

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2334

By: Renegar

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6 AS INTRODUCED

7 An Act relating to waters and water rights; creating
8 the Regional Water Planning Act; requiring division
9 of the state into regional water planning areas;
10 requiring designation by the Oklahoma Water Resources
11 Board by a certain date; stating factors to be
12 considered for the division; requiring updates;
13 providing for selection of representatives for the
14 initial coordinating body; providing for designation
15 of additional representatives for the regional water
16 planning groups; specifying interest to be
17 represented by the additional members; providing for
18 ex officio members; directing the regional water
19 planning groups to prepare a regional water plan;
20 listing contents of the plans; directing the Board to
21 provide certain guidelines to the regional water
22 planning groups; requiring submission of a regional
23 water plan; listing contents of the regional water
24 plans; directing the Board to adopt certain rules;
requiring the Board to provide technical and
financial assistance; authorizing the Board to
facilitate resolution of conflicts within regions;
requiring regional planning groups to hold public
hearings after notice; providing for ongoing public
input; directing the regional planning groups to make
copies of the plan publicly available; requiring
submission of the regional plan to the Board;
providing for resolution of conflict between regions;
providing for approval of regional water plans by the
Board; describing required notice; establishing
procedure for amendments to the plan; requiring
adoption of the regional plans by a certain date;
requiring submission of legislative recommendations;
requiring subsequent submissions of the regional
plans; providing criteria for financial assistance to
political subdivisions for water supply projects;

1 allowing for certain waivers; allowing a political
2 subdivision to contract with a regional water
3 planning group for certain purposes; limiting certain
4 causes of action; limiting liability of regional
5 water planning groups, representatives and certain
6 employees; directing the Attorney General to
7 represent regional water planning groups,
8 representatives and certain employees; providing for
9 resolution of conflicts with conservancy district and
10 master conservancy district management plans;
11 directing the regional water planning groups to
12 examine certain financial needs and make a report to
13 the Board; listing contents of the report; providing
14 for codification; and providing an effective date.

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

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

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

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

A. For the purposes of the Regional Water Planning Act, the
State of Oklahoma shall be divided into a minimum of thirteen areas
for which regional water plans shall be developed. The areas shall
be delineated to maintain as much continuity as possible with the
thirteen Regional Watershed Planning Regions designated in the 2012
Update to the Oklahoma Comprehensive Water Plan. The Oklahoma Water

1 Resources Board shall designate the areas by January 1, 2013, taking
2 into consideration such factors as river basin and aquifer
3 delineations, water utility development patterns, socioeconomic
4 characteristics, existing regional water planning areas, political
5 subdivision boundaries, public comment, and other factors the Board
6 deems relevant. The Board shall review and update the designations
7 as necessary but at least every five (5) years.

8 B. No later than sixty (60) days after the designation of the
9 areas as provided for in subsection A of this section,
10 representatives from within each regional water planning area shall
11 be selected to serve as the initial coordinating body for planning.
12 The initial coordinating body shall consist of twelve (12) members
13 selected by the county commissioners of the counties located within
14 the regional planning area and the board of directors of any
15 conservancy district or master conservancy district located within
16 the regional planning area. The initial coordinating body may then
17 designate additional representatives to serve on the regional water
18 planning group. The initial coordinating body shall designate
19 additional representatives if necessary to ensure adequate
20 representation from the interests comprising that region, including
21 the public, counties, municipalities, industries, agricultural
22 interests, environmental interests, small businesses, electric
23 generating utilities, water districts, water utilities and Native
24 American tribes. The regional water planning group shall maintain

1 adequate representation from those interests. In addition,
2 representatives of the Oklahoma Water Resources Board, the
3 Department of Wildlife Conservation, and the Oklahoma Department of
4 Agriculture, Food, and Forestry shall serve as ex officio members of
5 each regional water planning group.

6 C. The regional water planning group in each regional water
7 planning area shall prepare a regional water plan, using the 2012
8 Update to the Oklahoma Comprehensive Water Plan as a guide. Each
9 regional water plan shall provide for the:

10 1. Orderly development, management, and conservation of water
11 resources and preparation for and response to drought conditions in
12 order that sufficient water will be available at a reasonable cost
13 to ensure public health, safety, and welfare;

14 2. Further economic development of the particular region; and

15 3. Protection of the agricultural and natural resources of that
16 particular region.

17 D. The Board shall provide guidelines for the consideration of
18 existing regional planning efforts by regional water planning
19 groups. The Board shall provide guidelines for the format in which
20 information shall be presented in the regional water plans.

