**CORRECTED**

# HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1922 By: DeWitt of the House

and

Fields of the Senate

COMMITTEE SUBSTITUTE

An Act relating to waters and water rights; stating additional powers and responsibilities of the Board of Commissioners of the Scenic Rivers Commission; making it a violation to make certain false statements; authorizing the Board to assess an administrative penalty after certain hearing process; establishing amount of penalty; authorizing the Board to appoint administrative law judges or hearing officers; requiring hearings to be held in certain regions; making certain violations a misdemeanor; allowing the Board to seek penalties in district court; providing for the payment of certain costs and fees; providing for payment of penalties, fees and fines to the Commission; authorizing the Administrator to take emergency action under certain circumstances; requiring compliance; authorizing the 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.



**UNDERLINED** language denotes Amendments to present Statutes.
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 02/25/2013 - DO PASS, As Amended and Coauthored.



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