notice with the appellant body and the floodplain board, stating the
17 grounds thereof. An appeal shall stay all proceedings in
18 furtherance of the action appealed from unless the floodplain board
19 from which the appeal is taken shall certify to the appellant ~~of~~
20 body that by reason of facts stated in the certificate a stay would,
21 in its opinion, cause imminent peril to life or property. The
22 appellant body shall have the following powers and duties:

23 1. To hear and decide appeals where it is alleged that there is
24 error of law in any order, requirement, decision or determination

1 made by the floodplain board in the enforcement of the floodplain
2 board's regulations-;

3 2. In exercising its powers, ~~the appellant body may~~ to reverse
4 or affirm wholly or partly, or may modify the order, requirement,
5 decision or determination as ought to be made, and to that end shall
6 have all the powers of the floodplain board from which the appeal is
7 taken-; and

8 3. In acting upon any appeal, ~~the appellant body shall~~ to apply
9 the principles, standards and objectives set forth and contained in
10 all applicable regulations and plans adopted.

11 SECTION 8. This act shall become effective November 1, 2011.

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