

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 220

By: Fields of the Senate

and

DeWitt of the House

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9 COMMITTEE SUBSTITUTE

10 [waters and water rights - Scenic Rivers Act -
11 requiring certain fees to be deposited in certain
12 revolving fund - codification -
13 emergency]

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

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

18 In addition to the duties of The Board of Commissioners of the
19 Oklahoma Scenic Rivers Commission listed in Section 1461 of Title
20 82, The Board of Commissioners of the Oklahoma Scenic Rivers
21 Commission shall have the following additional powers and
22 responsibilities:

23 1. Bring an action in the district court of any county of the
24 state where service can be obtained on one or more of the

1 defendants, to enjoin the acts or practices which appear to
2 constitute a violation of any provision of the Scenic Rivers Act or
3 any rule or order promulgated and to enforce compliance with the
4 provisions of the Scenic Rivers Act or any rule or order. Upon a
5 proper showing, a restraining order, permanent or temporary
6 injunction, writ of mandamus, or other appropriate remedies
7 including damages shall be granted. The court may not require the
8 Administrator or the Board of Commissioners to post a bond;

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

11 3. To hear appeals of determinations by hearing examiners for
12 the Oklahoma Scenic Rivers Commission and issue final orders in
13 administrative matters;

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

17 In addition to other penalties as may be imposed by law, it is a
18 violation of the Scenic Rivers Act for any person to knowingly make
19 or provide any false statement, representation, or certification to
20 the Oklahoma Scenic Rivers Commission.

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

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

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

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

19 D. Nothing in the Scenic Rivers Act shall preclude the Board of
20 Commissioners from seeking penalties in district court in the
21 maximum amount allowed by law. The assessment of penalties in an
22 administrative enforcement proceeding shall not prevent the
23 subsequent assessment by a court of the maximum civil or criminal
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1 penalties for violations of the Scenic Rivers Act and rules
2 promulgated pursuant to the act.

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

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

9 G. Whenever the Board of Commissioners finds that an emergency
10 exists requiring immediate action to protect the public health,
11 welfare, or the environment, the Administrator of the Oklahoma
12 Scenic Rivers Commission may without notice or hearing issue an
13 order, effective upon issuance, reciting the existence of an
14 emergency and requiring action be taken as specified in the order to
15 meet the emergency. Any person to whom an order is directed shall
16 comply immediately but may request an administrative enforcement
17 hearing within fifteen (15) days after the order is served. The
18 hearing shall be held by the Board of Commissioners within ten (10)
19 days after receipt of the request. On the basis of the hearing
20 record, the chairman of the Board of Commissioners shall sustain or
21 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 shall the~~
6 Scenic Rivers Act may be used to purchase additional public access
7 areas along the Flint Creek and Illinois River Scenic River Areas
8 within Adair, Cherokee and Delaware Counties and those portions of
9 Barren Fork Creek within Cherokee County or for the general
10 operations of the Commission.

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

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

23 3. Expenditures from ~~said~~ the fund shall be made upon warrants
24 issued by the State Treasurer against claims filed as prescribed by

1 law with the Director of the Office of Management and Enterprise
2 Services for approval and payment.

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

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