

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1334

By: Ellis

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6 AS INTRODUCED

7 An Act relating to transfer of water; authorizing
8 Oklahoma Water Resources Board to permit transfer of
9 water; stating requirements for application and
10 procedures; requiring certain information from
11 applicants; requiring public meetings; requiring
12 notice to certain persons; stating information
13 required for notice; requiring publication; stating
14 requirements for Board consideration; authorizing
15 Board to grant whole or partial applications;
16 authorizing Board to specify certain terms and
17 conditions; limiting transfer period relating to
18 contracts; authorizing parties to provide for
19 compensation and mitigation; defining basin;
20 providing penalty for violations; authorizing
21 rulemaking; providing for codification; providing for
22 noncodification; and providing an effective date.

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

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 105.2A of Title 82, unless there
is created a duplication in numbering, reads as follows:

A. No person may take or divert any water from a basin of
origin in this state and transfer such water to any other basin,
located within or outside this state, without first applying for and

1 receiving a permit from the Oklahoma Water Resources Board
2 authorizing the transfer.

3 B. The application shall include:

4 1. The contract price of the water to be transferred if
5 applicable;

6 2. A statement of each general category of proposed use of the
7 water to be transferred and a detailed description of the proposed
8 uses and users under each category;

9 3. The cost of diverting, conveying, distributing, and
10 supplying the water to, and treating the water for, the proposed
11 users; and

12 4. The projected effect on user rates and fees for each class
13 of ratepayers.

14 C. The applicant shall provide the information described in
15 subsection B of this section to any person on request and without
16 cost.

17 D. Prior to taking action on an application for an interbasin
18 transfer, the Board shall conduct at least one public meeting to
19 receive comments in both the basin of origin of the water proposed
20 for transfer and the basin receiving water from the proposed
21 transfer. Notice shall be provided pursuant to subsection G of this
22 section. At the meeting any person may present relevant information
23 and data on the criteria which the Board is to consider related to
24 the interbasin transfer.

1 E. In addition to the public meetings required by subsection D
2 of this section, if the application is contested in a manner
3 requiring an evidentiary hearing under the rules of the Board, the
4 Board shall give notice and hold an evidentiary hearing, in
5 accordance with Board rules and applicable state law.

6 F. Notice of an application for an interbasin transfer shall be
7 mailed to the following:

8 1. All holders of water permits located in whole or in part in
9 the basin of origin;

10 2. Each county judge of a county located in whole or in part in
11 the basin of origin;

12 3. Each mayor of a city with a population of one thousand
13 (1,000) or more located in whole or in part in the basin of origin;

14 4. All groundwater conservation districts located in whole or
15 in part in the basin origin; and

16 5. Each state legislator in both basins.

17 G. The applicant shall cause the notice of application of an
18 interbasin transfer to be published once a week for two consecutive
19 weeks in one or more newspapers having general circulation in each
20 county located in whole or in part in the basin of origin and the
21 receiving basin. The published notice shall be at least fifteen
22 (15) square inches in size. The notice of application and public
23 meetings shall be combined in the mailed and published notices.

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1 H. The notice of application must state how a person may obtain
2 the information described by subsection B of this section.

3 I. The applicant shall pay the cost of notice required by this
4 section. The Board may establish by rule procedures for payment of
5 those costs.

6 J. In addition to other requirements of law or Board rules
7 relating to the review of and action on an application for a new or
8 amended water permit, the Board shall weigh the effects of the
9 proposed transfer by considering:

10 1. The need for water in the basin of origin and in the
11 proposed receiving basin based on the period for which the water
12 supply is required, but not to exceed fifty (50) years;

13 2. Factors identified in the applicable approved regional water
14 plans which address the following:

- 15 a. the availability of feasible and practicable
16 alternative supplies in the receiving basin to the
17 water proposed for transfer,
18 b. the amount and purposes of use in the receiving basin
19 for which water is needed,
20 c. proposed methods and efforts by the receiving basin to
21 avoid waste and implement water conservation and
22 drought contingency measures,
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1 d. proposed methods and efforts by the receiving basin to
2 put the water proposed for transfer to beneficial
3 uses,

4 e. the projected economic impact that is reasonably
5 expected to occur in each basin as a result of the
6 transfer, and

7 f. the projected impacts of the proposed transfer that
8 are reasonably expected to occur on existing water
9 rights, instream uses, water quality, aquatic and
10 riparian habitat that must be assessed in each basin
11 pursuant to law or Board rules. If the water sought
12 to be transferred is currently authorized to be used
13 under an existing permit, such impacts shall only be
14 considered in relation to that portion of the permit
15 proposed for transfer and shall be based on historical
16 uses of the permit for which amendment is sought;

17 3. Proposed mitigation or compensation, if any, to the basin of
18 origin by the applicant;

19 4. The continued need to use the water for the purposes
20 authorized under the existing permit, if an amendment to an existing
21 water right or permit is sought; and

22 5. The information required to be submitted by the applicant.

23 K. The Board may grant, in whole or in part, an application for
24 an interbasin transfer only to the extent that:

1 1. The detriments to the basin of origin during the proposed
2 transfer period are less than the benefits to the receiving basin
3 during the proposed transfer period; and

4 2. The applicant for the interbasin transfer has prepared a
5 drought contingency plan and has developed and implemented a water
6 conservation plan that will result in the highest practicable levels
7 of water conservation and efficiency achievable within the
8 jurisdiction of the applicant.

9 L. The Board may grant new or amended water permits under this
10 section with or without specific terms or periods of use and with
11 specific conditions under which a transfer of water may occur.

12 M. If the transfer of water is based on a contractual sale of
13 water, the new water right or amended permit authorizing the
14 transfer shall contain a condition for a term or period not greater
15 than the contract term.

16 N. The parties to a contract for an interbasin transfer may
17 include provisions for compensation and mitigation.

18 O. For purposes of this section, "basin" shall be designated as
19 identified and described in the Oklahoma Comprehensive Water Plan,
20 adopted on October 17, 2011, and as updated. A basin may not be
21 redesigned in order to allow a transfer or diversion of water
22 otherwise in violation of this section.

23 P. Any person who takes or diverts water in violation of this
24 section is guilty of a misdemeanor and upon conviction is subject to

1 punishment by a fine of not more than One Thousand Dollars
2 (\$1,000.00) or by confinement in the county jail for not more than
3 six months. A person commits a separate offense each day he or she
4 continues to take or divert water in violation of this section.

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

7 The Oklahoma Water Resources Board is authorized to promulgate
8 rules necessary to implement the provisions of this act.

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

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