

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1324

By: Crain

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6 AS INTRODUCED

7 An Act relating to excess and surplus water; amending
8 82 O.S. 2011, Section 1086.2, which relates to the
9 powers of the Oklahoma Water Resources Board;
10 requiring certain water plan and updates by certain
11 dates; providing for funding by Legislature;
12 modifying definition and procedure determining excess
and surplus water; stating applicability; defining
term; stating procedure; excepting certain region;
providing for use; excluding certain water from
consideration; providing for codification; and
providing an effective date.

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

16 SECTION 1. AMENDATORY 82 O.S. 2011, Section 1086.2, is
17 amended to read as follows:

18 Section 1086.2. For the purpose of effectuating the provisions
19 of ~~this act~~ Section 1086.1 et seq. of this title and the policy
20 established in Section 1086.1 of this title, the Oklahoma Water
21 Resources Board is hereby authorized, empowered and directed:

22 1. To prepare a comprehensive state water plan and decennial
23 updates thereof for submission to the Legislature and, in connection
24 therewith, to conduct surveys and cooperate with other state and

1 federal agencies. Such comprehensive state water plan and the parts
2 and portions thereof shall be submitted in final and completed form
3 not later than ~~September 1, 1975~~ October 17, 2011, and each decade
4 thereafter as and if direct appropriations of adequate funds are
5 made available by the Legislature or as otherwise directed by
6 statute and, in addition to the foregoing requirements, shall
7 include a definition of "excess and surplus water of this state" and
8 a recommended procedure for determining "excess and surplus water of
9 this state," which definition and procedure are to be developed to
10 insure that the area of origin will never be made water deficient
11 and as provided by Section 2 of this act.

12 The Water Resources Board shall permit representatives of the
13 United States Army Corps of Engineers, the Bureau of Reclamation,
14 the Soil Conservation Service and other appropriate federal
15 agencies, as well as representatives of state agencies involved in
16 tourism, parks, fish and wildlife, recreation, soil conservation,
17 public health, agriculture, public utilities and industrial
18 development to participate to the extent of their authority and
19 capacity in the development of the comprehensive state water plan.
20 The Water Resources Board shall prepare such plan and updates in
21 printed form. Upon completion thereof, the plan shall be submitted
22 to the Oklahoma Legislature not later than ~~September 1, 1975~~ of the
23 year the plan or any update thereto is prepared and adopted. The
24 Board is not authorized to implement the plan or any part or update

1 thereof except by express authorization and consent of the
2 Legislature. ~~The first decennial update shall be prepared and~~
3 ~~submitted to the Legislature no later than September 1, 1995.~~
4 ~~Thereafter, updates~~ Updates of the plan shall be prepared and
5 likewise submitted no later than September 1 of the fifth year
6 following the taking of the Federal Decennial Census or as otherwise
7 funded and directed by the Legislature.

8 Work ~~on the first update shall begin with the passage and~~
9 ~~approval of this act. After completion of the first update, work on~~
10 subsequent updates shall remain continuous and ongoing ~~throughout~~
11 ~~the ten year periods between submission of the updates~~ as directed
12 by the Board.

13 2. To adopt such rules ~~and regulations~~ as may be necessary to
14 effectuate the purposes of ~~this act~~ Section 1086.1 et seq. of this
15 title.

16 3. To make and enter into all contracts and agreements
17 necessary or incidental to the performance of its duties and the
18 execution of its powers under ~~this act~~ Section 1086.1 et seq. of
19 this title.

20 4. To receive and accept from the State of Oklahoma or the
21 United States of America or any agency or instrumentality thereof
22 grants of funds and to receive and accept aid or contributions from
23 any source of either money, property, labor or other things of value
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1 to be held, used and applied only for the purposes for which such
2 grants and contributions may be made.

3 5. To expend income and funds of the Board in the exercise of
4 any or all of the powers granted to the Board under the provisions
5 of ~~this act~~ Section 1086.1 et seq. of this title.

6 6. To cooperate with all state institutions, agencies,
7 departments, boards and officers in all matters relating to its
8 duties; and all state institutions, agencies, departments, boards
9 and officers are hereby authorized and directed to cooperate with
10 the Board.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1086.2A of Title 82, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Pursuant to the provisions of Section 1086.2 of Title 82 of
15 the Oklahoma Statutes, as amended by Section 1 of this act, the
16 Oklahoma Water Resources Board shall adopt, as provided in
17 subsection B of this section, the definition of and procedure for
18 determining excess and surplus water for inclusion in the Oklahoma
19 Comprehensive Water Plan (OCWP) and for use by the Board as
20 otherwise directed by law or authorized by rule upon the effective
21 date of this act.

22 B. "Excess and surplus water" means the projected surface water
23 available for new permits in the year 2060, less an in-basin reserve
24 amount, for each of the eighty (80) basins as set forth in the 2012

1 Oklahoma Comprehensive Watershed Planning Region Reports whose
2 surface water is under jurisdiction of the Oklahoma Water Resources
3 Board (excepting the Grand Region); provided, that nothing in this
4 definition is intended to affect ownership rights to groundwater and
5 that groundwater is not considered excess and surplus water.

6 C. The following procedure shall be utilized to calculate
7 excess and surplus water available for appropriation:

8 1. Each of the eighty (80) OCWP watershed planning basins shall
9 be considered an individual stream wherein water originates for
10 purposes of appropriation and permitting;

11 2. The total amount of available stream water for new permits
12 in 2060 is equal to the total Surface Water Permit Availability
13 amount as set forth in the OCWP Watershed Planning Region Reports
14 minus the amount of the annual Anticipated Surface Water Permits in
15 2060 also set forth in those reports. The in-basin reserve amount
16 is equal to twenty-five percent (25%) of the total Surface Water
17 Permit Availability amount plus twenty-five percent (25%) of the
18 annual Anticipated Surface Water Permits in 2060;

19 3. In considering applications for permits to transport and use
20 more than five hundred (500) acre-feet of stream water per year
21 outside the stream system where the water originates, the Board
22 shall determine whether there is unappropriated water available in
23 the amount applied for by considering only the remaining amount of
24 excess and surplus water calculated for the stream system where the

1 point of diversion is proposed, and for stream systems located
2 downstream from this proposed point of diversion; provided, this
3 procedure shall not be used to reduce the amount authorized under
4 existing permits and water rights;

5 4. The Board shall also exclude from consideration for any out-
6 of-basin use:

7 a. the quantity of water adjudicated or agreed by
8 cooperative agreement or compact to be reserved for
9 federal or tribal rights, and

10 b. the quantity of water reserved for instream or
11 recreational flow needs established pursuant to law.

12 SECTION 3. This act shall become effective January 1, 2013.

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