21 E. Each regional water planning group shall submit to the Board
22 a regional water plan that:

23 1. Is consistent with the guidance principles for the state
24 water plan adopted by the Board;

1 2. Provides information based on data provided or approved by
2 the Board in a format consistent with the guidelines provided by the
3 Board under subsection D of this section;

4 3. Verifies and identifies:

5 a. each source of water supply in the regional water
6 planning area, including information supplied by the
7 Board on the amount of managed available groundwater
8 and surface water,

9 b. factors specific to each source of water supply to be
10 considered in determining whether to initiate a
11 drought response,

12 c. actions to be taken as part of the response, and

13 d. existing major water infrastructure facilities that
14 may be used for interconnections in the event of an
15 emergency shortage of water;

16 4. Has specific provisions for water management strategies to
17 be used during a drought of record;

18 5. Includes but is not limited to consideration of the
19 following:

20 a. any existing water or drought planning efforts
21 addressing all or a portion of the region,

22 b. approved conservancy district or master conservancy
23 district management plans and other local plans,
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- 1 c. all potentially feasible water management strategies,
2 including but not limited to improved conservation,
3 reuse, and management of existing water supplies,
4 conjunctive use, acquisition of available existing
5 water supplies, and development of new water supplies,
6 d. protection of existing water rights in the region,
7 e. opportunities for and the benefits of developing
8 regional water supply facilities or providing regional
9 management of water supply facilities,
10 f. appropriate provision for environmental water needs
11 and for the effect of upstream development on the
12 inland waterway system and the effect of plans on
13 navigation,
14 g. provisions to study the feasibility and impact of
15 interbasin transfers,
16 h. voluntary transfer of water within the region using,
17 but not limited to, regional water banks, sales,
18 leases, options, subordination agreements, and
19 financing agreements, and
20 i. emergency transfer of water, including information on
21 the part of each permit, certified filing, or
22 certificate of adjudication for nonmunicipal use in
23 the region that may be transferred without causing
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1 unreasonable damage to the property of the
2 nonmunicipal water rights holder;

3 6. Identifies river and stream segments of unique ecological
4 value and sites of unique value that the regional water planning
5 group recommends for using instream flow studies;

6 7. Assesses the impact of the plan on unique river and stream
7 segments identified in paragraph 6 of this subsection if the
8 regional water planning group or the Legislature determines that a
9 site of unique ecological value exists; and

10 8. Describes the impact of proposed water projects on water
11 quality and quantity.

12 F. No later than September 1, 2013, the Board shall adopt rules
13 to:

14 1. Provide for the procedures for adoption of regional water
15 plans by regional water planning groups and for approval of regional
16 water plans by the Board; and

17 2. Govern procedures to be followed in carrying out the
18 responsibilities of this section.

19 G. The Board shall provide technical and financial assistance
20 to the regional water planning groups in the development of their
21 plans. The Board shall simplify, as much as possible, planning
22 requirements in regions with abundant water resources. The Board,
23 if requested, may facilitate resolution of conflicts within regions.

1 H. 1. Prior to the preparation of the regional water plan, the
2 regional water planning group shall, after notice, hold at least one
3 public meeting at some central location within the regional planning
4 area to gather suggestions and recommendations from the public as to
5 issues that should be addressed in the plan or provisions that
6 should be considered for inclusion in the plan.

7 2. The regional water planning group shall provide an ongoing
8 opportunity for public input during the preparation of the regional
9 water plan.

10 3. After the regional water plan is initially prepared, the
11 regional water planning group shall, after notice, hold at least one
12 public hearing at some central location within the regional water
13 planning area. The group shall make copies of the plan available
14 for public inspection at least one (1) month before the hearing by
15 providing a copy of the plan in the county courthouse and at least
16 one public library of each county located within the region. Notice
17 for the hearing shall include a listing of these and any other
18 location where the plan is available for review

19 4. After the regional water plan is initially prepared, the
20 regional water planning group shall submit a copy of the plan to the
21 Board. The Board shall submit comments on the regional water plan
22 as to whether the plan meets the requirements of subsection E of
23 this section.

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1 5. If no interregional conflicts exist, the regional water
2 planning group shall:

- 3 a. consider all public and board comments,
- 4 b. prepare, revise, and adopt the final plan, and
- 5 c. submit the adopted plan to the Board for approval and
6 inclusion in the state water plan.

