

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SUBCOMMITTEE RECOMMENDATION

4 FOR

HOUSE BILL NO. 1922

By: DeWitt

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7 SUBCOMMITTEE RECOMMENDATION

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

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

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

4           In addition to the duties listed in Section 1461 of Title 82 of  
5 the Oklahoma Statutes, the Board of Commissioners of the Scenic  
6 Rivers Commission shall have the following additional powers and  
7 responsibilities:

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

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

20           3. To hear appeals of determinations by hearing examiners for  
21 the Scenic Rivers Commission and issue final orders in  
22 administrative matters.

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

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

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

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

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

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

5 D. Nothing in the Scenic Rivers Act shall preclude the Board of  
6 Commissioners from seeking penalties in district court in the  
7 maximum amount allowed by law. The assessment of penalties in an  
8 administrative enforcement proceeding shall not prevent the  
9 subsequent assessment by a court of the maximum civil or criminal  
10 penalties for violations of the Scenic Rivers Act and rules  
11 promulgated pursuant to the act.

12 E. Any person assessed an administrative penalty or civil  
13 penalty may be required to pay, in addition to the penalty amount  
14 and interest thereon, attorney fees and costs associated with the  
15 collection of the penalties.

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

18 G. Whenever the Board of Commissioners finds that an emergency  
19 exists requiring immediate action to protect the public health,  
20 welfare, or the environment, the Administrator of the Scenic Rivers  
21 Commission may without notice or hearing issue an order, effective  
22 upon issuance, reciting the existence of an emergency and requiring  
23 action be taken as specified in the order to meet the emergency.

24 Any person to whom an order is directed shall comply immediately but

1 may request an administrative enforcement hearing within fifteen  
2 (15) days after the order is served. The hearing shall be held by  
3 the Board of Commissioners within ten (10) days after receipt of the  
4 request. On the basis of the hearing record, the chairman of the  
5 Board of Commissioners shall sustain or modify the original order.

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

9 SECTION 4. AMENDATORY 82 O.S. 2011, Section 1462C, as  
10 amended by Section 1070, Chapter 304, O.S.L. 2012 (82 O.S. Supp.  
11 2012, Section 1462C), is amended to read as follows:

12 Section 1462C. A. The fees collected pursuant to the  
13 provisions of ~~subsection B of Section 1470 of this title~~ the Scenic  
14 Rivers Act shall be used to purchase additional public access areas  
15 along the Flint Creek and Illinois River Scenic River Areas within  
16 Adair, Cherokee and Delaware Counties and those portions of Barren  
17 Fork Creek within Cherokee County or for the general operations of  
18 the Commission.

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

22 2. The fund shall be a continuing fund, not subject to fiscal  
23 year limitations, and shall consist of all monies received by the  
24 Scenic Rivers Commission from all fees and fines collected pursuant

1 to the Scenic Rivers Act. All monies accruing to the credit of said  
2 fund are hereby appropriated and may be budgeted and expended by the  
3 Scenic Rivers Commission for the purpose of performing the duties  
4 imposed by law upon the Scenic Rivers Commission.

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

9 SECTION 5. It being immediately necessary for the preservation  
10 of the public peace, health and safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

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