

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1922

By: DeWitt of the House and Fields of the Senate

Title: Waters and water rights; modifying the Scenic Rivers Act.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment.

Respectfully submitted,

HOUSE CONFEREES

Armes, Don



Billy, Lisa J.



Brown, Mike

Christian, Mike

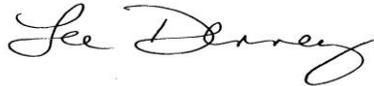
Coody, Ann



Cox, Doug



Denney, Lee



Dorman, Joe

Hickman, Jeffrey W.



Hoskin, Chuck

Kern, Sally

Martin, Scott

McCullough, Mark

McDaniel, Jeannie

McNiel, Skye



McPeak, Jerry



Morrisette, Richard

Nelson, Jason

Newell, Tom

Osborn, Leslie



Proctor, Eric

Roberts, Sean

Sanders, Mike



Schwartz, Colby



Sears, Earl



Watson, Weldon



Wesselhoft, Paul



SENATE CONFEREES

Fields

E. Fields

Branan

B. Branan

Sykes

Marlatt

Burrage

A. Burrage

Ballenger

C. Ballenger

May 9, 2013

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1922

By: DeWitt and Vaughan of the
House

4 and

5 Fields of the Senate

6
7 An Act relating to waters and water rights; ***;
8 authorizing the Administrator to take emergency
9 action under certain circumstances; requiring
10 compliance; authorizing the Board to issue certain
11 notices; *** Scenic Rivers Commission Revolving Fund;
12 ***; and providing for codification.

11 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
12 entire bill and insert

13 "[waters and water rights - modifying the Scenic
14 Rivers Act - codification]"

15 Passed the Senate the 24th day of April, 2013.

16
17 _____
18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2013.

21
22 _____
23 Presiding Officer of the House
24 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1922

By: DeWitt and Vaughan of the
House

3 and

4 Fields of the Senate
5
6
7

8 An Act relating to waters and water rights; stating additional
9 powers and responsibilities of the Board of Commissioners of the
10 Scenic Rivers Commission; making it a violation to make certain
11 false statements; authorizing the Board to assess an administrative
12 penalty after certain hearing process; establishing amount of
13 penalty; authorizing the Board to appoint administrative law judges
14 or hearing officers; requiring hearings to be held in certain
15 regions; making certain violations a misdemeanor; allowing the Board
16 to seek penalties in district court; providing for the payment of
17 certain costs and fees; providing for payment of penalties, fees and
18 fines to the Commission; authorizing the Administrator to take
19 emergency action under certain circumstances; requiring compliance;
20 authorizing the Board to issue certain notices; amending 82 O.S.
21 2011, Section 1462C, as amended by Section 1070, Chapter 304, O.S.L.
22 2012 (82 O.S. Supp. 2012, Section 1462C), which relates to the
23 Scenic Rivers Commission Revolving Fund; modifying use of certain
24 fees; clarifying statutory language; and providing for codification.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1461.1 of Title 82, unless there
21 is created a duplication in numbering, reads as follows:

22 In addition to the duties listed in Section 1461 of Title 82 of
23 the Oklahoma Statutes, the Board of Commissioners of the Scenic
24

1 Rivers Commission shall have the following additional powers and
2 responsibilities:

3 1. Bring an action in the district court of any county of the
4 state where service can be obtained on one or more of the
5 defendants, to enjoin the acts or practices which appear to
6 constitute a violation of any provision of the Scenic Rivers Act or
7 any rule or order promulgated and to enforce compliance with the
8 provisions of the Scenic Rivers Act or any rule or order. Upon a
9 proper showing, a restraining order, permanent or temporary
10 injunction, writ of mandamus, or other appropriate remedies
11 including damages shall be granted. The court may not require the
12 Administrator or the Board of Commissioners to post a bond;

13 2. Initiate and prosecute administrative, civil, or criminal
14 actions and proceedings necessary under the Scenic Rivers Act; and

15 3. To hear appeals of determinations by hearing examiners for
16 the Scenic Rivers Commission and issue final orders in
17 administrative matters.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1461.2 of Title 82, unless there
20 is created a duplication in numbering, reads as follows:

21 In addition to other penalties as may be imposed by law, it is a
22 violation of the Scenic Rivers Act for any person to knowingly make
23 or provide any false statement, representation, or certification to
24 the Scenic Rivers Commission.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1461.3 of Title 82, unless there
3 is created a duplication in numbering, reads as follows:

4 A. If the Board of Commissioners of the Scenic Rivers
5 Commission finds any person in violation of the Scenic Rivers Act or
6 any rule promulgated or order issued pursuant to the act, the Board
7 of Commissioners, after notice and opportunity for a hearing in
8 accordance with the Administrative Procedures Act, shall have the
9 authority to assess an administrative penalty of not less than Fifty
10 Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00)
11 for each violation. Each action or each day a violation continues
12 may constitute a separate and distinct violation.