7 6. If an interregional conflict exists, the Board shall
8 facilitate coordination between the involved regions to resolve the
9 conflict. If conflict remains, the Board shall resolve the
10 conflict. On resolution of the conflict, the involved regional
11 water planning groups shall prepare revisions to their respective
12 plans and hold, after notice, at least one public hearing at some
13 central location within their respective regional water planning
14 areas. The regional water planning groups shall:

- 15 a. consider all public and board comments,
- 16 b. prepare, revise, and adopt their respective plans,
17 and
- 18 c. submit their plans to the Board for approval and
19 inclusion in the state water plan.

20 7. The Board may approve a regional water plan only after it
21 has determined that:

- 22 a. all interregional conflicts involving that regional
23 water planning area have been resolved,

1 b. the plan includes water conservation practices and
2 drought management measures, and

3 c. the plan is consistent with long-term protection of
4 the water resources, agricultural resources, and
5 natural resources of the state for consumptive as well
6 as nonconsumptive uses.

7 8. Notice required by paragraphs 1, 3 and 6 of this subsection
8 shall be:

9 a. published once in a newspaper of general circulation
10 in each county located in whole or in part in the
11 regional water planning area before the thirtieth day
12 preceding the date of the public meeting or hearing,
13 and

14 b. mailed to:

15 (1) each mayor of a municipality with a population of
16 one thousand (1,000) or more that is located in
17 whole or in part in the regional water planning
18 area,

19 (2) each district judge of a county located in whole
20 or in part in the regional water planning area,

21 (3) each rural water district with responsibility to
22 manage or supply water in the regional water
23 planning area,

24 (4) each retail public utility that:

1 (a) serves any part of the regional water
2 planning area, or

3 (b) receives water from the regional water
4 planning area, and

5 (5) each holder of record of a permit, certified
6 filing, or certificate of adjudication for the
7 use of surface water the diversion of which
8 occurs in the regional water planning area.

9 9. Notice published or mailed under paragraph 8 of this
10 subsection shall contain:

11 a. the date, time, and location of the public meeting or
12 hearing,

13 b. a summary of the proposed action to be taken,

14 c. the name, telephone number, and address of the person
15 to whom questions or requests for additional
16 information may be submitted, and

17 d. information on how the public may submit comments.

18 10. The regional water planning group may amend the regional
19 water plan after the plan has been approved by the Board.

20 Paragraphs 1 through 9 of this subsection shall apply to an
21 amendment to the plan in the same manner as those paragraphs apply
22 to the plan.

23 11. The provisions of this paragraph shall apply to an
24 amendment to a regional water plan approved by the Board, but shall

1 not apply to the adoption of a subsequent regional water plan for
2 submission to the Board as required by subsection I of this section.
3 Notwithstanding paragraph 10 of this subsection, the regional water
4 planning group may amend the plan in the manner provided by this
5 paragraph if the Board makes a written determination that the
6 proposed amendment qualifies for adoption in the manner provided by
7 this paragraph before the regional water planning group votes on
8 adoption of the amendment. A proposed amendment qualifies for
9 adoption in the manner provided by this paragraph only if the
10 amendment is a minor amendment, as defined by Board rules, that will
11 not result in the overallocation of any existing or planned source
12 of water, does not relate to a new reservoir, and will not have a
13 significant effect on instream flows. If the Board determines that
14 a proposed amendment qualifies for adoption in the manner provided
15 by this paragraph, the regional water planning group may adopt the
16 amendment at a public meeting. The proposed amendment shall be
17 placed on the agenda for the meeting, and notice of the meeting
18 shall be given in the manner provided by the Oklahoma Open Meeting
19 Act, at least two (2) weeks before the date the meeting is held.
20 The public shall be provided an opportunity to comment on the
21 proposed amendment at the meeting.

22 I. The regional water planning groups shall submit their
23 adopted regional water plans to the Board by September 1, 2015, for
24 approval and inclusion in the next update to the state water plan.

1 In conjunction with the submission of regional water plans, each
2 planning group should make legislative recommendations, if any, to
3 facilitate more voluntary water transfers in the region. Subsequent
4 regional water plans shall be submitted at least every five (5)
5 years thereafter. Public participation for revised regional plans
6 shall follow the procedures under subsection H of this section.

7 J. The Board may provide financial assistance to political
8 subdivisions for water supply projects only if:

9 1. The Board determines that the needs to be addressed by the
10 project will be addressed in a manner that is consistent with the
11 state water plan; and

12 2. Beginning September 1, 2015, the Board:

13 a. has approved a regional water plan as provided by
14 subsection I of this section, and any required updates
15 of the plan, for the region of the state that includes
16 the area benefiting from the proposed project, and

17 b. determines that the needs to be addressed by the
18 project will be addressed in a manner that is
19 consistent with that regional water plan.

20 K. The Board may waive the requirements of subsection J of this
21 section if the Board determines that conditions warrant the waiver.

22 L. A political subdivision may contract with a regional water
23 planning group to assist the regional water planning group in
24 developing or revising a regional water plan.

1 M. A cause of action shall not accrue against a regional water
2 planning group, a representative who serves on the regional water
3 planning group, or an employee of a political subdivision that
4 contracts with the regional water planning group under subsection L
5 of this section for an act or omission in the course and scope of
6 the work of the persons relating to the regional water planning
7 group.

8 N. A regional water planning group, a representative who serves
9 on the regional water planning group, or an employee of a political
10 subdivision that contracts with the regional water planning group
11 under subsection L of this section is not liable for damages that
12 may arise from an act or omission in the course and scope of the
13 work of the persons relating to the regional water planning group.

14 O. The Attorney General, on request, shall represent a regional
15 water planning group, a representative who serves on the regional
16 water planning group, or an employee of a political subdivision that
17 contracts with the regional water planning group under subsection L
18 of this section in a suit arising from an act or omission relating
19 to the regional water planning group.

20 P. 1. If a conservancy district or master conservancy district
21 files a petition with the Board stating that a conflict requiring
22 resolution may exist between a management plan developed by the
23 district and an approved state water plan, the Board shall provide
24 technical assistance to and facilitate coordination between the

1 district and the involved region to resolve the conflict. Not later
2 than forty-five (45) days after the date the conservancy district or
3 master conservancy district files a petition with the Board, if the
4 conflict has not been resolved, the district and the involved region
5 shall mediate the conflict. The district and the involved region
6 may seek the assistance of an alternative dispute resolution system,
7 in obtaining a qualified impartial third party to mediate the
8 conflict. The cost of the mediation services shall be specified in
9 the agreement between the parties and the dispute resolution system.
10 If the district and the involved region cannot resolve the conflict
11 through mediation, the Board shall resolve the conflict not later
12 than sixty (60) days after the date the mediation is completed as
13 provided by paragraphs 1 and 2 of this subsection.

14 2. If the Board determines that resolution of the conflict
15 requires a revision of an approved regional water plan, the Board
16 shall suspend the approval of that plan and provide information to
17 the regional water planning group. The regional water planning
18 group shall prepare any revisions to its plan specified by the Board
19 and shall hold, after notice, at least one public hearing at some
20 central location within the regional water planning area. The
21 regional water planning group shall consider all public and Board
22 comments, prepare, revise, and adopt its plan, and submit the
23 revised plan to the Board for approval and inclusion in the state
24 water plan.

1 3. If the Board determines that resolution of the conflict
2 requires a revision of the management plan of the conservancy or
3 master conservancy district, the Board shall provide information to
4 the district. The district shall prepare any revisions to its plan
5 based on the information provided by the Board and shall hold, after
6 notice, at least one public hearing at some central location within
7 the district. The district shall consider all public and Board
8 comments, prepare, revise, and adopt its plan, and submit the
9 revised plan to the Board.

10 4. If the conservancy or master conservancy district disagrees
11 with the decision of the Board under this subsection, the district
12 may appeal the decision to a district court. Costs for the appeal
13 shall be set by the court hearing the appeal. An appeal under this
14 subsection is by trial de novo.

15 5. On the request of the involved region or conservancy or
16 master conservancy district, the Board shall include discussion of
17 the conflict and its resolution in the state water plan adopted by
18 the Board.

19 Q. Each regional water planning group shall examine the
20 financing needed to implement the water management strategies and
21 projects identified in the most recent approved regional plan
22 adopted by the group and, not later than September 1, 2015, shall
23 report to the Board regarding:
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1 1. How local governments, regional authorities, and other
2 political subdivisions in the region propose to pay for water
3 infrastructure projects identified in the plan; and

4 2. What role the regional planning group proposes for the state
5 in financing projects identified in the plan, giving particular
6 attention to proposed increases in the level of state participation
7 in funding for regional projects to meet needs beyond the reasonable
8 financing capability of local governments, regional authorities, and
9 other political subdivisions involved in building water
10 infrastructure.

11 SECTION 3. This act shall become effective November 1, 2012.

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