13 B. The Board of Commissioners may appoint administrative law
14 judges or hearing officers to conduct the hearing. Hearings shall
15 be held within the region in which the alleged violation occurred or
16 at the Scenic Rivers Commission Headquarters in Tahlequah, Oklahoma.

17 C. Any person who fails to comply with the provisions of the
18 Scenic Rivers Act or rules promulgated by the Board of Commissioners
19 shall be deemed guilty of a misdemeanor unless a violation is
20 specifically identified with a penalty or as a felony.

21 D. Nothing in the Scenic Rivers Act shall preclude the Board of
22 Commissioners from seeking penalties in district court in the
23 maximum amount allowed by law. The assessment of penalties in an
24 administrative enforcement proceeding shall not prevent the

1 subsequent assessment by a court of the maximum civil or criminal
2 penalties for violations of the Scenic Rivers Act and rules
3 promulgated pursuant to the act.

4 E. Any person assessed an administrative penalty or civil
5 penalty may be required to pay, in addition to the penalty amount
6 and interest thereon, attorney fees and costs associated with the
7 collection of the penalties.

8 F. All penalties, fees, fines and monies collected shall be
9 paid to the Scenic Rivers Commission.

10 G. Whenever the Board of Commissioners finds that an emergency
11 exists requiring immediate action to protect the public health,
12 welfare, or the environment, the Administrator of the Scenic Rivers
13 Commission may without notice or hearing issue an order, effective
14 upon issuance, reciting the existence of an emergency and requiring
15 action be taken as specified in the order to meet the emergency.

16 Any person to whom an order is directed shall comply immediately but
17 may request an administrative enforcement hearing within fifteen
18 (15) days after the order is served. The hearing shall be held by
19 the Board of Commissioners within ten (10) days after receipt of the
20 request. On the basis of the hearing record, the chairman of the
21 Board of Commissioners shall sustain or modify the original order.

22 H. The Board of Commissioners shall have the authority to issue
23 notices of violation, citations, compliance orders, conditional
24 orders, or any other action authorized by the Scenic Rivers Act.

1 SECTION 4. AMENDATORY 82 O.S. 2011, Section 1462C, as
2 amended by Section 1070, Chapter 304, O.S.L. 2012 (82 O.S. Supp.
3 2012, Section 1462C), is amended to read as follows:

4 Section 1462C. A. The fees collected pursuant to the
5 provisions of ~~subsection B of Section 1470 of this title~~ the Scenic
6 Rivers Act shall be used to purchase additional public access areas
7 along the Flint Creek and Illinois River Scenic River Areas within
8 Adair, Cherokee and Delaware Counties and those portions of Barren
9 Fork Creek within Cherokee County or for the general operations of
10 the Commission.

11 B. 1. For these purposes, there is hereby created in the State
12 Treasury a revolving fund for the Scenic Rivers Commission, to be
13 designated the "Scenic Rivers Commission Revolving Fund".

14 2. The fund shall be a continuing fund, not subject to fiscal
15 year limitations, and shall consist of all monies received by the
16 Scenic Rivers Commission from all fees and fines collected pursuant
17 to the Scenic Rivers Act. All monies accruing to the credit of said
18 fund are hereby appropriated and may be budgeted and expended by the
19 Scenic Rivers Commission for the purpose of performing the duties
20 imposed by law upon the Scenic Rivers Commission.

21 3. Expenditures from said fund shall be made upon warrants
22 issued by the State Treasurer against claims filed as prescribed by
23 law with the Director of the Office of Management and Enterprise
24 Services for approval and payment.

1 Passed the House of Representatives the 6th day of March, 2013.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ___ day of _____, 2013.

6
7 _____
8 Presiding Officer of the Senate